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DADENMAN SHOW

**HB 573-FN – VERSION ADOPTED BY BOTH BODIES**

20Mar2013... 0797h  
05/23/13 1631s  
26June2013... 2098CofC

2013 SESSION

13-0279  
04/01

HOUSE BILL            ***573-FN***

AN ACT                relative to the use of cannabis for therapeutic purposes.

SPONSORS:            Rep. Schlachman, Rock 18; Rep. Vaillancourt, Hills 15; Rep. Robertson, Ches 6;  
Rep. Wright, Carr 8; Rep. Renzullo, Hills 37; Rep. LeBrun, Hills 32;  
Rep. DeSimone, Rock 14; Rep. Kidder, Merr 5; Rep. Gale, Hills 28; Rep. Lovejoy,  
Rock 36; Sen. Woodburn, Dist 1; Sen. Reagan, Dist 17; Sen. Fuller Clark, Dist 21;  
Sen. Cataldo, Dist 6

COMMITTEE:          Health, Human Services and Elderly Affairs

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AMENDED ANALYSIS

This bill authorizes the use of therapeutic cannabis in New Hampshire.

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Explanation:          Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT relative to the use of cannabis for therapeutic purposes.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Chapter; Use of Cannabis for Therapeutic Purposes. Amend RSA by inserting after  
2 chapter 126-V the following new chapter:

3 CHAPTER 126-W

4 USE OF CANNABIS FOR THERAPEUTIC PURPOSES

5 126-W:1 Definitions. In this chapter:

6 I. "Alternative treatment center" means a not-for-profit entity registered under RSA 126-  
7 W:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies,  
8 and dispenses cannabis, and related supplies and educational materials, to qualifying patients and  
9 alternative treatment centers.

10 II. "Alternative treatment center agent" means a principal officer, board member, employee,  
11 manager, or volunteer of an alternative treatment center who is 21 years of age or older and has not  
12 been convicted of a felony or any felony drug-related offense.

13 III. "Cannabis" means all parts of any plant of the Cannabis genus of plants, whether  
14 growing or not; the seeds thereof; the resin extracted from any part of such plant; and every  
15 compound, salt, derivative, mixture, or preparation of such plant, its seeds, or resin. Such term shall  
16 not include the mature stalks of such plants, fiber produced from such stalks, oil, or cake made from  
17 the seeds of such plants, any other compound, salt, derivative, mixture, or preparation of such  
18 mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such  
19 plants which are incapable of germination.

20 IV. "Cultivation location" means a locked and enclosed site, under the control of an  
21 alternative treatment center where cannabis is cultivated, secured with one or more locks or other  
22 security devices in accordance with the provisions of this chapter.

23 V. "Department" means the department of health and human services.

24 VI. "Designated caregiver" means an individual who:

25 (a) Is at least 21 years of age;

26 (b) Has agreed to assist with one or more (not to exceed 5) qualifying patient's  
27 therapeutic use of cannabis, except if the qualifying patient and designated caregiver each live  
28 greater than 50 miles from the nearest alternative treatment center, in which case the designated

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1 caregiver may assist with the therapeutic use of cannabis for up to 9 qualifying patients;

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

3 (d) Possesses a valid registry identification card issued pursuant to RSA 126-W:4.

4 VII.(a) “Provider” means a physician licensed to prescribe drugs to humans under RSA 329  
5 and who possesses certification from the United States Drug Enforcement Administration to  
6 prescribe controlled substances. “Provider” shall also mean an advanced practice registered nurse  
7 licensed pursuant to RSA 326-B:18.

8 (b) For a visiting qualifying patient, “provider” means an individual licensed to prescribe  
9 drugs to humans in the state of the patient’s residence and who possesses certification from the  
10 United States Drug Enforcement Administration to prescribe controlled substances. Such visiting  
11 patient shall not be eligible to purchase or transfer cannabis from an eligible New Hampshire  
12 patient.

13 VIII. “Provider-patient relationship” means at least a 3-month medical relationship between  
14 a licensed provider and a patient that includes an in-person exam, a history, a diagnosis, and a  
15 treatment plan appropriate for the licensee’s medical specialty.

16 IX.(a) “Qualifying medical condition” means the presence of:

17 (1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired  
18 immune deficiency syndrome, hepatitis C currently receiving antiviral treatment, amyotrophic  
19 lateral sclerosis, muscular dystrophy, Crohn’s disease, agitation of Alzheimer’s disease, multiple  
20 sclerosis, chronic pancreatitis, spinal cord injury or disease, traumatic brain injury, or one or more  
21 injuries that significantly interferes with daily activities as documented by the patient’s provider;  
22 and

23 (2) A severely debilitating or terminal medical condition or its treatment that has  
24 produced at least one of the following: elevated intraocular pressure, cachexia, chemotherapy-  
25 induced anorexia, wasting syndrome, severe pain that has not responded to previously prescribed  
26 medication or surgical measures or for which other treatment options produced serious side effects,  
27 constant or severe nausea, moderate to severe vomiting, seizures, or severe, persistent muscle  
28 spasms.

29 (b) The department may include a medical condition that is not listed in subparagraph  
30 (a) that the department determines, on a case by case basis, is severely debilitating or terminal,  
31 based upon the written request of a provider who furnishes written certification to the department.

32 X. “Qualifying patient” means a resident of New Hampshire who has been diagnosed by a  
33 provider as having a qualifying medical condition and who possesses a valid registry identification  
34 card issued pursuant to RSA 126-W:4.

35 XI. “Registry identification card” means a document indicating the date issued and  
36 expiration date by the department pursuant to RSA 126-W:4 that identifies an individual as a  
37 qualifying patient or a designated caregiver.

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1 XII. “Seedling” means a cannabis plant that has no flowers and is less than 12 inches in  
2 height and less than 12 inches in diameter.

3 XIII. “Therapeutic use” means the acquisition, possession, cultivation, preparation, use,  
4 delivery, transfer, or transportation of cannabis or paraphernalia relating to the administration of  
5 cannabis to treat or alleviate a qualifying patient’s qualifying medical condition or symptoms or  
6 results of treatment associated with the qualifying patient’s qualifying medical condition. It shall  
7 not include:

8 (a) The use of cannabis by a designated caregiver who is not a qualifying patient; or

9 (b) Cultivation or purchase by a visiting qualifying patient; or

10 (c) Cultivation by a designated caregiver or qualifying patient.

11 XIV. “Unusable cannabis” means any cannabis, other than usable cannabis, including the  
12 seeds, stalks, and roots of the plant.

13 XV. “Usable cannabis” means the dried leaves and flowers of the cannabis plant and any  
14 mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does  
15 not include the weight of any non-cannabis ingredients combined with cannabis and prepared for  
16 consumption as food or drink.

17 XVI. “Visiting qualifying patient” means a patient with a qualifying medical condition who  
18 is not a resident of New Hampshire or who has been a resident of New Hampshire for fewer than 30  
19 days and is not eligible to purchase therapeutic cannabis in New Hampshire or receive cannabis  
20 from a qualifying New Hampshire patient.

21 XVII. “Written certification” means documentation of a qualifying medical condition by a  
22 provider pursuant to rules adopted by the department pursuant to RSA 541-A for the purpose of  
23 issuing registry identification cards, after having completed a full assessment of the patient’s  
24 medical history and current medical condition made in the course of a provider-patient relationship  
25 of at least 3 months in duration. The 3-month requirement for the provider-patient relationship  
26 required in this paragraph shall not apply if the provider issuing the written certification certifies  
27 that the onset of the patient’s qualifying medical condition occurred within the past 3 months, and  
28 the certifying provider is primarily responsible for the patient’s care related to his or her qualifying  
29 medical condition. The date of issuance and the patient’s qualifying medical condition, symptoms or  
30 side effects, the certifying provider’s name, medical specialty, and signature shall be specified on the  
31 written certification.

32 126-W:2 Therapeutic Use of Cannabis Protections.

33 I. A qualifying patient shall not be subject to arrest by state or local law enforcement,  
34 prosecution or penalty under state or municipal law, or be denied any right or privilege for the  
35 therapeutic use of cannabis in accordance with this chapter, if the qualifying patient possesses an  
36 amount of cannabis that does not exceed the following:

37 (1) Two ounces of usable cannabis; and

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1 (2) Any amount of unusable cannabis.

2 II. A designated caregiver shall not be subject to arrest by state or local law enforcement,  
3 prosecution or penalty under state or municipal law, or denied any right or privilege for the  
4 therapeutic use of cannabis in accordance with this chapter on behalf of a qualifying patient if the  
5 designated caregiver possesses an amount of cannabis that does not exceed the following:

6 (1) Two ounces of usable cannabis, or the total amount allowable for the number of  
7 qualifying patients for which he or she is a designated caregiver; and

8 (2) Any amount of unusable cannabis.

9 III. A designated caregiver may receive compensation for costs, not including labor,  
10 associated with assisting a qualifying patient who has designated the designated caregiver to assist  
11 him or her with the therapeutic use of cannabis. Such compensation shall not constitute the sale of  
12 controlled substances.

13 IV.(a) A qualifying patient is presumed to be lawfully engaged in the therapeutic use of  
14 cannabis in accordance with this chapter if the qualifying patient possesses a valid registry  
15 identification card and possesses an amount of cannabis that does not exceed the amount allowed  
16 under this chapter.

17 (b) A designated caregiver is presumed to be lawfully engaged in assisting with the  
18 therapeutic use of cannabis in accordance with this chapter if the designated caregiver possesses a  
19 valid registry identification card and possesses an amount of cannabis that does not exceed the  
20 amount allowed under this chapter.

21 (c) The presumptions made in subparagraphs (a) and (b) may be rebutted by evidence  
22 that conduct related to cannabis was not for the purpose of treating or alleviating the qualifying  
23 patient's qualifying medical condition or symptoms or effects of the treatment associated with the  
24 qualifying medical condition, in accordance with this chapter.

25 V. A valid registry identification card, or its equivalent, that is issued under the laws of  
26 another state, district, territory, commonwealth, or insular possession of the United States that  
27 allows, in the jurisdiction of issuance, a visiting qualifying patient to possess cannabis for  
28 therapeutic purposes, shall have the same force and effect as a valid registry identification card  
29 issued by the department in this state, provided that:

30 (a) The visiting qualifying patient shall also produce a statement from his or her  
31 provider stating that the visiting qualifying patient has a qualifying medical condition as defined in  
32 RSA 126-W:1; and

33 (b) A visiting qualifying patient shall not cultivate or purchase cannabis in  
34 New Hampshire or obtain cannabis from alternative treatment centers or from a qualifying  
35 New Hampshire patient.

36 VI. A person otherwise entitled to custody of, or visitation or parenting time with, a minor  
37 shall not be denied such a right solely for conduct allowed under this chapter, and there shall be no

1 presumption of neglect or child endangerment.

2 VII. For the purposes of medical care, including organ transplants, a qualifying patient's  
3 authorized use of cannabis in accordance with this chapter shall be considered the equivalent of the  
4 authorized use of any other medication used at the direction of a provider, and shall not constitute  
5 the use of an illicit substance.

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

12 IX. An alternative treatment center shall not be subject to prosecution under state or  
13 municipal law, search, or inspection, except by the department pursuant to RSA 126-W:7, IX;  
14 seizure; or penalty in any manner under state or municipal law for acting pursuant to this chapter  
15 and department rules to:

- 16 (a) Acquire or purchase cannabis seeds or seedlings;  
17 (b) Possess, cultivate, manufacture, or transport cannabis and seedlings; or  
18 (c) Deliver, transfer, supply, sell, or dispense cannabis and related supplies and  
19 educational materials to qualifying patients who have designated the alternative treatment center to  
20 provide for them, to designated caregivers on behalf of the qualifying patients who have designated  
21 the alternative treatment center, or to other alternative treatment centers.

22 X. An alternative treatment center agent shall not be subject to arrest by state or local law  
23 enforcement, prosecution or penalty in any manner under state or municipal law, search, or be  
24 denied any right or privilege for working for an alternative treatment center pursuant to this  
25 chapter and department rules to engage in any of the actions listed in paragraph IX.

26 XI. Any cannabis, cannabis paraphernalia, licit property, or interest in licit property that is  
27 possessed, owned, or used in connection with the therapeutic use of cannabis as allowed under this  
28 chapter, or acts incidental to such use, shall not be seized or forfeited if the basis for the seizure or  
29 forfeiture is activity related to cannabis that is exempt from state criminal penalties under this  
30 chapter.

31 XII. An individual shall not be subject to arrest by state or local law enforcement,  
32 prosecution or penalty under state or municipal law, or be denied any right or privilege, including  
33 but not limited to a civil penalty or disciplinary action by a court or occupational or professional  
34 licensing entity, simply for being in the presence or vicinity of the therapeutic use of cannabis as  
35 allowed under this chapter.

36 XIII. If a state or local law enforcement officer encounters an alternative treatment center or  
37 an individual who the officer knows is an alternative treatment center agent, a designated caregiver,

1 or a qualifying patient, or who credibly asserts he or she is an alternative treatment center agent, a  
2 designated caregiver, or a qualifying patient, the law enforcement officer shall not provide any  
3 information concerning any cannabis-related activity involving the individual or entity, except  
4 pursuant to a lawfully-issued subpoena, to any law enforcement agency that does not recognize the  
5 protection of this chapter, and any prosecution of the individual or entity for a violation of this  
6 chapter shall be conducted pursuant to the laws of this state. This paragraph shall not apply in  
7 cases where the state or local law enforcement agency has probable cause to believe the person is  
8 distributing cannabis to a person who is not allowed to possess it under this chapter. Any seizure of  
9 cannabis by law enforcement officers for a violation of this chapter shall be limited to the amount of  
10 cannabis in excess of the quantities permitted under this chapter and any such cannabis seized shall  
11 not be returned.

12 XIV. A person who ceases to be a qualifying patient or designated caregiver shall have 10  
13 days after notification by the department to dispose of cannabis in one of the following ways:

14 (a) If the person was a designated caregiver and the qualifying patient who designated  
15 the caregiver is still a qualifying patient, but has designated a new caregiver, the designated  
16 caregiver may transfer cannabis to the new designated caregiver;

17 (b) The person may notify local law enforcement and request that they dispose of the  
18 cannabis; or

19 (c) The person may dispose of the cannabis, after mixing the cannabis with other  
20 ingredients such as soil to render it unusable.

21 126-W:3 Prohibitions and Limitations on the Therapeutic Use of Cannabis.

22 I. A qualifying patient may use cannabis on privately-owned real property only with written  
23 permission of the property owner or, in the case of leased property, with the permission of the tenant  
24 in possession of the property, except that a tenant shall not allow a qualifying patient to smoke  
25 cannabis on rented property if smoking on the property violates the lease or the lessor's rental  
26 policies that apply to all tenants at the property. However, a tenant may permit a qualifying patient  
27 to use cannabis on leased property by ingestion or inhalation through vaporization even if smoking is  
28 prohibited by the lease or rental policies. For purposes of this chapter, vaporization shall mean the  
29 inhalation of cannabis without the combustion of the cannabis.

30 II. Nothing in this chapter shall exempt any person from arrest or prosecution for:

31 (a) Being under the influence of cannabis while:

32 (1) Operating a motor vehicle, commercial vehicle, boat, vessel, or any other vehicle  
33 propelled or drawn by power other than muscular power; or

34 (2) In his or her place of employment, without the written permission of the  
35 employer; or

36 (3) Operating heavy machinery or handling a dangerous instrumentality.

37 (b) The use or possession of cannabis by a qualifying patient or designated caregiver for



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1 purposes other than for therapeutic use as permitted by this chapter;

2 (c) The smoking or vaporization of cannabis in any public place, including:

3 (1) A public bus or other public vehicle; or

4 (2) Any public park, public beach, or public field.

5 (d) The possession of cannabis in any of the following:

6 (1) The building and grounds of any preschool, elementary, or secondary school,  
7 which are located in an area designated as a drug free zone; or

8 (2) A place of employment, without the written permission of the employer; or

9 (3) Any correctional facility; or

10 (4) Any public recreation center or youth center; or

11 (5) Any law enforcement facility.

12 III. Nothing in this chapter shall be construed to require:

13 (a) Any health insurance provider, health care plan, or medical assistance program to be  
14 liable for any claim for reimbursement for the therapeutic use of cannabis; or

15 (b) Any individual or entity in lawful possession of property to allow a guest, client,  
16 customer, or other visitor to use cannabis on or in that property; or

17 (c) Any accommodation of the therapeutic use of cannabis on the property or premises of  
18 any place of employment or on the property or premises of any jail, correctional facility, or other type  
19 of penal institution where prisoners reside or persons under arrest are detained. This chapter shall  
20 in no way limit an employer's ability to discipline an employee for ingesting cannabis in the  
21 workplace or for working while under the influence of cannabis.

22 IV. Any person who makes a fraudulent representation to a law enforcement official of any  
23 fact or circumstance relating to the therapeutic use of cannabis to avoid arrest or prosecution shall  
24 be guilty of a violation and may be fined \$500, which shall be in addition to any other penalties that  
25 may apply for making a false statement to a law enforcement officer or for the use of cannabis other  
26 than use undertaken pursuant to this chapter.

27 V. A qualifying patient or designated caregiver who is found to be in possession of cannabis  
28 outside of his or her home and is not in possession of his or her registry identification card may be  
29 subject to a fine of up to \$100.

30 VI. Any qualifying patient or designated caregiver who sells cannabis to another person who  
31 is not a qualifying patient or designated caregiver under this chapter shall be subject to the penalties  
32 specified in RSA 318-B:26, IX-a, shall have his or her registry identification card revoked, and shall  
33 be subject to other penalties as provided in RSA 318-B:26.

34 VII. The department may revoke the registry identification card of a qualifying patient or  
35 designated caregiver for violation of rules adopted by the department or for violation of any other  
36 provision of this chapter, and the qualifying patient or designated caregiver shall be subject to any  
37 other penalties established in law for the violation.

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1 126-W:4 Departmental Administration; Registry Identification Cards.

2 I. Except as provided in paragraph V, the department shall create and issue a registry  
3 identification card to a person applying as a qualifying patient who submits all of the following  
4 information:

5 (a) Written certification as defined in RSA 126-W:1.

6 (b) An application or a renewal application accompanied by the application or renewal  
7 fee.

8 (c) A recent passport-sized photograph of the applicant's face.

9 (d) Name, residential and mailing address, and date of birth of the applicant, except that  
10 if the applicant is homeless, no residential address is required.

11 (e) Name, address, and telephone number of the applicant's provider.

12 (f) Name, address, and date of birth of the applicant's designated caregiver, if any. A  
13 qualifying patient shall have only one designated caregiver.

14 (g) Name of the alternative treatment center that the qualifying patient designates. A  
15 qualifying patient may designate no more than one alternative treatment center at any time.

16 (h) A statement signed by the applicant, pledging not to divert cannabis to anyone who  
17 is not allowed to possess cannabis pursuant to this chapter and acknowledging that his or her  
18 diversion of cannabis is punishable as a class B felony and revocation of his or her registry  
19 identification card, in addition to other penalties for the illegal sale of cannabis.

20 II. Except as provided in paragraph V, the department shall create and issue a registry  
21 identification card to a person applying as a designated caregiver who submits all of the following  
22 information:

23 (a) An application or a renewal application.

24 (b) A recent passport-sized photograph of the applicant's face.

25 (c) Name, residential and mailing address, and date of birth of the applicant.

26 (d) Name, residential and mailing address, and date of birth of each qualifying patient  
27 for whom the applicant will act as designated caregiver, except that if the qualifying patient is  
28 homeless, no residential address is required. An applicant shall not act as a designated caregiver for  
29 more than 5 qualifying patients.

30 (e) Street address of the alternative treatment center.

31 (f) A signed statement from the applicant agreeing to act as the designated caregiver for  
32 the qualifying patient named in the application and pledging not to divert cannabis to anyone who is  
33 not allowed to possess cannabis pursuant to this chapter and acknowledging that the diversion of  
34 cannabis is punishable as a class B felony and revocation of one's registry identification card, in  
35 addition to other penalties for the illegal sale of cannabis.

36 (g) A notarized criminal history record release form, as provided by the New Hampshire  
37 division of state police, department of safety, which authorizes the release of his or her criminal

1 history record, if any, to the department. The applicant shall submit with the release from a  
2 complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee  
3 of the department of safety. In the event that the first set of fingerprints is invalid due to  
4 insufficient pattern, a second set of fingerprints shall be necessary in order to complete the criminal  
5 history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern,  
6 the department may, in lieu of the criminal history records check, accept police clearances from  
7 every city, town, or county where the person has lived during the past 5 years. The department shall  
8 submit the criminal history records release form and fingerprint form to the division of state police  
9 which shall conduct a criminal history records check through its records and through the Federal  
10 Bureau of Investigation. Upon completion of the records check, the division of state police shall  
11 release copies of the criminal history records to the department. The department shall maintain the  
12 confidentiality of all criminal history records information received pursuant to this section. The  
13 applicant shall bear the cost of a criminal history record check.

14 III. The department shall verify the information contained in an application or renewal  
15 submitted pursuant to this section. The department shall approve or deny an application or renewal  
16 for a qualifying patient within 15 days of receipt of the application. The department shall approve or  
17 deny an application or renewal to serve as a designated caregiver within 15 days of receipt of the  
18 application. The department may deny an application or renewal only if the applicant did not  
19 provide the information required pursuant to this section, or if the applicant previously had a  
20 registry identification card revoked for violating the provisions of this chapter or rules adopted by  
21 the department, or if the department determines that the information provided was falsified or did  
22 not meet the requirements of this chapter or rules adopted by the department. The department shall  
23 notify an applicant of the denial of an application. An applicant who is aggrieved by a department  
24 decision may request an administrative hearing at the department.

25 IV. The department shall create and issue a registry identification card to a person applying  
26 as a qualifying patient or designated caregiver within 5 days of approving an application or renewal.  
27 Each registry identification card shall expire one year after the date of issuance, unless the provider  
28 states in the written certification that the certification should expire at an earlier specified date,  
29 then the registry identification card shall expire on that date. Registry identification cards shall  
30 contain all of the following:

31 (a) Name, mailing address, and date of birth of the qualifying patient or designated  
32 caregiver.

33 (b) The date of issuance and expiration date of the registry identification card.

34 (c) A random 10-digit identification number, containing at least  
35 4 numbers and at least 4 letters, that is unique to the qualifying patient or the designated caregiver.

36 (d) A designation that the person is either a “qualifying patient” or a “designated  
37 caregiver.” If the person is a designated caregiver, the identification card shall include the random

1 10-digit identification number for each qualifying patient for whom he or she is providing care.

2 (e) The registry identification number corresponding with the alternative treatment  
3 center the qualifying patient designated, if any.

4 (f) A passport-sized photograph of the qualifying patient's or designated caregiver's face.

5 (g) A statement that the qualifying patient or designated caregiver is permitted under  
6 state law to possess cannabis pursuant to this chapter for the therapeutic use of the qualifying  
7 patient.

8 V. The department shall not issue a registry identification card to an applicant under 18  
9 years of age who is applying as a qualifying patient unless:

10 (a) A custodial parent or legal guardian responsible for health care decisions for the  
11 qualifying patient submits a written certification from 2 providers, one of whom shall be a  
12 pediatrician.

13 (b) The applicant's provider has explained the potential risks and benefits of the  
14 therapeutic use of cannabis to the custodial parent or legal guardian with responsibility for health  
15 care decisions for the applicant.

16 (c) The custodial parent or legal guardian with responsibility for health care decisions  
17 for the applicant consents in writing to:

18 (1) Allow the applicant's therapeutic use of cannabis; and

19 (2) Serve as the applicant's designated caregiver and control the acquisition of the  
20 cannabis and the frequency of the therapeutic use of cannabis by the applicant.

21 (d) The custodial parent or legal guardian completes an application in accordance with  
22 the requirements of paragraph I on behalf of the applicant.

23 VI. The department shall provide each approved qualifying patient and designated caregiver  
24 a statement with the registry identification card explaining federal law on the possession of cannabis  
25 and that possession of a state registry identification card does not protect a person from federal  
26 criminal penalties.

27 VII.(a) The department shall track the number of qualifying patients who have designated  
28 each alternative treatment center and issue a monthly written statement to the alternative  
29 treatment center identifying the number of qualifying patients who have designated that alternative  
30 treatment center along with the registry identification numbers of each qualifying patient and each  
31 qualifying patient's designated caregiver.

32 (b) The department shall track the number of qualifying patients certified by each  
33 provider and registered with the department. Any concerns regarding provider conduct shall be  
34 referred to the New Hampshire board of medicine or the New Hampshire board of nursing.

35 VIII. In addition to the monthly reports, the department shall also provide written notice to  
36 an alternative treatment center which identifies the names and registration identification numbers  
37 of a qualifying patient and his or her designated caregiver whenever any of the following events

1 occur:

2 (a) A qualifying patient designates the alternative treatment center to serve his or her  
3 needs under this chapter;

4 (b) A qualifying patient revokes the designation of the alternative treatment center; or

5 (c) A qualifying patient who has designated the alternative treatment center loses his or  
6 her status as a qualifying patient under this chapter.

7 IX.(a) A qualifying patient shall notify the department before changing his or her designated  
8 caregiver or alternative treatment center.

9 (b) A qualifying patient shall notify the department of any change in his or her name or  
10 address within 10 days of such change. If the qualifying patient's certifying provider notifies the  
11 department in writing that the qualifying patient no longer suffers from a qualifying medical  
12 condition or should discontinue using cannabis for another compelling reason, the registry  
13 identification card shall become void upon notification by the department to the qualifying patient.

14 (c) When a qualifying patient or a designated caregiver notifies the department of any  
15 change to a name, address, or alternative treatment center, the department shall issue the  
16 qualifying patient or designated caregiver a new registry identification card with a new random 10-  
17 digit identification number within 20 days of receiving the updated information.

18 (d) If a qualifying patient notifies the department of a change in his or her designated  
19 caregiver and the prospective designated caregiver meets the requirements of this chapter, the  
20 department shall issue the designated caregiver a registry identification card with a new random 10-  
21 digit identification number within 50 days of receiving the designated caregiver's application.

22 (e) A qualifying patient or designated caregiver who fails to notify the department of any  
23 changes to his or her name, address, or designated caregiver shall be guilty of a violation and may be  
24 subject to a fine not to exceed \$150 under rules adopted by the department.

25 (f) If a qualifying patient or designated caregiver loses his or her registry identification  
26 card, he or she shall notify the department within 10 days of losing the card. Within 5 days after  
27 such notification, the department shall issue a new registry identification card with a new random  
28 10-digit identification number. The fee for new registry cards shall be established in rules set by the  
29 department pursuant to RSA 541-A.

30 X. Mere possession of, or application for, a registry identification card shall not constitute  
31 probable cause or reasonable suspicion, nor shall it be used to support the search of the individual or  
32 property of the individual possessing or applying for the registry identification card. The possession  
33 of, or application for, a registry identification card shall not preclude the existence of probable cause  
34 if probable cause exists on other grounds.

35 XI.(a) The department shall create and maintain a confidential registry of each individual  
36 who has applied for and received a registry identification card as a qualifying patient or a designated  
37 caregiver in accordance with the provisions of this chapter. Each entry in the registry shall contain

1 the qualifying patient’s or designated caregiver’s name, mailing address, date of birth, date of  
2 registry identification card issuance, date of registry identification card expiration, random 10-digit  
3 identification number, and registry identification number of the qualifying patient’s designated  
4 alternative treatment center, if any. The confidential registry and the information contained in it  
5 shall be exempt from disclosure under RSA 91-A.

6 (b)(1) Except as specifically provided in this chapter, no person shall have access to any  
7 information about qualifying patients or designated caregivers in the department’s confidential  
8 registry, or any information otherwise maintained by the department about providers and  
9 alternative treatment centers, except for authorized employees of the department in the course of  
10 their official duties and local and state law enforcement personnel who have detained or arrested an  
11 individual who claims to be engaged in the therapeutic use of cannabis.

12 (2) If a local or state law enforcement officer submits a sworn affidavit to the  
13 department affirming that he or she has probable cause to believe cannabis is possessed at a specific  
14 address, an authorized employee for the department may disclose whether the location is associated  
15 with a qualifying patient, designated caregiver, or cultivation location of an alternative treatment  
16 center.

17 (3) If a local or state law enforcement officer submits a sworn affidavit to the  
18 department affirming that he or she has probable cause to believe a specific individual possesses  
19 cannabis, an authorized employee for the department may disclose whether the person is a  
20 qualifying patient or a designated caregiver, provided that the law enforcement officer provides the  
21 person’s name and address or name and date of birth.

22 (4) Counsel for the department may notify law enforcement officials about falsified  
23 or fraudulent information submitted to the department where counsel has made a legal  
24 determination that there is probable cause to believe the information is false or falsified.

25 XII. Within 5 days of learning of the death of a qualifying patient, a surviving family  
26 member, caretaker, executor, or the patient’s designated caregiver shall notify the department that  
27 the qualifying patient has died. Within 5 days of learning of the death of a qualifying patient, the  
28 surviving family member, caretaker, executor, or the patient’s designated caregiver shall either  
29 request that the local law enforcement agency remove any remaining cannabis or shall dispose of the  
30 cannabis in a manner that is specified in 126-W:2, XIV.

31 126-W:5 Affirmative Defense.

32 I. It shall be an affirmative defense for any person charged with manufacturing, possessing,  
33 having under his or her control, selling, purchasing, prescribing, administering, transporting, or  
34 possessing with intent to sell, dispense, or compound cannabis, cannabis analog, or any preparation  
35 containing cannabis, if:

36 (a) The actor is a qualifying patient who has been issued a valid registry identification  
37 card, was in possession of cannabis in a quantity and location permitted pursuant to this chapter,

1 and was engaged in the therapeutic use of cannabis; or

2 (b) The actor is a designated caregiver who has been issued a valid registry identification  
3 card was in possession of a cannabis in a quantity and location permitted pursuant to this chapter,  
4 and was engaged in the therapeutic use of cannabis on behalf of a qualifying patient.

5 II. This section shall not be construed as an affirmative defense for any offense other than  
6 those acts as set forth in paragraph I.

7 126-W:6 Departmental Rules.

8 I. Not later than one year after the effective date of this chapter, the department shall adopt  
9 rules, pursuant to RSA 541-A, governing:

10 (a) The form and content of applications for issuance and renewals of registry  
11 identification cards for qualifying patients and designated caregivers.

12 (b) The form and content of providers' written certifications.

13 (c) Procedures for considering, approving, and denying applications for issuance and  
14 renewals of registry identification cards, and for revoking registry identification cards.

15 (d) Fees pursuant to RSA 126-W:4, I(b) and paragraph II of this section for applications  
16 for registry identification cards, and pursuant to RSA 126-W:4, IX(f) for re-issuance of replacement  
17 registry identification cards.

18 (e) Fines pursuant to RSA 126-W:4, IX(e) for failure of the qualifying patient or  
19 designated caregiver to notify the department of any changes to his or her name, address, designated  
20 caregiver in the case of a qualifying patient, or alternative treatment center.

21 II. The department's rules shall establish application and renewal fees for registry  
22 identification cards in accordance with the following:

23 (a) The fee structure by the department for alternative treatment centers and registry  
24 identification cards shall generate revenues sufficient to offset all department expenses of  
25 implementing and administering this chapter; however,

26 (b) The department may accept donations from private sources without the approval of  
27 the governor and council in order to reduce the application and renewal fees for qualifying patients.

28 III.(a) Not later than 18 months after the effective date of this section, the department shall  
29 adopt rules, pursuant to RSA 541-A, governing alternative treatment centers and the manner in  
30 which it shall consider applications for registration certificates for alternative treatment centers,  
31 including, but not limited to:

32 (1) The form and content of registration and renewal applications.

33 (2) Administrative requirements.

34 (3) Security requirements, which shall include at a minimum, lighting, physical  
35 security, video security, alarm requirements, measures to prevent loitering, and on-site parking.

36 (4) Liability insurance.

37 (5) Sanitary requirements.

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- 1                   (6) Electrical safety requirements.
- 2                   (7) The specification of acceptable forms of picture identification that an alternative  
3 treatment center may accept when verifying a sale.
- 4                   (8) Personnel requirements including how many volunteers an alternative treatment  
5 center is permitted to have and requirements for supervision.
- 6                   (9) Labeling standards.
- 7                   (10) Procedures for suspending or terminating the registration of alternative  
8 treatment centers that violate the provisions of this chapter or the rules adopted pursuant to this  
9 chapter, a schedule of fines for such violations, and procedures for appealing any enforcement  
10 actions.
- 11                  (11) Procedures for inspections and investigations.
- 12                  (12) Advertising restrictions, including a prohibition of misrepresentation and unfair  
13 practices.
- 14                  (13) Permissible hours of operation.
- 15                  (14) The fees for the processing and review of applications for registration as an  
16 alternative treatment center and regulation of an alternative treatment center after it has been  
17 approved by the department. Such fees shall be established in an amount that covers all costs of the  
18 department for the review, registration, and regulation of alternative treatment centers.
- 19                  (15) Procedures for determining and enforcing the daily maximum amount of  
20 therapeutic cannabis which an alternative treatment center may cultivate or possess pursuant to  
21 RSA 126-W:8, XV(a).
- 22                  (b) The department shall adopt rules with the goal of protecting against diversion and  
23 theft, without imposing an undue burden on the alternative treatment centers or compromising the  
24 confidentiality of qualifying patients and their designated caregivers.
- 25                  126-W:7 Departmental Administration; Alternative Treatment Centers.
- 26                  I. Within 18 months of the effective date of this section, provided that at least 2 applications  
27 have been submitted that score sufficiently high to receive a certificate, the department shall issue  
28 alternative treatment center registration certificates to the 2 highest-scoring applicants. Each  
29 registration certificate shall include a registry number that is unique to the alternative treatment  
30 center.
- 31                  II. Any time an alternative treatment center registration certificate is revoked, relinquished,  
32 or expires without a renewal application being submitted, the department shall accept applications  
33 for a new alternative treatment center and issue a registration certificate to the applicant who scores  
34 the highest.
- 35                  III. If at any time after 2 years after the effective date of this section, fewer than 4  
36 alternative treatment centers hold valid registration certificates in New Hampshire, the department  
37 shall accept applications for a new alternative treatment center. No more than 4 alternative



1 treatment centers shall hold valid registration certificates at one time.

2 IV.(a) An alternative treatment center applicant shall submit a completed department-  
3 approved application form with all required documentation and a non-refundable fee in an amount  
4 set by department rule. The alternative treatment center application and supporting materials shall  
5 include, at a minimum:

6 (1) The legal name, articles of incorporation, and bylaws of the alternative treatment  
7 center.

8 (2) The proposed physical address of the alternative treatment center, if a precise  
9 address has been determined, or, if not, the general location where it would be located. This may  
10 include a second location for the cultivation of cannabis.

11 (3) A description of the enclosed, locked facility that would be used in the cultivation  
12 of cannabis by the alternative treatment center.

13 (4) The name, address, and date of birth of each principal officer and board member  
14 of the alternative treatment center. The board of directors for the non-profit shall include at least  
15 one physician, advance practice registered nurse, or pharmacist licensed to practice in  
16 New Hampshire and at least one patient qualified to register as a qualifying patient. The majority  
17 of board members shall be New Hampshire residents. A medical professional listed in this  
18 subparagraph may be a member of the alternative treatment center board but shall not maintain an  
19 ownership interest in the center.

20 (5) Proposed security and safety measures that comply with the rules adopted  
21 pursuant to RSA 126-W:6, including a description of interior and exterior lighting and security  
22 systems.

23 (6) The distance from any pre-existing private or public school.

24 (7) A copy of the proposed policy regarding services to qualifying patients who cannot  
25 afford to purchase cannabis for therapeutic use.

26 (8) Information demonstrating the applicant's knowledge of organic growing  
27 methods to be used in the growing and cultivation of cannabis.

28 (9) Steps that will be taken to ensure the quality of the cannabis, including purity  
29 and consistency of dose.

30 (10) A start-up timetable that provides an estimated time from registration of the  
31 alternative treatment center to full operation and the assumptions used for the basis of those  
32 estimates.

33 (11) Information showing the applicant's experience running a non-profit or other  
34 business.

35 (12) A description of any additional services that will be available to patients.

36 (13) The applicant's plans for record keeping and inventory control.

37 (b) Any time one or more alternative treatment center registration applications are

1 being considered, the department shall, in partnership with the local governing body of the town or  
2 city where the alternative treatment center would be located, solicit input from qualifying patients,  
3 designated caregivers, and the residents of the towns or cities in which the alternative treatment  
4 center would be located.

5 (c) Each time an alternative treatment center certificate is granted, the decision shall be  
6 based on the overall health needs of qualifying patients and the safety of the public. The department  
7 shall evaluate applications for alternative treatment center registration certificates using an  
8 impartial and numerically-scored competitive bidding process developed by the department in  
9 accordance with this chapter. The department shall require applicants to meet a minimum score to  
10 be considered. The registration considerations shall include the following criteria:

11 (1) The suitability of the proposed location, including compliance with any local  
12 zoning laws, and geographic convenience for qualifying patients from throughout the state of New  
13 Hampshire to alternative treatment centers if the application is approved. The department shall, to  
14 the greatest extent practicable, ensure that alternative treatment centers are geographically located  
15 so as to best serve the needs of qualifying patients.

16 (2) The proposed alternative treatment center's plan for operations and services,  
17 whether it has sufficient capital to operate, and its ability to provide a steady supply of cannabis to  
18 the qualifying patients in the state.

19 (3) The principal officer and board members' character and relevant experience,  
20 including any training or professional licensing related to medicine, pharmaceuticals, natural  
21 treatments, botany, or cannabis cultivation and preparation, and their experience operating a non-  
22 profit organization or business.

23 (4) The applicant's plan for making cannabis available on an affordable basis to  
24 qualifying patients enrolled in Medicaid or receiving Supplemental Security Income or Social  
25 Security Disability Insurance.

26 (5) The applicant's plan for safe and accurate packaging and labeling of cannabis,  
27 including the applicant's plan for ensuring that all cannabis is free of contaminants.

28 (6) The sufficiency of the applicant's plans for recordkeeping and inventory control.  
29 Records shall be considered confidential health care information under New Hampshire law and  
30 shall be deemed protected health care information for purposes of the federal Health Insurance  
31 Portability and Accountability Act of 1996, as amended. Any dispensing records that an alternative  
32 treatment center is required to keep shall document transactions according to qualifying patients'  
33 and designated caregivers' registry identification numbers, rather than their names, to protect their  
34 confidentiality.

35 (7) The sufficiency of the applicant's plans for safety and security, including  
36 proposed location and security devices employed.

37 (8) Whether the entity possesses or has the right to use sufficient land, buildings,

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1 and equipment to properly carry out its duties as an alternative treatment center.

2 V. After an alternative treatment center is approved, but before it begins operations, it shall  
3 submit the registration fee paid to the department in accordance with the rules adopted by the  
4 department. Annual fees thereafter shall be paid in accordance with the rules adopted by the  
5 department.

6 VI. Information required to be submitted to the department on an application for an  
7 alternative treatment center identifying the locations where cannabis is proposed to be grown,  
8 cultivated, harvested, and otherwise prepared for distribution to qualifying patients, designated  
9 caregivers, and alternative treatment centers, and any other department records identifying such  
10 location, shall be considered to be confidential information and not subject to disclosure pursuant to  
11 RSA 91-A, except that:

12 (a) Such information may be disclosed to a state or local law enforcement agency upon  
13 request for purposes of enforcement under this chapter;

14 (b) The location may be disclosed to towns and cities when seeking input on locations,  
15 provided that town and city representatives keep the information confidential; and

16 (c) The name, address, and phone number of alternative treatment centers may be  
17 disclosed to qualifying patients.

18 VII. The alternative treatment center's certificate may be revoked at any time it commits a  
19 violation of this chapter or rules adopted by the department, including if it negligently or knowingly  
20 allows cannabis to be distributed to someone who is not exempt from penalties pursuant to this  
21 chapter.

22 VIII. Not more than one year after an alternative treatment center receives its first registry  
23 certificate, the department shall evaluate an alternative treatment center's operations. A  
24 registration certificate may be revoked if the alternative treatment center:

25 (a) Committed violations of this act or department rules; or

26 (b) Is not operational.

27 IX. Alternative treatment centers shall be subject to inspection by the department. During  
28 an inspection, the department may review the alternative treatment center's records, including its  
29 confidential dispensing and data collection records, which shall track transactions and product  
30 effectiveness according to qualifying patients' registry identification numbers to protect their  
31 confidentiality.

32 126-W:8 Alternative Treatment Centers; Requirements.

33 I. An alternative treatment center shall be operated on a not-for-profit basis for the benefit  
34 of its patients. An alternative treatment center need not be recognized as a tax-exempt organization  
35 by the Internal Revenue Service.

36 II. An alternative treatment center shall not be located in a residential district or within  
37 1,000 feet of the property line of a pre-existing public or private elementary or secondary school or

1 designated drug free school zones.

2 III. An alternative treatment center shall implement appropriate security measures to deter  
3 and prevent the unauthorized entrance into areas containing cannabis and the theft of cannabis and  
4 shall ensure that each location has an operational security alarm system.

5 IV.(a) An alternative treatment center shall conduct a state and federal criminal records  
6 check for every person seeking to become a principal officer, board member, agent, volunteer, or  
7 employee before the person begins working at the alternative treatment center pursuant to RSA 126-  
8 W:4, II(g). An alternative treatment center shall not allow any person to be an alternative treatment  
9 center agent who:

10 (1) Was convicted of a felony or felony drug-related offense; or

11 (2) Is under 21 years of age.

12 (b) An alternative treatment center shall create an identification badge for each  
13 alternative treatment center agent before the alternative treatment center agent possesses,  
14 cultivates, or transports cannabis on behalf of the alternative treatment center. The badges may  
15 include the alternative treatment center's registration certificate number and either a unique  
16 number for each agent or his or her name.

17 (c) An alternative treatment center agent shall wear his or her badge at all times when  
18 working at an alternative treatment center, including at any cultivation location.

19 V. No person who has been convicted of a felony or felony drug-related offense shall be an  
20 alternative treatment center agent. A person who is employed by or is an agent, volunteer, principal  
21 officer, or board member of an alternative treatment center who violates this paragraph shall be  
22 guilty of a violation punishable by a fine of up to \$1,000. A subsequent violation of this paragraph  
23 shall be a misdemeanor.

24 VI. The operating documents of an alternative treatment center shall include procedures for  
25 the oversight of the alternative treatment center and procedures to ensure accurate recordkeeping.

26 VII. Each alternative treatment center shall keep the following records, in accordance with a  
27 records retention schedule established by the department:

28 (a) Records of the disposal of cannabis that is not distributed by the alternative  
29 treatment center to qualifying patients who have designated the alternative treatment center to  
30 cultivate for them.

31 (b) A record of each transaction, including the amount of cannabis dispensed, the  
32 amount of consideration, and the registry identification number of the qualifying patient, designated  
33 caregiver, or alternative treatment center, and the qualifying patient's provider.

34 VIII. Each alternative treatment center shall:

35 (a) Conduct an initial comprehensive inventory of all cannabis, including usable  
36 cannabis available for dispensing and mature cannabis plants at each authorized location on the  
37 date the alternative treatment center first dispenses cannabis.

1 (b) Conduct a monthly comprehensive inventory of all cannabis, including usable  
2 cannabis available for dispensing, mature cannabis plants, and seedlings at each authorized  
3 location.

4 IX. An alternative treatment center shall submit a department-approved incident report  
5 form on the next business day after it discovers a reportable incident. The report shall indicate the  
6 nature of the breach and the corrective actions taken by the alternative treatment center.

7 Reportable incident shall mean:

8 (a) Confidential information accessed or disclosed in violation of department rules;

9 (b) Loss of inventory by theft or diversion;

10 (c) Unauthorized intrusion into the alternative treatment center or the additional  
11 location, if any;

12 (d) Any known violation of this chapter or department rules by an alternative treatment  
13 center agent; or

14 (e) Any other incident that the department by rule requires to be reported.

15 X. Alternative treatment centers shall only use organic pesticides in cannabis.

16 XI. No cannabis or paraphernalia at an alternative treatment center shall be visible from  
17 outside the property of the alternative treatment center.

18 XII. An alternative treatment center shall submit an annual report to the department that  
19 shall provide information required by the department in order to allow the department to evaluate  
20 the effectiveness and operations of the alternative treatment center.

21 XIII.(a) Each time an alternative treatment center agent dispenses cannabis to a qualifying  
22 patient directly or through the qualifying patient's designated caregiver, he or she shall consult the  
23 alternative treatment center's records to verify that the records do not indicate that the dispensing of  
24 the cannabis would cause the qualifying patient to receive more cannabis than is permitted in a 10-  
25 day period. Each time cannabis is dispensed, the alternative treatment center agent shall record the  
26 date the cannabis was dispensed and the amount dispensed. All records shall be kept according to  
27 the registry identification number of the qualifying patient and designated caregiver, if any.

28 (b) Except as provided in subparagraph (c), a qualifying patient shall not obtain more  
29 than 2 ounces of usable cannabis directly or through the qualifying patient's designated caregiver  
30 during a 10-day period.

31 (c) After providing an opportunity for patients, experts, researchers, and physicians to be  
32 heard, the department may issue a rule adjusting the limit specified in subparagraph (a) to an  
33 amount that is reasonably necessary for a 10-day supply.

34 XIV.(a) Except when transporting cannabis in accordance with subparagraphs (b) or (c), an  
35 alternative treatment center agent shall only possess and manufacture cannabis at an alternative  
36 treatment center location at which alternative treatment center agents are employed. Volunteers  
37 shall only possess and manufacture cannabis at an alternative treatment center location. Volunteers

1 shall not dispense cannabis.

2 (b) Distributions of cannabis to a qualifying patient or a designated caregiver for use by  
3 a qualifying patient shall be labeled with a document to identify the alternative treatment center,  
4 the patient’s registry number, or the caregiver’s number, the amount and form, the time and date of  
5 origin, and destination of the product.

6 (c) An alternative treatment center with an additional growing location shall label the  
7 cannabis that is being moved between the additional growing location and the alternative treatment  
8 center with a document that identifies the alternative treatment center by registry number, the  
9 time, date, origin, and destination of the material being transported, and the amount and form of  
10 cannabis and cannabis material that is being transported. Cannabis shall be transported only by an  
11 alternative treatment center agent who is not a volunteer.

12 XV.(a) An alternative treatment center shall not possess or cultivate cannabis in excess of  
13 the following quantities:

14 (1) Eighty cannabis plants, 160 seedlings, and 80 ounces of usable cannabis, or 6  
15 ounces of usable cannabis per qualifying patient; and

16 (2) Three mature cannabis plants, 12 seedlings, and 6 ounces for each qualifying  
17 patient who has designated the alternative treatment center to provide him or her with cannabis for  
18 therapeutic use.

19 (b) An alternative treatment center or alternative treatment center agent shall not  
20 dispense, deliver, or otherwise transfer cannabis to any person or entity other than:

21 (1) A qualifying patient who has designated the relevant alternative treatment  
22 center; or

23 (2) Such patient’s designated caregiver; or

24 (3) Another alternative treatment center.

25 (c) All cultivation of cannabis shall take place in an enclosed, locked facility registered  
26 with the department and which can only be accessed by alternative treatment center agents.

27 XVI.(a) All cannabis dispensed by an alternative treatment center shall include a label  
28 specifying the weight of the cannabis and any other information the department requires to appear  
29 on the label. The label shall also specify that the cannabis is for therapeutic use and that diversion  
30 is a class B felony requiring revocation of one’s registry identification card.

31 (b) Alternative treatment centers shall collect data on strains used and methods of  
32 delivery for qualifying conditions and symptoms, any side effects experienced, and therapeutic  
33 effectiveness for each patient who is willing to provide the information. Such data collection shall be  
34 done under the qualifying patient’s registry identification number to protect the patient’s  
35 confidentiality.

36 (c) An alternative treatment center shall provide educational materials about cannabis  
37 to qualifying patients and their registered primary caregivers. Each alternative treatment center

1 shall have an adequate supply of up-to-date educational material available for distribution.  
2 Educational materials shall be available for inspection by the department upon request. The  
3 educational material shall at least include information about the following:

4 (1) Strains of cannabis, routes of administration, and their different effects.  
5 Alternative treatment centers shall have educational materials available to assist in the selection of  
6 prepared cannabis. Alternative treatment centers shall provide tracking sheets to qualifying  
7 patients and their providers who request them to keep track of the strains used and their effects.

8 (2) How to achieve proper dosage for different modes of administration. Emphasis  
9 shall be on using the smallest amount possible to achieve the desired effect. The impact of potency  
10 shall also be explained.

11 (3) Information on tolerance, dependence, and withdrawal shall be provided.

12 (4) Information regarding substance abuse signs and symptoms shall be available, as  
13 well as referral information.

14 (5) Information on whether the alternative treatment center's cannabis and  
15 associated products meet organic certification standards.

16 (6) Information about possible side effects from the use of cannabis for therapeutic  
17 purposes.

18 XVII.(a) Each alternative treatment center shall develop, implement, and maintain on the  
19 premises employee and agent policies and procedures to address the following requirements:

20 (1) A job description or employment contract developed for all employees and a  
21 volunteer agreement for all volunteers, which includes duties, authority, responsibilities,  
22 qualifications, and supervision.

23 (2) Training in and adherence to confidentiality laws.

24 (3) The proper use of security measures and controls that have been adopted.

25 (4) Specific procedural instructions on how to respond to an emergency.

26 (b) All alternative treatment centers shall prepare training documentation for each  
27 employee and have employees sign a statement indicating the date, time, and place the employee  
28 received said training and topics discussed, to include name and title of presenters. The alternative  
29 treatment center shall maintain documentation of an employee's and a volunteer's training for a  
30 period of at least 6 months after termination of an employee's period of employment or the  
31 volunteer's period of voluntary service.

32 (c) Each alternative treatment center shall maintain a personnel record for each  
33 alternative treatment center agent that includes an application for employment or to volunteer and a  
34 record of any disciplinary action taken.

35 XVIII. A provider shall not:

36 (a) Accept, solicit, or offer any form of pecuniary remuneration from or to an alternative  
37 treatment center, except if the provider is employed by an alternative treatment center.

1           (b) Offer a discount or other thing of value to a patient who uses or agrees to use a  
2 particular alternative treatment center.

3           (c) Examine a patient in relation to issuing a written certification at a location where  
4 cannabis is sold or distributed.

5           (d) Hold an economic interest in an alternative treatment center if the provider issues  
6 written certifications to patients.

7           126-W:9 Therapeutic Use of Cannabis Advisory Council.

8           I. There is hereby established a therapeutic use of cannabis advisory council comprised of:

9           (a) Two members of the house of representatives, appointed by the speaker of the house  
10 of representatives.

11           (b) One member of the senate, appointed by the senate president.

12           (c) The commissioner of the department of health and human services, or designee.

13           (d) The commissioner of the department of safety, or designee.

14           (e) The attorney general, or designee.

15           (f) One physician with experience in therapeutic use of cannabis issues, appointed by the  
16 New Hampshire Medical Society.

17           (g) One advanced practice registered nurse, appointed by the New Hampshire Nurse  
18 Practitioner Association.

19           (h) One representative of a community hospital, appointed by the governor.

20           (i) One representative of the New Hampshire Civil Liberties Union.

21           (j) One qualifying patient, appointed by the governor.

22           (k) One member of the public, appointed by the governor.

23           (l) One member from a hospital in New Hampshire, appointed by the governor.

24           (m) One member from the board of medicine, appointed by the executive director of the  
25 board of medicine.

26           (n) One member from the board of nursing, appointed by the executive director of the  
27 board of nursing.

28           II. The advisory council shall:

29           (a) Assist the department in adopting and revising rules to implement this chapter.

30           (b) Collect information, including:

31           (1) Satisfaction of qualifying patients with the therapeutic use of cannabis program.

32           (2) Any effect the therapeutic use of cannabis law has had on referrals to regulatory  
33 boards.

34           (3) Best practices in other states that allow the therapeutic use of cannabis.

35           (4) The ability of qualifying patients in all areas of the state to obtain timely access  
36 to high-quality cannabis.

37           (5) Any research studies regarding health effects of cannabis for patients.



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1                   (6) The effectiveness of New Hampshire’s therapeutic use of cannabis program.

2                   (7) Efforts to educate New Hampshire physicians and advanced practice registered  
3 nurses about research relating to the therapeutic use of cannabis.

4                   (8) The effectiveness of alternative treatment centers, individually and collectively,  
5 in serving the needs of qualifying patients, including the therapeutic effectiveness of available  
6 products, the provision of educational and support services, the reasonableness of their fees, whether  
7 they are generating any complaints or security problems, and the sufficiency of the number  
8 operating to serve the registered qualifying patients of New Hampshire.

9                   (9) The sufficiency of the regulatory and security safeguards contained in this  
10 chapter and adopted by the department to ensure that access to and use of cannabis cultivated is  
11 provided only to persons authorized for such purposes.

12                   (10) Any illegal distribution or diversion of cannabis cultivated pursuant to this  
13 chapter to individuals who are not alternative treatment center agents, qualifying patients, or  
14 designated caregivers.

15                   (11) Any statutory issues related to the certification of qualifying patients including,  
16 but not limited to, the definition of qualifying medical conditions, the certification process, and the  
17 number and location of providers willing and able to certify qualifying patients.

18                   (c) Make recommendations to the legislature and the department for any additions or  
19 revisions to the department rules or this chapter.

20                   (d) Five years after the effective date of this chapter, issue a formal opinion on whether  
21 the program should be continued or repealed.

22                   III. The advisory council may meet as often as is necessary to effectuate its goals. The first  
23 meeting shall be called by the commissioner of the department of health and human services, or  
24 designee within 45 days of the effective date of this chapter. At the first meeting, a chairman shall  
25 be elected by the members.

26                   IV. On or before January 1 of each year, the advisory council shall provide a report to the  
27 department of health and human services and the health and human services oversight committee  
28 established under RSA 126-A:13, the board of medicine and the board of nursing on its findings.

29                   126-W:10 Annual Data Report.

30                   I. The commissioner of the department of health and human services shall report annually  
31 on the therapeutic use of cannabis program established under this chapter to the health and human  
32 services oversight committee established under RSA 126-A:13, to the board of medicine, and to the  
33 board of nursing.

34                   II. The report shall be in electronic format to allow for identification of patterns of  
35 certification by patient and caregiver, location, age, medical condition, symptom, or side-effect, and  
36 provider, and for analysis and research to inform future policy, educational, and clinical decisions.

37                   III. The initial report shall be filed no later than December 1, 2014.

1           IV. The commissioner’s data report shall include but not be limited to the following  
2 information:

3           (a) The number of designated caregivers and the number of qualifying patients, by town  
4 or city and county.

5           (b) The ages of the qualifying patients and the ages of the designated caregivers.

6           (c) The qualifying medical conditions and the number of each qualifying medical  
7 condition.

8           (d) The symptoms or side effects and the number of each symptom or side effect.

9           (e) The number of physicians and the number of advanced practice registered nurses  
10 issuing written certifications.

11           (f) The number of providers in each medical specialty issuing written certifications.

12           (g) Any other issues related to the therapeutic use of cannabis permitted under this  
13 chapter that the health and human services oversight committee shall request.

14           V. A summary of the report submitted by alternative treatment centers as required under  
15 RSA 126-W:8, XII.

16           126-W:11 Registry Identification Card and Certificate Fund. There is hereby established in the  
17 office of the state treasurer a fund to be known as the registry identification card and certificate fund  
18 which shall be kept separate and distinct from all other funds. The fund is established to pay for the  
19 operational expenses of permitting the therapeutic use of cannabis as established in this chapter.  
20 The moneys in this fund shall be nonlapsing and continually appropriated to the department.  
21 Interest on fund balances shall accrue to the fund. All fines and other income received by the  
22 department and all monetary fees, gifts, grants, and donations received by the department pursuant  
23 to this chapter shall be deposited in the fund.

24           2 New Subparagraph; Application of Receipts; Registry Identification Card and Certificate  
25 Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (310) the following new subparagraph:

26                   (311) Moneys deposited in the registry identification card and certificate fund  
27 established in RSA 126-W:11.

28           3 New Paragraph; Controlled Drug Act; Acts Prohibited. Amend RSA 318-B:2 by inserting after  
29 paragraph I-a the following new paragraph:

30                   I-b. It shall be unlawful for a qualifying patient or designated caregiver as defined under  
31 RSA 126-W:1 to sell cannabis to another person who is not a qualifying patient or designated  
32 caregiver. A conviction for the sale of cannabis to a person who is not a qualifying patient or  
33 designated caregiver shall not preclude or limit a prosecution or conviction of any person for sale of  
34 cannabis or any other offense defined in this chapter.

35           4 New Paragraph; Controlled Drug Act; Penalties. Amend RSA 318-B:26 by inserting after  
36 paragraph IX the following new paragraph:

37                   IX-a. A qualifying patient or designated caregiver as defined in RSA 126-W:1 who sells

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1   cannabis to a person who is not a qualifying patient or a designated caregiver shall be guilty of a  
2   class B felony and shall be sentenced to a maximum term of imprisonment of not more than 7 years,  
3   a fine of not more than \$300,000, or both.

4         5 Effective Date. This act shall take effect upon its passage.

LBAO  
13-0279  
Amended 05/28/13

### HB 573 FISCAL NOTE

AN ACT                    relative to the use of cannabis for therapeutic purposes.

#### FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill, **as amended by the Senate (Amendment #2013-1631s)**, as it is awaiting information from the Departments of Health and Human Services, Safety, and Corrections, the Judicial Branch, Judicial Council, New Hampshire Association of Counties and the New Hampshire Municipal Association. When completed, the fiscal note will be forwarded to the House Clerk's Office.

| CHAPTER He-C 400 THERAPEUTIC ~~USE OF~~ CANNABIS PROGRAM

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CHAPTER He-C 400 THERAPEUTIC ~~USE OF~~ CANNABIS PROGRAM

PART He-C 401 THERAPEUTIC ~~USE OF~~ CANNABIS PROGRAM REGISTRY RULES

Statutory Authority: RSA 126-X:6, I

He-C 401.01 Purpose and Scope.

(a) The purpose of these rules is to establish the requirements for issuing registry identification cards to qualifying patients and their designated caregivers for the therapeutic use of cannabis.

(b) ~~This rule shall apply to New Hampshire residents only.~~ Individuals who are not legal residents of the State of New Hampshire shall not be eligible to receive registry identification cards as qualifying patients.

He-C 401.02 Definitions.

(a) “Alternative treatment center” 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 and alternative treatment centers.”

(b) “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.”

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

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

(e) “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.

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

(a) Is at least 21 years of age;

(b) Has agreed to assist with one or more (not to exceed 5) qualifying patient’s therapeutic use of cannabis, except if the qualifying patient and designated caregiver each live greater than 50 miles from the nearest alternative treatment center, in which case the designated caregiver may assist with the therapeutic use of cannabis for up to 9 qualifying patients;

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

(d) Possesses a valid registry identification card issued pursuant to RSA 126-X:4.”

~~(f)~~(g) “Minor” means an applicant who is under 18 years of age.

~~(g)~~(h) “Provider” means:

(1) A physician licensed to prescribe drugs to humans under RSA 329 and who possesses an active registration certification from the United States Drug Enforcement Administration to prescribe controlled substances; or

(2) An advanced practice registered nurse licensed to prescribe drugs to humans under RSA 326-B:18 and who possesses an active registration certification from the United States Drug Enforcement Administration to prescribe controlled substances.

~~— (h) “Provider-patient relationship” means “provider-patient relationship” as defined in RSA 126-X:1, VIII, namely, “at least a 3-month medical relationship between a licensed provider and a patient that includes an in-person exam, a history, a diagnosis, and a treatment plan appropriate for the licensee’s medical specialty.”~~

(i) “Provider-patient relationship” means at least a 3-month medical relationship between a licensed provider and a patient, unless the 3-month requirement does not apply in accordance with He-C 401.06(b)(1)b., during which the provider has conducted a full assessment of the patient’s medical history and current medical condition in accordance with He-C 401.06(b)(2).

~~(j)~~(j) “Qualifying medical condition” means “qualifying medical condition” as defined in RSA 126-X:1, IX(a), namely, “the presence of:

(1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C currently receiving antiviral treatment, amyotrophic lateral sclerosis, muscular dystrophy, Crohn’s disease, agitation of Alzheimer’s disease, multiple sclerosis, chronic pancreatitis, spinal cord injury or disease, traumatic brain injury, or one or more injuries that significantly interferes with daily activities as documented by the patient’s provider; and

(2) A severely debilitating or terminal medical condition or its treatment that has produced at least one of the following: elevated intraocular pressure, cachexia, chemotherapy-induced anorexia, wasting syndrome, 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.”

~~(k)~~(k) “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.”

~~(l)~~(l) “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.”

~~(m)~~(m) “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:

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

~~(m)(n)~~ “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.”

~~(n) “Written certification” means “written certification” as defined in RSA 126 X:1, XVII, namely, “documentation of a qualifying medical condition by a provider pursuant to rules adopted by the department pursuant to RSA 541-A for the purpose of issuing registry identification cards, after having completed a full assessment of the patient’s medical history and current medical condition made in the course of a provider-patient relationship of at least 3 months in duration. The 3 month requirement for the provider-patient relationship required in this paragraph shall not apply if the provider issuing the written certification certifies that the onset of the patient’s qualifying medical condition occurred within the past 3 months, and the certifying provider is primarily responsible for the patient’s care related to his or her qualifying medical condition. The date of issuance and the patient’s qualifying medical condition, symptoms or side effects, the certifying provider’s name, medical specialty, and signature shall be specified on the written certification.”~~

~~(o) “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 401.03 Registry Identification Card Required.

(a) In order to receive legal protection for the therapeutic use of cannabis as authorized by RSA 126-X, an individual shall apply for and receive a registry identification card for the therapeutic use of cannabis.

(b) A qualifying patient or designated caregiver shall be in possession of his or her registry identification card at all times while in possession of cannabis outside his or her home.

(c) Pursuant to RSA 126-X:3, V, a qualifying patient or designated caregiver who is found to be in possession of cannabis outside of his or her home and is not in possession of his or her registry identification card shall be subject to a fine of up to \$100.

#### He-C 401.04 Initial Application Requirements for Qualifying Patients.

(a) Applicants for a qualifying patient registry identification card shall submit a completed application, “Application for the Therapeutic Use of Cannabis – Qualifying Patient” (edition date), to the department, which includes the following:



- (1) Indication whether it is an initial or renewal application, and if a renewal application, the applicant's current registry identification number;
- (2) The following applicant information:
  - a. Full name;
  - b. Mailing address;
  - c. Physical address if different than mailing address, except that if the applicant is homeless this shall not be required;
  - d. Telephone number ~~for both home and work, as applicable~~;
  - e. Date of birth; and
  - f. NH driver's license number or state or federal government-issued identification card number, if a copy of this documentation is provided as proof of NH residency in accordance with (b)(4) below, except that if the applicant is a minor this information shall be provided for the applicant's custodial parent or legal guardian;
- (3) The following information about the applicant's certifying provider(s):
  - a. Full name;
  - b. Business address; and
  - c. Telephone number;
- (4) A signed release authorizing the release of relevant medical information by the certifying provider to the department if further information about the applicant's qualifying medical condition is ~~needed~~ required by the department;
- (5) The following information about the applicant's designated caregiver, if the applicant has designated a caregiver:
  - a. Full name;
  - b. Mailing address;
  - c. Physical address if different than mailing address;
  - d. Telephone number ~~for both home and work, as applicable~~; and
  - e. Date of birth;
- (6) The name and city or town of the applicant's designated alternative treatment center;
- (7) If the applicant is a minor, the attestations and consents required by He-C 401.08 ~~(f)~~ (g) and ~~(g)~~ (h);

(8) The initialing of all acknowledgements required on the application, including the acknowledgement of the limitations on the applicant’s authorization for the therapeutic use of cannabis and that such authorization is applicable only in New Hampshire;

(9) A signed certification that the applicant is a resident of New Hampshire and that the facts as stated in the application are accurate to the best of ~~his or her~~ the applicant’s knowledge and belief;

(10) A signed pledge not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to RSA 126-X and acknowledgement that diversion of cannabis is punishable as a class B felony and will result in revocation of his or her registry identification card, in addition to other penalties for the illegal sale of cannabis; ~~and~~

(11) All other information required by the “Application for the Therapeutic Use of Cannabis – Qualifying Patient” (edition date); ~~and~~

(12) A statement that false statements made on the application are punishable as unsworn falsification pursuant to RSA 641:3.

(b) In addition to (a) above, applicants shall provide to the department the following supporting documentation:

(1) A “Written Certification for the Therapeutic Use of Cannabis” (edition date) completed by the patient’s provider in accordance with He-C 401.07, except that a written certification completed more than 60 days prior to the date of the applicant’s application submission shall not be accepted;

(2) A non-refundable fee in accordance with He-C 401.14(b)(1) or (2);

(3) A recent passport style photograph of the applicant’s face in natural color, which meets the following requirements:

a. A digital photograph, in .jpg format, supplied on a compact disc (CD) which is labeled with the applicant’s name and date of birth;

b. Taken against a white backdrop;

c. The photograph shall contain a front image of the applicant’s full face;

d. The applicant’s face shall take up at least 70% of the photograph;

e. The applicant shall not wear a hat, sunglasses, or any other item that might alter or disguise the overall features of the face; and

f. The photograph shall have been taken not more than 30 days prior to the date of the application; and

(4) Proof of New Hampshire residency, as follows, except that if the applicant is a minor this information shall be provided for the applicant’s custodial parent or legal guardian:

- a. A copy of the applicant’s New Hampshire driver’s license;
  - b. A copy of the applicant’s state or federal government-issued identification card that shows the applicant’s name and address; or
  - c. If documentation in a. and b. above is unavailable, other documentation that contains the applicant’s name and current address and which indicates New Hampshire residency, such as:
    1. A current lease agreement;
    2. Tax documents from the previous calendar year; or
    3. A utility bill issued within the previous 2 months of the date of the application.
- (c) The applicant shall mail or hand-deliver the documents in (a) and (b) above to:

New Hampshire Department of Health and Human Services  
Therapeutic Cannabis Program – Registry  
129 Pleasant Street  
Concord, NH 03301

He-C 401.05 Initial Application Requirements for Designated Caregivers.

(a) Applicants for a designated caregiver registry identification card shall submit a completed application, “Application for the Therapeutic Use of Cannabis – Designated Caregiver” (edition date), to the department, which includes the following:

- (1) Indication whether it is an initial or renewal application, and if a renewal application, the applicant’s current registry identification number;
- (2) The following applicant information:
  - a. Full name;
  - b. Mailing address;
  - c. Physical address if different than mailing address;
  - d. Telephone number ~~for both home and work, as applicable~~; and
  - e. Date of birth;
- (3) The following qualifying patient information for each qualifying patient the applicant will be assisting with the therapeutic use of cannabis, which shall not exceed 5 qualifying patients, except that additional qualifying patients shall be allowed, up to a maximum of 9, if both the designated caregiver and the additional qualifying patients each live greater than 50 miles from the nearest alternative treatment center:
  - a. Full name;

- b. Mailing address;
- c. Physical address if different than mailing address;
- d. Telephone number ~~for both home and work, as applicable~~;
- e. Date of birth; and
- f. The name and city or town of the alternative treatment center the qualifying patient has designated;

(4) The initialing of all acknowledgements required on the application, including the acknowledgement of the limitations on the applicant’s authorization for the therapeutic use of cannabis and that such authorization is applicable only in New Hampshire;

(5) A signed certification that the facts as stated in the application are accurate to the best of ~~his or her~~ the applicant’s knowledge and belief;

(6) A signed pledge not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to RSA 126-X and acknowledgement that diversion of cannabis is punishable as a class B felony and will result in revocation of his or her registry identification card, in addition to other penalties for the illegal sale of cannabis; ~~and~~

(7) All other information required by the “Application for the Therapeutic Use of Cannabis – Designated Caregiver” (edition date); and

(8) A statement that false statements made on the application are punishable as unsworn falsification pursuant to RSA 641:3.

(b) In addition to (a) above, applicants shall provide to the department the following supporting documentation:

(1) A non-refundable fee in accordance with He-C 401.14(b)(1) or (2); and

(2) A recent passport style photograph of the applicant’s face in natural color, which meets the following requirements:

- a. A digital photograph, in .jpg format, supplied on a compact disc (CD) which is labeled with the applicant’s name and date of birth;
- b. Taken against a white backdrop;
- c. The photograph shall contain a front image of the applicant’s full face;
- d. The applicant’s face shall take up at least 70% of the photograph;
- e. The applicant shall not wear a hat, sunglasses, or any other item that might alter or disguise the overall features of the face; and

f. The photograph shall have been taken not more than 30 days prior to the date of the application.

(c) In addition to the materials in (a) and (b) above, for each applicant the department shall also receive the results of a state and federal criminal history records check from the division of state police, department of safety. An application shall not be considered complete without the results of a state and federal criminal history records check.

(d) In order for the department to receive the results of a state and federal criminal history records check, an applicant shall submit to the division of state police the following:

- (1) A notarized criminal history record release form, as provided by the division of state police, which authorizes the release of the applicant's criminal history record, if any, to the department;
- (2) A complete set of electronic fingerprints taken by a qualified law enforcement agency or an authorized employee of the department of safety; and
- (3) The required fee.

(e) In the event that, after 2 attempts, the applicant's electronic fingerprints are invalid due to insufficient pattern, ~~the applicant shall:~~

(1) 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;

(2) The applicant shall submit the police clearances obtained in (1) above to the division of state police; and

(3) The department shall receive from the division of state police the results of the police clearance check process.

~~(1) Provide on the application in (a) above the locations of all the places he or she has lived during the past 5 years; and~~

~~(2) Submit with the application the 2 notices received from the division of state police indicating that his or her fingerprints are invalid due to insufficient pattern.~~

(f) The applicant shall mail or hand-deliver the documents in (a) and (b) above, ~~and in (e)(2) above if applicable,~~ to:

New Hampshire Department of Health and Human Services  
Therapeutic Cannabis Program – Registry  
129 Pleasant Street  
Concord, NH 03301

He-C 401.06 Provider Requirements.

(a) The department shall accept written certifications for the therapeutic use of cannabis only from providers who hold:

(1) An active license, in good standing, pursuant to RSA 329 for physicians or pursuant to RSA 326-B:18 for advanced practice registered nurses; ~~or~~ and

(2) An active federal Drug Enforcement Administration controlled substance registration in good standing.

(b) A provider issuing a written certification shall:

(1) Have a provider-patient relationship with the patient, as defined in He-C 401.02 ~~(h)(i)~~ (i) ~~and RSA 126-X:1, VIII~~, as indicated by the existence of either:

a. At least a 3-month medical relationship between the provider and the patient; or

b. ~~Pursuant to RSA 126-X:1, XVII, a~~ A medical relationship between the provider and the patient that is less than 3 months duration provided that the provider certifies on the “Written Certification for the Therapeutic Use of Cannabis” that the onset or diagnosis of the patient’s qualifying medical condition occurred within the past 3 months, and the certifying provider is primarily responsible for the patient’s care related to his or her qualifying medical condition;

(2) Conduct a full assessment of the patient’s medical history and current medical condition which includes:

a. An in-person physical examination of the patient;

b. A medical history of the patient, including a prescription history;

c. A review of laboratory testing, imaging, and other relevant tests;

d. Appropriate consultations;

~~e.e.~~ A diagnosis of the patient’s current medical condition; and

~~d.f.~~ The development of a treatment plan for the patient appropriate for the provider’s specialty;

(3) Diagnose the patient as having a qualifying medical condition, as defined in He-C 401.02 ~~(h)(j)~~ (j) and RSA 126-X:1, IX(a), or as approved in accordance with He-C 401.09;

(4) Explain the potential ~~risks and benefits~~ health effects of the therapeutic use of cannabis;

a. To the patient; or

b. In the case of a patient who is a minor, to the minor’s custodial parent or legal guardian with responsibility for health care decisions for the patient, which shall be inclusive of potential risks and benefits of the therapeutic use of cannabis;

(5) Be of the opinion that ~~the potential benefits of the patient’s~~ the patient’s therapeutic use of cannabis is appropriate for the patient’s qualifying medical condition ~~would likely outweigh the health risks of such use to the patient;~~

(6) ~~Be reasonably able~~ Make reasonable efforts to follow the patient clinically at appropriate intervals to provide follow-up care and treatment to the patient including, but not limited to, physical examinations, to determine the ~~efficacy~~ 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;

(7) Comply with the generally accepted standards of medical practice ~~except to the extent such standards would counsel against certifying a qualifying patient for the therapeutic use of cannabis;~~

(8) Maintain medical records for all patients for whom the provider has issued a written certification which support the certification of a qualifying medical condition;

(9) Make a copy of such records which support the certification of a qualifying medical condition available to the department, and otherwise provide information to the department upon request about the patient's qualifying medical condition, to ensure compliance with RSA 126-X and He-C 401; and

(10) If the provider provides ~~instructions recommendations~~ for the therapeutic use of cannabis to the patient, ~~also securely transmit and chooses to send~~ such instructions to the patient's designated alternative treatment center, securely transmit such instructions; ~~and~~

~~(11) Notify the department in writing if the patient no longer suffers from a qualifying medical condition or should discontinue using cannabis.~~

(c) 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 ~~does not have an active~~ no longer actively has a qualifying medical condition, unless the symptoms related to such qualifying medical condition are mitigated by the therapeutic use of cannabis, ~~and is not undergoing treatment for such condition.~~

(d) If the patient's qualifying medical condition pursuant to RSA 126-X:1, IX(a)(2), is severe pain, the provider shall:

(1) Either:

- a. Document ~~that~~ previously prescribed medication or surgical measures to which the severe pain has not responded; or
- b. Document ~~that~~ previously prescribed other treatment options which have produced serious side effects; and

(2) Maintain medical records of all previously prescribed medication, surgical measures, and other treatments.

~~(e) A provider shall, prior to issuing a written certification for a minor, secure written consent from the minor's custodial parent or legal guardian to allow the minor's therapeutic use of cannabis.~~

~~(f)~~(e) 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 debilitating medical condition.

~~(g)(f)~~ A provider issuing a written certification shall not issue a written certification for him or herself or for the provider's immediate family members.

~~(h)(g)~~ Pursuant to ~~RSA 126-X:8, XVIII, aA~~ provider shall not:

~~(1) Accept, solicit, or offer any form of pecuniary remuneration from or to an alternative treatment center, except if the provider is employed by an alternative treatment center;~~

~~(2)(1)~~ Offer a discount or other thing of value to a patient who uses or agrees to use a particular alternative treatment center;

~~(3)(2)~~ Examine a patient in relation to issuing a written certification at a location where cannabis is sold or distributed; or

~~(4)(3)~~ Hold any economic interest in an alternative treatment center, including but not limited to employment at an alternative treatment center, if the provider issues written certifications to patients.

~~(h)(h)~~ Nothing in He-C 401 shall prohibit a provider from notifying the department if the provider acquires information indicating that a qualifying patient:

~~(1) s~~Should no longer be certified for the therapeutic use of cannabis; ~~or that a qualifying patient~~

~~(2) f~~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.~~

#### He-C 401.07 Written Certification Requirements.

(a) The patient's provider shall complete a "Written Certification for the Therapeutic Use of Cannabis" (edition date).

(b) The "Written Certification for the Therapeutic Use of Cannabis" (edition date) shall be:

~~(1) Completed within 60 days of the qualifying patient's application; and~~

~~(2) P~~provided to the qualifying patient for submission with the application materials, as required by He-C 401.04(b)(1).

(c) On the "Written Certification for the Therapeutic Use of Cannabis" (edition date), the provider shall:

(1) Certify that he or she is a provider, as defined in He-C 401.02~~(g)(h) and RSA 126-X:1, VII(a)~~, who holds:

a. An active license, in good standing, pursuant to RSA 329 for physicians or pursuant to RSA 326-B:18 for advanced practice registered nurses; and



b. An active federal Drug Enforcement Administration controlled substance registration in good standing;

(2) Certify that he or she has a provider-patient relationship with the patient, as follows:

~~a. In accordance with RSA 126 X:1, VIII, namely, “at least a 3-month medical relationship between a licensed provider and a patient that includes an in-person exam, a history, a diagnosis, and a treatment plan appropriate for the licensee’s medical specialty”; or~~

~~b. In accordance with RSA 126 X:1, VIII, namely, “at least a 3-month medical relationship between a licensed provider and a patient that includes an in-person exam, a history, a diagnosis, and a treatment plan appropriate for the licensee’s medical specialty”, except that pursuant to RSA 126 X:1, XVII, the 3-month requirement for the provider-patient relationship required in this paragraph shall not apply if the provider issuing the written certification certifies that the onset of the patient’s qualifying medical condition occurred within the past 3 months, and the certifying provider is primarily responsible for the patient’s care related to his or her qualifying medical condition;~~

a. “I have 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 of at least 3 months in duration”; or

b. “I have completed a full assessment of the patient’s medical history and current medical condition in accordance with He-C 401.06(b)(2), but I do not have a provider-patient relationship of at least 3 months in duration. The onset or diagnosis of my patient’s qualifying condition occurred within the past 3 months, and I am primarily responsible for the patient’s care related to his or her qualifying medical condition”;

(3) Certify the dates of the provider-patient relationship in (2) above;

(4) Certify that his or her patient has a qualifying medical condition, as defined in He-C 401.02~~(i)~~(j) and RSA 126-X:1, IX(a), or as approved in accordance with He-C 401.09, which includes both a condition and symptoms or side effects;

(5) Certify that the he or she has explained the potential ~~risks and benefits~~ health effects of the therapeutic use of cannabis:

~~a. To the patient;~~ or

b. In the case of a patient who is a minor, to the patient’s custodial parent or legal guardian with responsibility for health care decisions for the patient, which shall be inclusive of the potential risks and benefits of the therapeutic use of cannabis; and

(6) Indicate the duration for which the registry identification card shall be valid, if less than one year from its issuance.

(d) False statements made on the written certification are punishable as unsworn falsification pursuant to RSA 641:3.

(a) The minor applicant’s custodial parent or legal guardian who is responsible for the health care decisions of the applicant shall submit the “Application for the Therapeutic Use of Cannabis – Qualifying Patient” required by He-C 401.04(a) on behalf of the applicant.

(b) In cases where parents share legal custody of a minor applicant, the parent submitting an application shall notify the other parent with legal custody of the minor applicant in advance of submitting the application to the department by providing to the other parent the completed application and the completed written certification.

(c) In cases where a minor applicant’s legal guardian is not a custodial parent, the legal guardian shall submit with the application proof of legal guardianship.

~~(b)~~(d) The applicant’s custodial parent or legal guardian who is responsible for the health care decisions of the applicant shall submit 2 written provider certifications, one of which shall be from a pediatrician.

~~(e)~~(e) The applicant’s custodial parent or legal guardian who is responsible for the health care decisions of the applicant shall serve as the applicant’s designated caregiver by:

- (1) Submitting the “Application for the Therapeutic Use of Cannabis – Designated Caregiver” required by He-C 401.05(a) to be a designated caregiver; and
- (2) Being approved to be the applicant’s designated caregiver.

~~(f)~~(f) The patient application in (a) above shall not be considered complete, and shall not be processed, if it is not accompanied by the designated caregiver application in ~~(e)~~(e)(1) above.

~~(e)~~(g) If the applicant’s custodial parent or legal guardian who is responsible for the health care decisions of the applicant is not approved to be the applicant’s designated caregiver, the applicant’s application to be a qualifying patient shall be denied.

~~(f)~~(h) The applicant’s custodial parent or legal guardian who is responsible for the health care decisions of the applicant shall attest, on the “Application for the Therapeutic Use of Cannabis – Qualifying Patient,” that:

- (1) He or she is the custodial parent or legal guardian of the applicant;
- (2) He or she is responsible for the applicant’s health care decisions;
- (3) The applicant’s health care provider has explained to the parent or legal guardian who is responsible for the health care decisions of the applicant the potential risks and benefits of the therapeutic use of cannabis; and
- (4) He or she understands that if his or her application to be a designated caregiver is not approved, then the applicant’s application to be a qualifying patient shall not be approved.

~~(e)~~(i) The applicant’s custodial parent or legal guardian who is responsible for the health care decisions of the applicant shall consent, on the “Application for the Therapeutic Use of Cannabis – Qualifying Patient”:

- (1) To allow the applicant’s therapeutic use of cannabis;
- (2) To serve as the applicant’s designated caregiver; and
- (3) To control the acquisition of the cannabis and the frequency of the therapeutic use of cannabis by the applicant.

He-C 401.09 Approval of a Severely Debilitating or Terminal Medical Condition not Listed as a Qualifying Medical Condition.

(a) ~~Providers~~ Any person seeking to have the department include a severely debilitating or terminal medical condition that is not listed as a qualifying medical condition as defined in He-C 401.02~~(i)~~(j) and in RSA 126-X:1, IX(a), shall submit a written petition to the ~~commissioner~~ department for consideration.

(b) The ~~commissioner~~ department shall consider a petition only if it includes the following information:

~~(1) A completed “Written Certification for the Therapeutic Use of Cannabis” (edition date) for his or her patient;~~

(1) A detailed justification for including a new medical condition as a qualifying medical condition;

(2) A description of the extent to which the medical condition is generally accepted by the medical community as a valid, existing medical condition, and is considered severely debilitating or terminal;

(3) If one or more treatments for the condition, rather than the condition itself, are alleged to be the cause of ~~the patient’s~~ suffering, a description of the extent to which the treatments causing suffering are generally accepted by the medical community as valid treatments for the condition;

(4) A description of the symptoms caused by the condition or treatments thereof and the extent to which the condition or the treatments thereof cause elevated intraocular pressure, cachexia, chemotherapy-induced anorexia, wasting syndrome, 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;

(5) A description of the availability, or lack thereof, of conventional medical treatments, other than those that cause suffering, to alleviate suffering caused by the condition or the treatment thereof;

(6) A description of the extent to which evidence that is generally accepted among the medical community and other experts supports a finding that the use of cannabis alleviates suffering caused by the condition or the treatment thereof; and

(7) A description of any information or studies known to the petitioner regarding health effects, including any beneficial or adverse effects, from the use of cannabis in patients with the medical condition that is the subject of the petition.

(c) If a medical condition in a petition has been previously considered and rejected by the ~~commissioner~~department, or is determined by the ~~commissioner~~department to be substantially similar to such a rejected condition, the ~~commissioner~~department shall not accept the petition for further consideration unless the petition contains new scientific evidence or research, or describes substantially different symptoms, not previously considered in an earlier petition.

(d) The ~~commissioner~~department shall provide written notice to the petitioner whether the petition is accepted or rejected for consideration.

(e) At least twice per year, the ~~commissioner~~department shall conduct a public hearing to evaluate any petitions it has accepted.

(f) No less than 20 days before each public hearing, the ~~commissioner~~department shall provide notice of such hearing by publishing on its Internet website the date, time and location of the hearing, and the medical condition(s) that will be considered.

(g) In addition to information provided in a petition and at the public hearing, the ~~commissioner~~department may consider scientific, medical or other evidence and research pertaining to the petition, and may consider information provided, in person or in writing, from other persons knowledgeable about the medical condition from within and without the department, including members of the therapeutic cannabis advisory council, as established pursuant to RSA 126-X:9.

(h) Following the public hearing, the ~~commissioner~~department shall consider the petition, the public comments, and any additional information or expertise described in (g) above for each proposed medical condition considered at the hearing.

(i) Within 180 days of the receipt of a petition accepted by the ~~commissioner~~department for consideration, the ~~commissioner~~department shall issue a written decision about each medical condition for which a petition was accepted for consideration.

(j) The ~~commissioner~~department shall include in the written decision the following:

~~(1) Whether the medical condition, medical treatment or disease is severely debilitating or terminal;~~

~~(2) Whether cannabis is more likely than not to have the potential to be beneficial to treat or alleviate the debilitation associated with the medical condition or treatment thereof;~~

~~(3) Whether the medical condition will now be included as a qualifying medical condition for the therapeutic use of cannabis; and~~

~~(4)(1) Other matters that the ~~commissioner~~department considers relevant to the decision made about the petition; and~~

(2) Whether the medical condition will now be included as a qualifying medical condition for the therapeutic use of cannabis; and

(k) A medical condition that has been approved by the ~~commissioner~~ department as a qualifying medical condition for the therapeutic use of cannabis in accordance with (a) through (j) above shall be available to all individuals who apply for a registry identification card as a qualifying patient.

(l) Any person seeking to have the department remove a qualifying condition that has been approved in accordance with (a) through (k) above shall submit a written petition to the department for consideration.

(m) The department shall consider a petition submitted in (l) above, with the input and advice of the therapeutic use of cannabis advisory council, only if it includes:

(1) A detailed justification for removing the medical condition as a qualifying medical condition; and

(2) Information that rebuts the information provided in the original petition in (b) above and as considered by the department in (g) above.

(n) The process described in (c) through (i) above shall be followed for petitions submitted in accordance with (l) above.

(o) The department shall include in the written decision the following:

(1) Matters that the department considers relevant to the decision made about the petition; and

(2) Whether the medical condition will be removed as a qualifying medical condition for the therapeutic use of cannabis.

(p) A medical condition that has been removed by the department as a qualifying medical condition for the therapeutic use of cannabis in accordance with (l) through (o) above shall not be available to any individual who applies for a registry identification card as a qualifying patient.

(q) Pursuant to RSA 126-A:5, VIII(c)-(e), the commissioner shall not delegate, but shall retain, his or her decision making authority on all appeals made under this section.

#### He-C 401.10 Processing of Applications and Issuance of Registry Identification Cards.

(a) An application for initial approval as a qualifying patient or a designated caregiver shall be complete when the department determines that all information and supporting documentation required by He-C 401.04 or He-C 401.05, or both in the case of a minor patient applicant, have been received.

(b) If an application does not contain all of the items required by He-C 401.04 or He-C 401.05, or both in the case of a minor patient applicant, the department shall notify the applicant in writing within 10 business days specifying any information or supporting documentation required to be submitted before the application can be processed.

(c) If after written notice in (b) above the applicant fails to provide the missing information or supporting documentation, including payment of the required fee, within 30 days of such notice:

(1) The application shall be considered incomplete and shall not be processed; and

(2) The applicant may reapply by submitting a new initial application in accordance with He-C 401.04 or He-C 401.05.

(d) The department shall approve an applicant as a qualifying patient if the department determines that:

(1) The applicant has submitted to the department a complete application and required supporting documentation in accordance with He-C 401.04;

(2) The applicant is a resident of New Hampshire;

(3) The applicant's medical provider has completed a written certification that meets the requirements of He-C 401.07 and has certified that the applicant has a qualifying medical condition which meets the definition in He-C 401.02~~(h)(j)~~;

(4) All information submitted is accurate;

(5) No basis for denial, as established in He-C 401.12(a), exists; and

(6) In the case of a minor patient, all requirements in He-C 401.08 have been met.

(e) The department shall approve an applicant as a designated caregiver if the department determines that:

(1) The applicant has submitted to the department a complete application and required supporting documentation in accordance with He-C 401.05;

(2) The applicant is at least 21 years old;

(3) Based upon the results of the criminal history records or the police clearances released to the department by the division of state police, ~~or the police clearances received from each location where the applicant lived during the past 5 years,~~ the applicant has never been convicted of a felony;

(4) The qualifying patient(s) listed on the caregiver application has designated the caregiver applicant as the qualifying patient's caregiver;

(5) The number of qualifying patients listed on the caregiver application does not exceed 5, except that additional qualifying patients shall be allowed, up to a maximum of 9, if both the designated caregiver and the additional qualifying patients each live greater than 50 miles from the nearest alternative treatment center;

(6) All information submitted is accurate; and

(7) No basis for denial, as established in He-C 401.12(a), exists.

(f) Pursuant to RSA 126-X:4, III, the department shall act on a complete application, including all supporting documentation and required fee, for either a qualifying patient or a designated caregiver within 15 calendar days of its receipt.

(g) Within 5 calendar days of the determination to approve an application for either a qualifying patient or a designated caregiver, the department shall issue to the applicant a registry identification card.

He-C 401.11 Registry Identification Card Expirations and Procedures for Renewals.

(a) A registry identification card shall be valid on the date of issuance and expire one year later on the last day of the month it was issued unless a completed application for renewal has been received or a shorter time period is established in accordance with ~~(f)~~(e) or ~~(g)~~(f) below.

(b) Each qualifying patient and designated caregiver shall complete and submit to the department application materials pursuant to He-C 401.04 or He-C 401.05 at least 30 days prior to the expiration of his or her current registry identification card.

~~(c) Exceptions to (b) shall be as follows:~~

~~(1) For both patients and designated caregivers:~~

~~a. A new photograph of the applicant may be submitted, but shall not be required except in accordance with b. below, with each application for renewal; and~~

~~b. A new photograph of the applicant shall be required:~~

~~1. Every 4 years; and~~

~~2. If the applicant's appearance has changed such that the photograph previously submitted no longer accurately resembles the applicant's current appearance;~~

~~(2) For designated caregivers:~~

~~a. Results of a criminal history records check shall not be required with each application for renewal;~~

~~b. In lieu of submitting the results of a criminal history record check, an applicant for renewal as a designated caregiver shall:~~

~~1. Immediately notify the department upon being convicted of a felony conviction in this or any other state; and~~

~~2. Attest, on the application for renewal, that he or she has had no felony convictions in this or any other state.~~

~~(d)~~(c) If the qualifying patient or designated caregiver fails to submit a complete application for renewal prior to the expiration of his or her current registry identification card:

(1) The qualifying patient or designated caregiver's registry identification card shall expire in accordance with (a) above; and

(2) Any subsequent application for a registry identification card shall be as an initial applicant.

~~(d)~~ Applications for renewal shall be processed and registry identification cards shall be reissued in accordance with He-C 401.10.

~~(e)~~ Exceptions to (a) above shall be as follows:

(1) If the qualifying patient's certifying medical provider indicates in the written certification that the certification should expire at an earlier specified date, then the registry identification card shall expire on that date; and

(2) If the qualifying patient's certifying medical provider notifies the department in writing that the qualifying patient no longer suffers from a qualifying medical condition or should discontinue using cannabis, the registry identification card shall become void upon notification by the department to the qualifying patient.

~~(f)~~ A designated caregiver's registry identification card shall become void upon notification by the department to the designated caregiver that all the qualifying patients for whom he or she is acting as designated caregiver either have lost their status as qualifying patients or have rescinded or otherwise ended the designation.

~~(g)~~ A registry identification card that has been voided by the department, or has otherwise expired, shall be surrendered by returning the card to the department in accordance with He-C 401.13.

#### He-C 401.12 Denial of an Application, Enforcement Actions, and Administrative Appeals.

(a) The department shall deny an initial or renewal application for a registry identification card if:

(1) The applicant previously had a registry identification card revoked for violating the provisions of RSA 126-X or He-C 401;

(2) The department determines that the information provided in the application or supporting material was misleading, false, or fraudulent; or

(3) The department determines that the information provided in the application or supporting documentation did not meet the requirements of RSA 126-X or He-C 401.

(b) Grounds for revocation of a qualifying patient or designated caregiver's registry identification card shall include each of the following:

(1) Violation of any provision of RSA 126-X or He-C 401;

(2) Submission of misleading, false, or fraudulent information in the application or supporting documentation;

(3) Fraudulent use of a registry identification card;

(4) Selling, distributing, or giving cannabis to any unauthorized person;

(5) Tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, or modify, or duplicate a registry identification card;



- (6) Failure to notify the department within 10 days after becoming aware that the registry identification card has been lost, stolen, or destroyed;
- (7) Failure to notify the department within the required timeframes of other situations described in He-C 401.13(a) and (b);
- (8) A designated caregiver has been convicted of a felony in this or any other state;
- (9) A qualifying patient or designated caregiver has become an inmate at a correctional facility;
- (10) A qualifying patient ~~or designated caregiver~~ is no longer a resident of New Hampshire; and
- (11) A qualifying patient has used cannabis in a manner that puts others at risk of their health, safety, or welfare, or has failed to take reasonable precautions to avoid putting others at such risk.

(c) At the time of denying an application for a registry identification card, revoking a registry identification card, or issuing a fine in accordance with He-C 401.14(d), the department shall send to the applicant or cardholder written notice that sets forth:

- (1) The action to be taken by the department;
- (2) The reason(s) for the action; and
- (3) The right of an applicant or cardholder to a hearing in accordance with He-C 200 before the enforcement action becomes final.

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

(e) If a request for a hearing is not made pursuant to (d) above, the applicant or cardholder shall be deemed to have waived his or her right to a hearing.

(f) Hearings under this section shall be conducted in accordance with He-C 200.

(g) A qualifying patient or designated caregiver who has had his or her registry identification card revoked shall surrender his or her card by returning it to the department within 10 days of the department's decision to revoke the card becoming final.

#### He-C 401.13 Requirements for Notifications.

- (a) A qualifying patient shall notify the department in writing of any of the following:
  - (1) A change to the qualifying patient's name or address, within 10 days of such change;
  - (2) The designation of a caregiver if he or she has not already done so in an initial or renewal application;
  - (3) A change to the qualifying patient's designated caregiver, prior to the change;

(4) A change to the qualifying patient’s designated alternative treatment center, prior to the change; or

(5) A registry identification card has been lost, stolen, or destroyed, within 10 days of the discovery of the loss, theft, or destruction.

(b) A designated caregiver shall notify the department in writing of any of the following:

(1) A change to the designated caregiver’s name or address, within 10 days of such change;

(2) A change to the designated caregiver’s qualifying patient(s), prior to the change; ~~or~~

(3) A registry identification card has been lost, stolen, or destroyed, within 10 days of the discovery of the loss, theft, or destruction; or

(4) Immediately upon being convicted of a felony conviction in this or any other state.

(c) A qualifying patient’s certifying medical provider, or the qualifying patient’s new medical provider if there has been a change in the qualifying patient’s medical provider, ~~shall~~ may notify the department in writing that the qualifying patient no longer suffers from a qualifying medical condition or should discontinue using cannabis.

(d) After notice in (c) above:

(1) The qualifying patient’s registry identification card shall become void upon receiving notice from the department; and

(2) The voided registry identification card shall be returned to the department within 10 days of the notice in (1) above.

(e) Upon learning of the death of a qualifying patient, a surviving family member, caretaker, executor, and the qualifying patient’s designated caregiver shall:

(1) Notify the department that the qualifying patient has died, within 5 days of the death; ~~and~~

(2) Return the qualifying patient’s registry identification card to the department, within 10 days of the death; and

(3) Within 5 days, dispose of any remaining cannabis by either:

a. Requesting a local law enforcement agency to remove the remaining cannabis; or

b. Mixing the remaining cannabis with other ingredients such as soil to render it unusable. in accordance with RSA 126-X:4, XII.

(f) As applicable, the department shall notify a qualifying patient or designated caregiver of any changes described in (a) through (e) above regarding his or her designated caregiver or qualifying patient, respectively.

(g) A new registry identification card, including a new identification number, shall be issued within 20 days for any change to a qualifying patient's or designated caregiver's name, address, or alternative treatment center.

(h) A new registry identification card, but not a new identification number, shall be issued to a designated caregiver for any change to the identification number of a designated caregiver's qualifying patient.

(i) If a newly designated caregiver applies for a registry identification card in accordance with He-C 401.05 and is approved in accordance with He-C 401.10, a new registry identification card, including a new identification number, shall be issued to both the qualifying patient and the designated caregiver.

(j) If a qualifying patient or designated caregiver loses his or her registry identification card, whether due to loss, theft, or destruction, he or she shall notify the department in writing within 10 days of losing the card and be subject to a fee pursuant to RSA 126-X:4, IX(f), and in accordance with He-C 401.14(b)(3). Within 5 days of such notification, the department shall issue a new registry identification card, including a new identification number.

(k) A registry identification card with outdated information, whether due to a change of information or a renewal, shall be surrendered by returning it to the department within 10 business days of the person's receipt of the new registry identification card.

(l) Failure to timely surrender the outdated card to the department shall be grounds for the department to void a newly issued card until such time that the outdated card is returned to the department.

(m) A designated caregiver's registry identification card shall become void upon notification by the department to the designated caregiver that all the qualifying patients for whom he or she is acting as designated caregiver either have lost their status as qualifying patients or have rescinded or otherwise ended the designation.

(n) An voided registry identification card in (m) above:

(1) Shall be surrendered to the department within 10 business days of the department's notification; and

(2) Shall:

a. Be reactivated and reissued if a new qualifying patient designates the caregiver within the caregiver's current approval period; and

b. Not be reactivated and reissued if a new qualifying patient designates the caregiver within the caregiver's current approval period until such time that the caregiver returns the voided card.

(o) In all cases, a registry identification card that is outdated, has expired, has been voided, or has been revoked shall be surrendered by returning the card to the department.

(p) In all cases a registry identification card shall remain the property of the department.

He-C 401.14 Schedule and Payment of Fees and Fines.

(a) All fees and fines required by this part shall be paid as follows:

- (1) By check or money order for the exact amount of the fee made payable to “Treasurer – State of New Hampshire”;
- (2) A money order or certified check shall be required when payment has been made to the department by check, and such check was returned for insufficient funds; and
- (3) Any payment 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.

(b) The department shall charge the following fee amounts:

- (1) For an initial application, as required by He-C 401.04(b)(2) and He-C 401.05(b)(1), \$50;
- (2) For a renewal application, as required by He-C 401.04(b)(2) and He-C 401.05(b)(1), \$50; and
- (3) For issuance of a replacement registry identification card, \$25.

(c) All fees shall be non-refundable.

(d) The department shall issue a fine in the amount of \$150 to a qualifying patient or designated caregiver for failing to notify the department of any changes to his or her name or address within 10 days of such change in accordance with He-C 401.13(a)(1) or (b)(1), or for failing to notify the department of any change to a qualifying patient’s designated caregiver prior to such change in accordance with He-C 401.13(a)(3).

#### He-C 401.15 Confidentiality.

(a) ~~In accordance with RSA 126-X:4, XI, t~~The department shall maintain the confidentiality of all information about qualifying patients, designated caregivers, certifying medical providers, and alternative treatment centers that is contained in the department’s registry, as provided by RSA 126-X and He-C 401.

(b) Notwithstanding (a) above, information in (a) above shall be released by the department to:

- (1) Authorized employees of the department in the course of their official duties;
- (2) An individual or entity pursuant to an order from a court of competent jurisdiction;
- (3) Law enforcement personnel in accordance with RSA 126-X:4, XI(b)(1)-(3), but such information shall be limited to:

a. The location associated with a qualifying patient, designated caregiver, or ~~cultivation location of an~~ alternative treatment center; and

b. Whether a person is a qualifying patient or a designated caregiver; ~~and~~

(4) Law enforcement personnel in accordance with RSA 126-X:4, XI(b)(4), ~~but such regarding~~ information ~~shall be~~ related to falsified or fraudulent information submitted to the department

where ~~department~~ counsel has made a legal determination that there is probable cause to believe the information is false or falsified;

(5) The NH board of medicine or the NH board of nursing pursuant to RSA 126-X:4, ~~VII(a)(2)(b), and RSA 126-X:2:VIII~~, but such information shall be related to the conveyance of concerns regarding provider conduct;

(6) The health and human services oversight committee established under RSA 126-~~AX~~:13, 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, except that only deidentified, aggregate data required by RSA 126-X:10, IV, shall be released; and

(7) To a qualifying patient, a qualifying patient's certifying provider, or a patient's designated caregiver for the purposes of carrying out these rules.

(c) In order for information to be released to law enforcement personnel in accordance with (b)(3) above, the following shall have occurred:

(1) Local or state law enforcement personnel shall have detained or arrested an individual who claims to be engaged in the therapeutic use of cannabis; ~~and~~

~~(2) Either:~~

~~a.(2)~~ A local or state law enforcement officer shall have submitted a sworn affidavit to the department affirming that he or she has probable cause to believe cannabis is possessed at a specific address; or

~~b.(3)~~ A local or state law enforcement officer shall have submitted a sworn affidavit to the department affirming that he or she has probable cause to believe a specific individual possesses cannabis, and has also provided the person's name and address or name and date of birth.

(d) In accordance with RSA 126-X:4, II(g), the department shall maintain the confidentiality of all criminal history records information received.

#### He-C 401.16 Visiting Qualifying Patients.

(a) For a visiting qualifying patient, "provider" means, pursuant to RSA 126-X:1, VII(b), "an individual licensed to prescribe drugs to humans in the state of the patient's residence and who possesses certification from the United States Drug Enforcement Administration to prescribe controlled substances."

(b) Pursuant to RSA 126-X:2, V, a valid registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows, in the jurisdiction of issuance, a visiting qualifying patient to possess cannabis for therapeutic purposes, shall have the same force and effect as a valid registry identification card issued by the department in this state, provided that:

(1) The visiting qualifying patient shall also produce a statement from his or her provider stating that the visiting qualifying patient has a qualifying medical condition as defined in RSA 126-X:1; and

(2) A visiting qualifying patient shall not cultivate or purchase cannabis in New Hampshire or obtain cannabis from alternative treatment centers or from a qualifying New Hampshire patient.

He-C 401.17 Waivers.

(a) An individual seeking waivers of specific rules in He-C 401 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;
- (3) A full explanation of alternatives proposed, which shall be equally as protective of public and patient health and safety as the rule from which a waiver is sought; and
- (4) The period of time for which the waiver is sought.

(b) Waivers shall not exceed 12 months, or the current registration identification card expiration date.

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

- (1) Meets the objective or intent of the rule for which the waiver is sought; and
- (2) Does not negatively impact the health or safety of any qualifying patient or the public.

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

(e) No provision or procedure prescribed by statute shall be waived.

## APPENDIX

<b><u>Rule Section</u></b>	<b><u>RSA Implemented</u></b>
He-C 401.01	RSA 126-X
He-C 401.02	RSA 126-X:1
He-C 401.03	RSA 126-X:2, IV(a)-(b); RSA 126-X:3, V
He-C 401.04	RSA 126-X:4, I
He-C 401.04(b)(4)	RSA 126-X:1, X
He-C 401.05	RSA 126-X:4, II
He-C 401.05(a)(3)	RSA 126-X:1, VI(b)
He-C 401.05(b)(1)	RSA 126-X:6, I(d)
He-C 401.06	RSA 126-X:1, VII(a), VIII, XVII
<u>He-C 401.06(b)(1)b.</u>	<u>RSA 126-X:1, XVII</u>
He-C 401.06(b)(4) & (6)	RSA 126-X:4, V
He-C 401.06 <del>(h)</del> (g)	RSA 126-X:8, XVIII
He-C 401.07	RSA 126-X:1, XVII
He-C 401.07(c)(4)	RSA 126-X:4, V(b)
He-C 401.08	RSA 126-X:4, V
He-C 401.09	RSA 126-X:1, IX(b)
He-C 401.10	RSA 126-X:4, I-IV
He-C 401.11	RSA 126-X:4, I-IV
He-C 401.11 <del>(f)</del> (e)(2)	RSA 126-X:4, IX(b)
He-C 401.12	RSA 126-X:4, III; RSA 126-X:3, VI-VII
He-C 401.13	RSA 126-X:4, IX
He-C 401.13(d)	RSA 126-X:4, XII
<u>He-C 401.13(e)(3)</u>	<u>RSA 126-X:4, XII; RSA 126-X:2, XIV(b)-(c)</u>
He-C 401.14	RSA 126-X:4, I(b); RSA 126-X:6: I(d); RSA 126-X:4, IX(f)
He-C 401.14(d)	RSA 126-X:4, IX(e)
He-C 401.15	RSA 126-X:4, XI
He-C 401.15(b)(5)	RSA 126-X:4, VII(a)(2)
He-C 401.15(b)(6)	RSA 126-X:10
He-C 401.15(d)	RSA 126-X:4, II(g)
He-C 401.16	RSA 126-X:1, XVI; RSA 126-X:1, VII(b); RSA 126-X:2, V
He-C 401.17	RSA 541-A:22, IV