

STATE OF NEW HAMPSHIRE
BOARD OF MEDICINE
121 South Fruit Street, Suite 301
Concord NH 03301-2421

Therapeutic Use of Cannabis Policy

In June of 2013, the New Hampshire Legislature passed House Bill 573, "Use of Cannabis for Therapeutic Purposes." Governor Maggie Hassan signed HB 573 (RSA 126-X) into law effective July 23, 2013. The NH Legislature placed the responsibility for administering the program within the NH Department of Health and Human Services.

The New Hampshire Board of Medicine ("Board") does not hold a position on the suitability of cannabis in the treatment of medical disorders, but states that physicians who certify patients for therapeutic cannabis are held to the same generally accepted standards of care as apply to every other medical practice. The Board refers physicians to the enabling statute (RSA 126-X) and administrative rules (He-C 401 and 402) for information on the specific requirements for appropriate patient certification.

The Board does not oversee or otherwise regulate the Therapeutic Use of Cannabis Program. However, prescribing practices do come to the Board's attention and such complaints are thoroughly investigated. The Board will not discipline physicians solely based on certifying patients for the use of therapeutic cannabis. However, if an investigation reveals inappropriate practices or unprofessional conduct by any physician, the Board may pursue disciplinary action. Pursuant to the requirements articulated in the administrative rules, a physician who certifies a patient for therapeutic cannabis must, at a minimum, do the following:

He-C 401.06 (b) A provider issuing a written certification shall:

(1) Have a provider-patient relationship with the patient, as defined in He-C 401.02(i), as indicated by the existence of either:

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

b. 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, which shall not be via electronic means, such as over the phone or via the Internet;

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. A diagnosis of the patient's current medical condition; and*
- 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(j) and RSA 126-X:1, IX(a), or as approved in accordance with He-C 401.09;*
- (4) Explain the potential 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) Follow the patient clinically at appropriate intervals at the discretion of the provider to provide follow-up care and treatment to the patient for his or her qualifying medical condition including, but not limited to, physical examinations, to determine the health effects of cannabis for treating the patient's qualifying medical condition or the symptom of the qualifying medical condition for which the written certification was issued;*
- (6) Maintain medical records for all patients for whom the provider has issued a written certification which support the certification of a qualifying medical condition;*
- (7) 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-C401; and*
- (8) If the provider has recommendations for the therapeutic use of cannabis for the patient, the provider may send such recommendations to the patient's designated alternative treatment center with the patient's approval. Such recommendations shall be securely transmitted.*

The Board will not provide legal advice. The statute provides the following protection for licensees:

RSA 126-X:2 XII. An individual shall not be subject to arrest by state or local law enforcement, prosecution or penalty under state or municipal law, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing entity, simply for being in the presence or vicinity of the therapeutic use of cannabis as allowed under this chapter.

While the Board neither promotes nor discourages the use of therapeutic cannabis, it wants to ensure that providers are informed about the law and exercise sound professional judgment when issuing a certification. You can find more information, including links to the enabling statute and administrative rules, at <http://www.dhhs.state.nh.us/oos/tcp/>.