

**STATE OF NEW HAMPSHIRE
THERAPEUTIC CANNABIS PROGRAM
IDENTIFICATION CARD TIMELINESS**

**PERFORMANCE AUDIT
JUNE 2019**



MICHAEL W. KANE, MPA
Legislative Budget Assistant
(603) 271-3161

CHRISTOPHER M. SHEA, MPA
Deputy Legislative Budget Assistant
(603) 271-3161

State of New Hampshire

OFFICE OF LEGISLATIVE BUDGET ASSISTANT
State House, Room 102
Concord, New Hampshire 03301

STEPHEN C. SMITH, CPA
Director, Audit Division
(603) 271-2785

To The Fiscal Committee Of The General Court:

We conducted a performance audit of the Therapeutic Cannabis Program (TCP) Registry Identification Cards to address the recommendation made to you by the joint Legislative Performance Audit and Oversight Committee. We conducted this audit in accordance with generally accepted government auditing standards. These standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. The evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The purpose of the audit was to determine whether the TCP distributed registry identification cards to qualifying patients and caregivers timely during calendar year 2018.

Office of Legislative Budget Assistant

Office of Legislative Budget Assistant

June 2019

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ABBREVIATIONS

CY	Calendar Year
DHHS	Department Of Health and Human Services
SFY	State Fiscal Year
TCP	Therapeutic Cannabis Program

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EXECUTIVE SUMMARY

We found the Therapeutic Cannabis Program (TCP) had not designed a process to accurately track statutory time limits for issuing registry identification cards to patients who sought cannabis to help treat serious health issues. This resulted in cards not being issued timely before and during calendar year (CY) 2018; however, the timeliness of cards improved from CYs 2016 and 2017. Although the program was authorized by the Legislature, it did not initially provide a budget during the development phase, which contributed to the program's inconsistent operations, ineffective client service, inadequate database, and immature management control environment over card issuance. If the recommendations contained in this report are followed, timely issuance of registry identification cards could be achieved with stabilized staffing.

State law required the TCP to approve or deny applications within 15 days of receipt and issue registry identification cards within five days of approval. The TCP mistakenly believed it had 20 days to process an application and issue a registry identification card. The TCP simply added the 15-day limit for reviewing, verifying, and approving a card to the five-day limit to issue the card to arrive at 20 days. However, the law limited the issuance of the registry identification card to five days *after the approval of the application*, so the deadline for mailing each card was dependent on how quickly each application was approved. For example, an application approved on the day after it was received would have required the card to be mailed five days later, making a seven-day deadline for this application. Following the standards established in law should have caused the TCP to develop policies and procedure to measure, track, and report on required deadlines, which would have resulted in cards being issued earlier.

From our random sample of registry identification cards issued during CY 2018, we found the TCP approved initial applications in all cases within the 15-day standard; however, 98.4 percent of the cards were not issued within the five-day standard during that year. The TCP received, verified, and approved initial applications and issued registry identification cards in 18.5 days on average. This was an improvement over CYs 2016 and 2017 when the TCP took 31.4 days and 29.3 days on average, respectively to process applications and issue cards. Based on our sample of CY 2018 card holders, approximately 83 percent of those who received their initial cards in CYs 2016 and 2017 received them later than the informal time frame of 20 days and 37.6 percent received them late in CY 2018. Although we found the TCP had improved its overall timeliness, it did not track timeliness of individual applications.

We found many applications were submitted to the TCP in an incomplete state, requiring the program to issue notices of incompleteness requesting additional information. In some cases, multiple notices were issued to applicants before the program had obtained the necessary information to issue a registry card, which we found hindered the TCP's ability to timely process applications. A simplified application could have reduced incomplete applications.

The TCP encountered significant obstacles in implementing this new program, which negatively affected its ability to timely process applications and respond to inquiries. The TCP database did not have the capacity to retain historical data or generate reports reflecting the timeliness of individual registry cards. The TCP also lacked formal written policies and procedures to guide its work. Prior to State fiscal year 2017, the TCP relied on borrowed staff from other programs, as no funds were budgeted to adequately staff the program.

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RECOMMENDATION SUMMARY

Observation Number	Page	Legislative Action May Be Required	Recommendations	Agency Response
1	12	Yes	<p>Orient operations to process applications within timeframes established by statute and rules and consider whether the program’s database meets current and future needs.</p> <p>If the TCP wants to continue processing applications based only on a 20-day timeline, it should seek changes to statute and corresponding rules.</p> <p>Management and the Legislature may wish to maintain adequate funding and staffing levels.</p>	Concur
2	16	No	Ensure program database supports the 15- and five-day statutory deadlines instead of the 20-day informal deadline.	Concur
3	17	Yes	Seek change to laws to avoid conflicting statutory requirements when attempting to issue renewal identification cards in a timely manner.	Concur
4	19	No	Review application forms to identify areas to revise and simplify to enhance clarity of items required for a complete application submission.	Concur
5	21	No	<p>Review and update information contained in the TCP Training Manual to reflect the current application process.</p> <p>Provide adequate training on program policies and procedures, including those for processing applications.</p>	Concur
6	24	No	Establish policy and procedures to periodically review physical files for errors and omissions, and to ensure the database contains accurate information.	Concur

Recommendation Summary

7	26	No	Establish client service policies and procedures and train staff on these policies. Review and revise program documents and the TCP website to reflect current practices. Organize call logs in a consistent manner.	Concur
8	28	No	Develop and maintain a formal, written policy and procedures manual. Remove expired applications and instructions from the manual.	Concur
9	29	No	Review administrative rules and amend areas of rules where practice differs as soon as practical.	Concur

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BACKGROUND

The General Court created the Therapeutic Cannabis Program (TCP) in calendar year (CY) 2013 to protect patients with debilitating medical conditions, as well as their medical providers and designated caregivers, from arrest and prosecution, criminal and other penalties, and property forfeiture if such patients engaged in the medical use of marijuana. The TCP regulated the use of therapeutic cannabis and involves, at a minimum, a qualifying patient, a medical provider, and an Alternative Treatment Center. A *qualifying patient* is a New Hampshire resident who has been diagnosed by a medical provider as having a qualifying medical condition and who possesses a valid TCP registry identification card. A *medical provider* is a physician or advanced practice registered nurse who possess an active registration from the United States Drug Enforcement Administration to prescribe controlled substances. An *Alternative Treatment Center* is a not-for-profit entity registered with the State Department of Health and Human Services (DHHS) that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis, and related supplies and educational materials, to qualifying patients. In some cases, an additional designated caregiver may have been used to assist a qualified patient's therapeutic use of cannabis.

According to statute, qualifying patients must possess one or more qualifying medical conditions. A qualifying medical condition means a combination of a qualifying diagnosis and a qualifying symptom, or a stand-alone condition without a qualifying symptom:

- *Qualifying diagnosis:* cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, muscular dystrophy, Crohn's disease, multiple sclerosis, chronic pancreatitis, spinal cord injury or disease, traumatic brain injury, epilepsy, lupus, Parkinson's disease, Alzheimer's disease, ulcerative colitis, Ehlers-Danlos syndrome, or one or more injuries or conditions that has resulted in one or more qualifying symptoms.
- *Qualifying symptom:* elevated intraocular pressure, cachexia, chemotherapy-induced anorexia, wasting syndrome, agitation of Alzheimer's disease, severe pain that has not responded to previously prescribed medication or surgical measures or for which other treatment options produced serious side effects, constant or severe nausea, moderate to severe vomiting, seizures, or severe, persistent muscle spasms.
- *Stand-alone condition:* moderate to severe chronic pain, severe pain that has not responded to previously prescribed medication or surgical measures or for which other treatment options produced serious side effects, or moderate or severe post-traumatic stress disorder.

Table 1 shows the number of patients with each diagnosed qualifying medical condition as of June 30, 2018. The total number of unique patients served by the TCP during 2018 was 6,480. However, the number of patients diagnosed with qualifying medical conditions is 7,380 because a patient may have more than one qualifying condition.

Table 1

**Number Of Patients By Qualifying Medical Condition,
As Of June 30, 2018**

Qualifying Medical Condition	Number Of Patients ¹	Percent Of Total
Moderate To Severe Chronic Pain	1,615	25
Spinal Cord Injury Or Disease	1,402	22
One Or More Injuries Or Conditions	1,018	16
Cancer	738	11
Severe Pain That Has Not Responded To Treatment	727	11
Moderate To Severe Post-Traumatic Stress Disorder	408	6
Multiple Sclerosis	365	6
Traumatic Brain Injury	182	3
Epilepsy	159	2
Crohn's Disease	148	2
Parkinson's Disease	139	2
Glaucoma	96	1
Ulcerative Colitis	69	1
Lupus	65	1
Chronic Pancreatitis	64	1
Ehlers-Danlos Syndrome	41	1
Hepatitis C	40	<1
Alzheimer's Disease & Amyotrophic Lateral Sclerosis	31	<1
Muscular Dystrophy	30	<1
Acquired Immune Deficiency Syndrome	23	<1
Positive Status For Human Immunodeficiency Virus	20	<1

Note:

¹ Percent of total does not add to 100 percent because a single patient may have had multiple qualifying medical conditions.

Source: LBA analysis of unaudited 2018 Data Report.

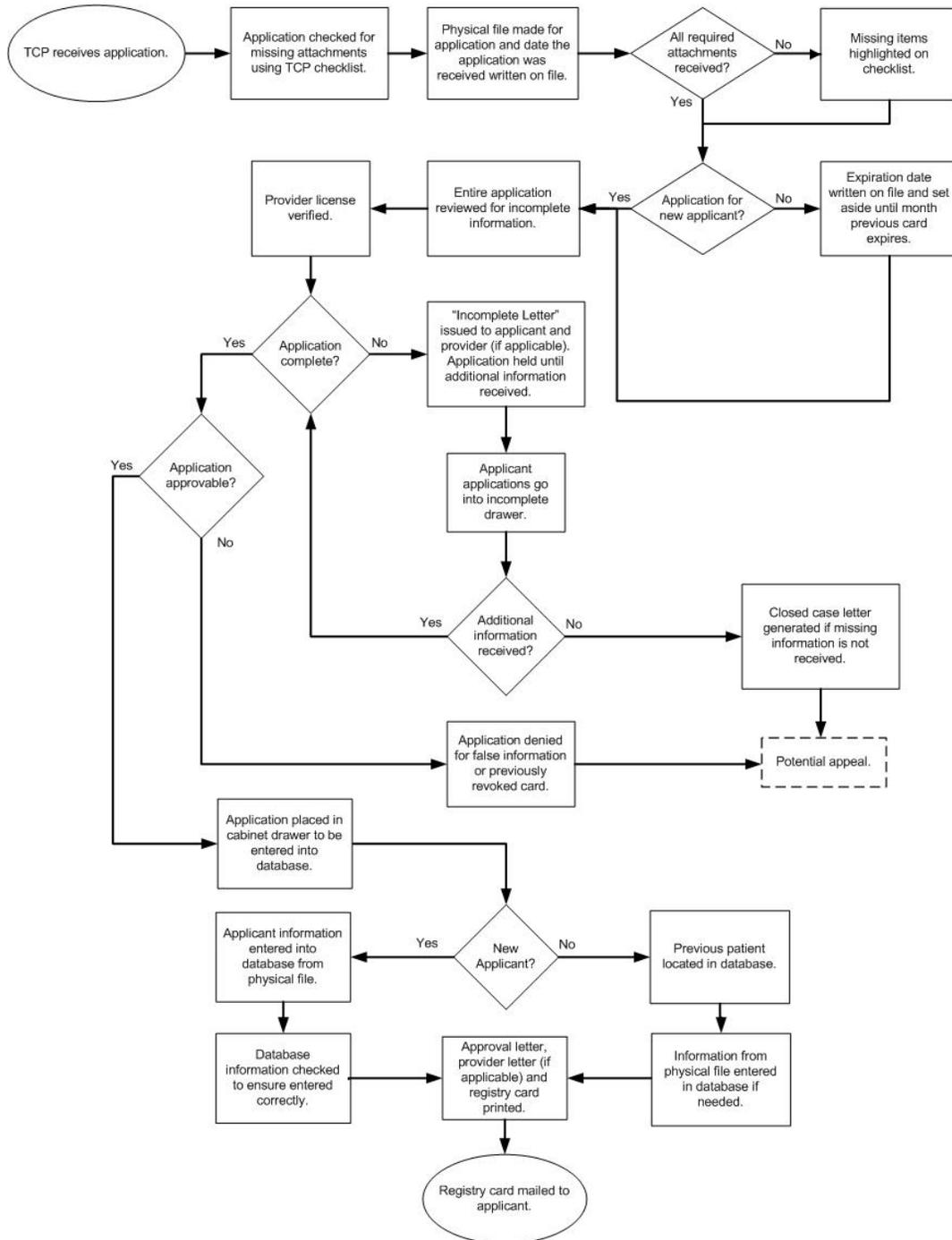
Application Process And Advisory Council Membership

Figure 1 outlines the TCP application process. Written applications and supporting documents were mailed to the TCP or accepted by program staff. The application was reviewed to ensure it was complete and all supporting documents were present. Once an application was deemed complete, the application was processed in a batch with other applications that arrived around the same time. The completed application was then reviewed by TCP staff for compliance with program requirements. If the application met requirements, the application was approved and placed in a file drawer to be entered into the TCP database. Once the applicant information was

entered into the database, the registry identification card was issued, an approval letter was generated, and a registry identification card was created and mailed to the applicant.

Figure 1

TCP Process Flow Chart



Source: LBA analysis of TCP application process.

The Therapeutic Use of Cannabis Advisory Council guided the TCP, and the TCP operations were overseen by a Program Administrator within the DHHS, Division of Public Health Services. Membership of this council was comprised of two House members; one Senate member; the Commissioners of the DHHS and Department of Safety or designees; the Attorney General or designee; one physician with experience in therapeutic use of cannabis; an advanced practice registered nurse; and one representative each from the following groups: community hospitals; New Hampshire Civil Liberties Union; a qualifying patient; a public member who was not a law enforcement officer or employed by any government agency, contractor, elected official, or healthcare provider; hospitals; Board of Medicine; Board of Nursing; and the New Hampshire Association of Chiefs of Police. The Therapeutic Use of Cannabis Advisory Council was responsible for:

- assisting the DHHS in adopting and revising rules;
- collecting information, including patient satisfaction;
- making recommendations to the Legislature and DHHS for additions and revisions of laws or rules;
- issuing a formal opinion after five years of operation whether the program should be continued or repealed; and
- annually reporting to DHHS and Health and Human Services Oversight Committee, Board of Medicine, and Board of Nursing.

The TCP was administered by a Program Administrator who formulated policies and procedures for the TCP, administered the TCP registry function, and administered the Alternative Treatment Center regulatory function.

The Therapeutic Cannabis Medical Oversight Board oversaw the clinical aspects of therapeutic cannabis use. It monitored and contributed to the oversight of the clinical, quality, and public health related matters of the therapeutic use of cannabis by:

- reviewing medical and scientific evidence pertaining to currently approved and additional qualifying conditions;
- reviewing laboratory results of required testing of cannabis cultivated or processed by Alternative Treatment Centers and the use of pesticides on products;
- monitoring clinical outcomes;
- reviewing training protocols for dispensary staff based on models from other states;
- receiving updates from Alternative Treatment Centers on effectiveness of various strains, types of cannabinoids, and different routes of administration for specific conditions;
- reviewing best practices for medical providers regarding provider education, certification of patients, and patient access to the program;
- reviewing any other clinical, quality, and public health related matter relative to use of cannabis; and
- annually reporting to the Senate President, Speaker of the House of Representatives, Oversight Committee on Health and Human Services, Board of Medicine, Board of Nursing, and Therapeutic Use of Cannabis Advisory Council.

The Therapeutic Cannabis Medical Oversight Board consisted of the DHHS medical director or designee, a qualifying patient, a clinical representative from an Alternative Treatment Center and ten medical providers in certain specialty fields and was required to meet at least two times per year. The Board was legislatively authorized in CY 2018 and empaneled and held its first meeting in March 2019.

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REGISTRY IDENTIFICATION CARD TIMELINESS

Preceding this audit, concerns had been raised regarding the length of time the Department of Health and Human Services (DHHS), Therapeutic Cannabis Program (TCP) took to issue registry identification cards. Those concerns appear to have been well founded in prior years, although the program improved its calendar year (CY) 2018 performance. Statute required the TCP to approve or deny an application or renewal within 15 days of receipt and issue a registry identification card within five days of approval. We conducted a statistically valid random sample of patients who were issued registry identification cards during CY 2018. We analyzed how long patients' initial applications took to process, whether in CYs 2016, 2017, or 2018, to see if they were approved within 15 days of receipt and cards were issued within five days of approval as required by statute. We found in CY 2018 it took 4.7 days, on average, to process an initial application (where no identification card had previously been issued) from receipt of a completed application through review, verification, and approval. The time it took to process the application was very similar in CYs 2016 and 2017 also. All cards were reviewed, verified, and approved within the 15-day timeline established in statute. However, statute required the TCP to issue cards within five days after approval. In CY 2018, 98.4 percent of the cards were *not* issued within five days. We found it took 13.7 days to issue an identification card *after* approval in CY 2018, which was an improvement over CY 2017 (24.5 days) and CY 2016 (25.2 days).

Some of the delay in processing registry identification cards could be attributed to misapplication of timeliness requirements in law and the process used to issue registry identification cards. The TCP mistakenly believed it had 20 days to process and issue a registry identification card. The TCP simply added together the 15-day limit for reviewing, verifying, and approving a card to the five-day limit to issue the card to arrive at 20 days. However, the law limited reviewing, verifying, and approving cards to a maximum of 15 days and limited the issuance of the registry identification cards to five days *after the approval of the application*. The law required registry identification cards to be issued at most five days after the approval of the application and the TCP processed cards within 4.7 days, on average in CY 2018. Because the TCP misapplied the time limits established by statute, an inefficient process to approve and issue registry identification cards was developed. The TCP adopted a process dependent on grouping applications together to process as a batch because staff believed they had more time to process cards than provided by statute. Contributing to the inefficient processing of applications was a computer database that did not fully support the operations of the program.

A common theme running through the nine observations that follow was that adequate staffing had been problematic since program inception. The therapeutic cannabis law establishing the program became effective in July 2013 and required DHHS to adopt rules no later than one year after the effective date of the law.¹ In November 2015 the DHHS began receiving applications

¹Administrative rules were adopted by the Commissioner of the DHHS on July 23, 2014 and filed the same day pursuant to RSA 541-A:14, III with the Director of Legislative Services. Pursuant to RSA 541-A:14, IV, the Commissioner specified in a letter to the Director an effective date of August 1, 2015.

from potential qualifying patients and designated caregivers. Until State fiscal year (SFY) 2017, no money was budgeted to the TCP for personnel or other operational expenses, so the TCP initially borrowed staff from other DHHS programs.

Observation No. 1

Process Applications Within Statutory Timelines

Initial Applications

Many registry identification cards for initial applications, which were complete when submitted, took longer to process than the maximum allowed, either the 15- and five-day standards or the informal 20-day standard used by the TCP as mentioned above. We did find, however, that although the TCP had improved its overall timeliness in CY 2018, it did not track timeliness of individual applications (see Observation No. 2).

Complete Applications

To determine how long it took to process an initial patient application (where the patient had not previously been approved for a card), we analyzed applications that were submitted complete upon initial presentation to the TCP to avoid analyzing files missing paperwork before processing. We found it took 18.5 days on average to process completed patient applications during CY 2018, which was within the TCP's informal timeline for processing applications. However, when using the timeliness standards established by statute and administrative rule, patients had their applications approved within 4.7 days of receipt (where 15 days was the standard) and cards issued within 13.7 days of approval (where five days was the standard). While the TCP approved applications in all cases within the 15-day standard, 98.4 percent of the cards were not issued within five days as required by law. In addition, Table 2 shows the TCP improved its timeliness in issuing cards in CY 2018 based on its informal standard of 20 days, going from 83.3 percent late in CY 2016 down to 37.6 percent late in CY 2018. We were unable to meaningfully review timelines of renewal applications due to the TCP's practice of holding applications until the month the previous card expired.

Incomplete Applications

TCP staff took even longer to process incomplete applications. After deducting the amount of time the applications were in the hands of the patient, the TCP took on average 39.1 days in CY 2016, 31.7 days in CY 2017, and 21.9 days in CY 2018 to process applications that initially arrived incomplete, with results all over the informal standard of 20 days used by the TCP. For this group of files, it took on average 21.9 days in CY2016, 23.5 days in CY 2017, and 16.8 days in CY 2018 to issue registry identification cards following approval, with the results all over the five-day standard.

Table 2

Average Number Of Days To Process Complete Initial Applications By CY¹

Measure	2016	2017	2018
Receipt to Approval (Days)	4.8	5.1	4.7
Percent Over 15 Days	5.0%	0.0%	0.0%
Approval to Card Issued (Days)	25.2	24.5	13.8
Percent Over 5 Days	100.0%	100.0%	98.4%
Receipt to Card Issued (Days)	31.4	29.3	18.5
Percent Over 20 Days ²	83.3%	83.0%	37.6%

Notes:

¹ Based on our random sample of active patient files in CY 2018.

² This was not a deadline established in law, rather it was used by the TCP as an informal standard based on the maximum allowable time period.

Source: LBA Analysis of TCP files.

Reasons For Untimely Card Issuance

Lack of staffing appears to be the primary cause for the delay in processing registry identification cards. Prior to SFY 2017, staffing for the TCP was ad hoc, as no funds were budgeted for the program for staffing purposes. Instead, the TCP borrowed staff from other DHHS programs during the startup phase beginning in CY 2016. Starting in October 2018, the TCP had one full-time staff, one part-time staff, and a program administrator to process all applications and answer calls from the public. Establishing a new program with inadequate funding was less than ideal and likely hampered the development of the program.

Two contributing factors also led to the TCP missing its statutory timeliness standards. First, the TCP's use of the informal standard of 20 days, which combined the 15 days of processing the application and five days for issuing the card, led to a lack of focus on getting the card issued within five days after approval. Second, the in-house database used to support the TCP was not designed to retain the dates of events such as the date reviewed, date application completed, and date approved, which were key events used to calculate timeliness. In fact, we were unable to use dates from the database because information was overwritten in subsequent years, leading to some dates being current and some being vestiges from prior years (see Observation No. 5). This was because the database was not designed for management purposes to record historical information or calculate how much time it took to process applications.

Due to a lack of adequate staffing, the use of an informal standard, and the database not aligning with the TCP for management or processing purposes, informal and statutory timelines were missed.

Recommendations:

We recommend TCP management orient its operations to process applications within the timeframes established by statute and rules. If the TCP wants to continue processing applications based only on a 20-day timeline, it should seek changes to legislation and its corresponding rules.

We also recommend TCP management consider whether its database meets its current and future needs of the program. If it does not meet future needs, such as generating timeliness data, management should consider modifying the current database or developing/purchasing a new one. At the least, the TCP should create another method to track whether it was meeting its discrete deadlines in processing each application.

We further recommend the TCP management and the Legislature may wish to maintain adequate funding and staffing levels.

Auditee Response:

The Department concurs.

Orient Operations with Statutory Timeframes

The Department will orient its operations for the issuance of registry identification cards with the statutory timeframes described in the audit.

The Department has historically interpreted the statute to allow for a maximum of 20 days to issue a card once a complete application has been received. All of the program's current operations and processes have been designed around this interpretation.

The Department will undertake a systematic review and analysis of its current processes with the goal of reorganizing its business processes and work environment to align with the statutory timeframes of 15 days to approve or deny an application and 5 days after approval to issue a card. This assessment has already begun with the assistance of the Public Health Improvement Section of the Bureau of Public Health Systems, Policy, and Performance. Other Department resources will also be brought to bear on this program improvement process over the next calendar year.

Based on the review and analysis, the Department will implement needed changes, including, as necessary, statutory changes, rule changes, policy and procedure changes, purchase and implementation of a new registry database, work flow changes, and staffing improvements.

Orienting processes based on the audit's timeframe finding is a fundamental change that will impact nearly every aspect of the program's operations. Implementation of a new registry database will also fundamentally change many aspects of the program's operations. These factors make the establishment of specific implementation dates challenging for the various deliverables. As part of its systematic review and analysis of its current processes, the Department will establish a tiered prioritization schedule for the implementation of various actions described in these

responses. Considering the depth, breadth, and complexity of the changes called for, it is expected that the Department will need 12 months to fully implement policies to come into compliance. Those elements requiring statutory changes will take somewhat longer based on the effective date of any legislation passed.

The Department does not believe it will be necessary to seek a legislative change to collapse the two current timeframes of 15 days to approve an application and 5 days to issue a registry identification card into one 20-day deadline to approve and issue a card, as currently practiced.

Database

The Department's existing database does not meet the current or future needs of the program. The Department is in the process of contracting for the purchase of a new one. See response to Observation #2.

Funding and Staffing

When established by law in 2013, the therapeutic use of cannabis law did not include a legislative appropriation for the creation, development, and ongoing maintenance of this new program, and it did not include funding for staffing, database needs, and other resources and administrative costs. The program was legislatively designed to be self-funded through patient and caregiver application fees and through alternative treatment center (ATC) registration fees. As the audit describes, the absence of dedicated funds to establish a new program hindered the Department's ability to effectively build and manage the program.

Since becoming fully operational approximately 3 years ago (Spring 2016), funding for the Therapeutic Cannabis Program has recently stabilized. With nearly 8,000 registered qualifying patients, most of whom renew their registration annually, including payment of an annual fee, along with now-mature licensed ATCs providing annual registration fees to fund the balance of any administrative costs for continued implementation of the program, the program has stable, increasing, and adequate revenue to sufficiently fund and staff the program.

Staffing levels, while not currently adequate, will improve in SFY 2020. Budgeted positions for SFY 2020 include a Program Specialist III to supervise the program's registry function and staff, to develop policies and procedures for patient enrollment, and to perform quality assurance and quality improvement by monitoring, analyzing, and interpreting enrollment data. Other positions budgeted for SFY 2020 include two full-time Program Assistant II positions, which will replace the current part-time Program Assistant I and Program Assistant II positions. It is believed that a new full-time specialist and two full-time assistants, along with the efficiencies to be gained through the use of a new database, will be adequate to staff the registry function of the Therapeutic Cannabis Program. It is expected that the Program Specialist position will be hired by October 2019, and the Program Assistant positions will be hired by January 2020.

Observation No. 2

Track Application Timeliness Correctly

According to statute and administrative rule, the TCP must have approved applications within 15 days of receipt and issue cards within five days of approval. The TCP, however, did not track the timeliness of individual applications in that manner. Although the TCP had a rudimentary database, it was not designed nor used to track the status of individual applications. Instead, the TCP performed a manual process of batching files together, which were received during one week and move them through the review process as a batch, from application receipt to application reviewed to application approved to card issued. The TCP Administrator stated the majority of cards would be issued within 20 days this way. However, we found many of the initial applications were approved well within the 15-day timeframe, which means the TCP had five additional days to issue the card from the date of approval. By law, if the TCP approved the application on day seven, it only had five additional days to issue the card for a total of 12 days (not the maximum of 20 that the TCP was measuring all applications against).

Tally Sheet

The program maintained a weekly “tally sheet” staff used to count the number of applications received, number of renewal applications received, number of initial cards issued, number of renewal cards issued, and the number of patients approved but the card had not been sent. The “tally sheet” was manually updated weekly. The TCP counted how many cards were not sent within different time frames: 0-9 days, 10-20 days, and 21-30 days. These timeframes did not correspond with the statutory construct of approving an application within 15 days and issuing a card within five days.

Database

It is axiomatic that, “what gets measured gets done.” Management should have defined objectives in measurable terms so performance toward achieving those objectives can be assessed. Measurable objectives should also be stated in quantitative or qualitative form that permits reasonably consistent measurement. Because the TCP’s database did not align with the TCP practices for management or processing purposes and the TCP used an informal standard, both informal and statutory timelines were missed. In addition, the TCP was unable to demonstrate how long it took to process each individual application, resulting in applications not meeting either the informal or statutory timelines.

Recommendation:

We recommend TCP management revise, develop, or purchase a database suitable to its needs in operating and managing the program. The database should be capable of tracking dates, calculating the length of time it takes to process applications, and providing operational support to staff and clients seeking a status report on their application. TCP management should also orient its operations to conforming with the 15- and five-day statutory deadlines instead of the 20-day informal deadline.

Auditee Response:

The Department concurs.

The Department is in the process of contracting with a vendor to purchase a new database that will be suitable to its needs in operating and managing the Therapeutic Cannabis Program. The new database will replace the existing and inadequate Microsoft Access-based patient registry database. The contract for the new TCP Patient Registry System is targeting the June 2019 Governor and Council meeting for review and approval. The contract terms estimate a 5-month period for development, testing, and training on the new database, so the functional implementation of the new database is not expected until Winter 2019-2020.

The database will be designed to fully support program operations, including the ability to accurately track the processing and timeliness of individual applications and card issuance, generate reports on processing and issuance timeliness, and retain historical data. The database will support compliance with the 15 and 5-day statutory timeframes for application processing and card issuance. The database will include a web-based portal for applicants to submit elements of their application to the Department electronically, as well as to check the status of their application. Future functionality of the database will include a web-based portal for certifying medical providers that will allow them to submit written certifications for their patients to the Department electronically, and to review their patient's application status.

The Department will assess what new business processes can be implemented prior to the implementation of the new database, and which will need to wait, or should wait, until the new database is functional before implementation. This analysis will focus on prioritizing compliance with the 15/5-day timeframes while avoiding redundant work and multiple disruptions to the application process. The roll-out of new functions and new business processes will involve changes in rule, policy, practice, and communication, and as such the implementation timeframe will be approximately 6 to 12 months for completion.

Observation No. 3

Renewal Applications Should Be Immediately Processed

Statutory Conflict

The TCP was faced with a conundrum in issuing registry identification cards for renewal applicants. Although the law specified an application must have been approved or denied within 15 days of receipt and a card issued within five days of approval, another part of the therapeutic cannabis statute limited registry identification cards to be valid for no more than one year after issuance. As a result, renewal applications were often not processed upon receipt by the TCP. Instead, some renewal applications were set aside until the beginning of the month the current registry identification card was due to expire, to give patients and caregivers the benefit of a complete year of coverage. The TCP's practice was to issue a card expiring on the last day of the month of the expiration year, which may have meant the card was valid for slightly longer than one year. For example, if an original registry identification card was issued on April 4, 2018, it

expired on April 30, 2019.² Therefore, renewal applications arriving before April 1, 2019 were not processed until April 2019 or the TCP risked setting an expiration earlier than April 2020 on the renewal card. Yet, if the TCP held the application for longer than 15 days, it was also out of compliance.

Timeliness Could Not Be Measured

Because some renewal cards were set aside when received early, we could not accurately calculate how long it took the TCP to process renewal applications with the data contained in the TCP's database or paper files. In addition, management could not ensure the files were processed within 15 days of *receipt* as required by law.

Some patients may have become anxious after submitting their application considerably earlier for a renewal card but have not received their card within an expected 20-day maximum timeframe. This may have generated more phone calls for the TCP staff to provide the status of applications over the phone, instead of processing cards. The TCP could not track timeliness of its processing of renewal applications because of the current practice of holding applications.

Effective Date Of Cards

Currently, statute (RSA 126-X:1, XI and 126-X:4, IV(b)) required registry identification cards have a "date issued" and an "expiration date" printed on them and were valid from issuance to the expiration date. Because the cards were valid once issued and could only be good for up to one year, the TCP was restraining itself from issuing renewal cards early.

If the issued and expired dates on the cards were substituted with a "valid" date range, the cards could be used for the entire one-year period after the current card expires, while simultaneously not requiring the TCP to set aside renewal applications. Using the scenario discussed earlier, a patient could apply for a renewal card before or during April 2019 because the card would only be effective from May 1, 2019 through April 30, 2020. Additionally, the TCP could meaningfully measure how long it takes to process renewal cards.

Recommendation:

We recommend the TCP management consider seeking a change to its laws to avoid its inability to follow conflicting statutory requirements when attempting to issue renewal identification cards in a timely manner.

Auditee Response:

The Department concurs.

² This scenario assumed the card was valid for one year. Under statute, the card may be valid for any time up to one year. The recommending doctor or advance practice registered nurse decided the actual length of the card's validity but in no case can it extend beyond one year.

The Department will assess the audit’s suggestion for instituting a “valid” date range, as distinct from an “effective” date range, so that renewal applications can be processed and renewal cards issued within the statutory timeframes.

To the extent that the Department cannot address the identified statutory conflict through a new business process, the Department will seek statutory changes to address the conflict. Absent a statutory change, the Department will implement those changes as soon as is practicable, with an estimated implementation of within 6 months.

October Spike

The Department will consider seeking a legislative change related to this observation.

Statutory requirements for an annual recertification, a three-month provider-patient relationship, and the addition of new qualifying medical conditions over the evolution of the program since 2013 have contributed to an uneven annual renewal caseload. Because new qualifying medical conditions are added through the legislative process, all new conditions became effective in the late summer and early fall. New conditions were added in 2015, 2016, and 2017, with the additions in 2017 (i.e., chronic pain, severe pain, and post-traumatic stress disorder) being the most impactful in terms of new patients eligible for the program. As a result, the program experiences a large spike in renewal applications in the month of October, and because of the requirement for an annual renewal, this October spike will continue. The large number of October renewals has strained the program’s already-limited resources to process applications and issue cards in a timely manner, and this strain has impacted compliance with even the Department’s informal 20-day processing timeframe well into December.

In addition to business process improvements to address this ongoing issue, including changes to monthly and weekly application batching, the Department will consider various legislative solutions, including increasing the duration of a certifying provider’s written certification from the current maximum of one year to a longer period, at the provider’s discretion. Allowing all or some subset of patients to not have to reapply annually will decrease the overall volume of annual renewal applications and will also have the impact of leveling out the peaks and troughs of monthly renewal applications received. Such legislation would be considered in SFY20 or SFY21 after a systematic review of existing and new policies and procedures.

Observation No. 4

Improve Application Instructions And Forms

Almost 40 percent of initial patient applications received in CY 2018 were considered incomplete upon receipt. We reviewed a random sample of 371 patient files where the patient was issued a registry identification card during CY 2018. Of the 371 patient files, 217 were initial applicants, meaning they had not previously been issued a registry identification card. Of the 217 files, 84 (38.7 percent) were considered incomplete when received. According to administrative rule, a patient application was deemed complete when the TCP received a completed application and all

other required documents. Incomplete applications prompted the TCP staff to request the missing information and wait for the return of these items.

Initial applications were incomplete for various reasons. Table 3 shows the most common reasons applications were considered incomplete for each calendar year based on our analysis of application files. Roughly half of the applications the TCP received from CYs 2016 through 2018 were deemed incomplete because they initially lacked a completed written physician or advance practice registered nurse certification. Approximately 37 percent of the patient applications were deemed incomplete upon receipt due to the patient not completing some aspect of the application.

Table 3

**Items Most Commonly Identified As Incomplete
On Initial Application By CY¹**

Incomplete Item	2016 ²	2017	2018
Written Physician Certification	58.1%	54.5%	47.6%
Patient Application	29.0%	31.8%	42.9%
Identification/Proof of Residency	25.8%	25.0%	35.7%
Photograph	22.6%	25.0%	31.0%

Notes:

¹ Based on 159 of the initial applications deemed incomplete upon receipt out of the 371 files we reviewed.

² An application may have been missing more than one piece of information; thus, percentages total more than 100 percent.

Source: LBA Analysis of TCP files.

Initial patient applications arrived incomplete due to the length of the application and volume of supporting documentation required. The physician/advance practice registered nurse certification form was four pages long, including the first page that was primarily directions on completing the form, and required two signatures from the medical professional. The patient application was seven pages long, the first three pages of which were directions for completion and required the applicant sign the document in three different places, and fourteen statements requiring acknowledgement indicated by the applicant’s initials. The requests for photographs and proof of residency were listed on the third page of the detailed instructions, which may have been glossed over or forgotten by the time the application was completed.

Without simplified forms with clear instructions, applicants may have had difficulty understanding all the requirements and providing all the information necessary to complete an application.

Recommendation:

We recommend the TCP management review its application forms to identify areas which could be simplified and revised to enhance clarity for items needed to submit a complete application.

Auditee Response:

The Department concurs.

The Department will undertake a systematic review and analysis of its current applications, instructions, and information sheets. The Department will update all materials based on that assessment so that materials are simplified and clarified with the goal of making the patient application experience easier to understand and less burdensome. The primary, measurable goal of this improvement process will be to receive fewer incomplete applications, thus increasing timeliness from the applicant's perspective. The Department will establish performance metrics for tracking progress towards this goal. The Department began tracking incomplete applications, and the reasons for incompleteness, in January 2019.

This improvement process will necessarily require a phased approach, as some changes may be implemented through a change in policy, procedure, or practice (estimated within 6 months), and other changes will require rule changes to implement because, per RSA 541-A, forms are rules (estimated within 6-12 months). Other improvements are expected to be realized through the new registry database, such as the web-based portal through which patients may submit application elements electronically and check application status on line (estimated 6-12 months). It is estimated that the complete improvement process may take between 12 and 18 months for complete implementation.

It should be noted that a particularly problematic and burdensome application requirement is currently being considered for removal by the legislature. SB 88, of the 2019 legislative session, proposes (in part) to remove the requirement for applicants to submit a photograph of their face to the program and for the program to include that photo on the registry ID card.

Observation No. 5

Improve Data Consistency

Inconsistent Use Of Checklist Fields

The TCP developed paper checklists to help ensure applications were complete and processed in a timely manner. A checklist was attached to each application and filled out by program staff as each application was received until the card was mailed. Using checklists can be an effective management control when designed and implemented appropriately.

Information recorded on checklists should have been completed and consistent to be effective and useful to analyze program operations. In the case of the TCP, data collected on checklists could

have been used to determine compliance with statutory timelines. The TCP staff utilized checklists to review patient and caregiver applications and to collect information such as when significant events occurred. However, some checklist date fields were missing information or were used to capture more than one kind of event, making it difficult to use for analytical purposes. As a result, the auditors had to look at submitted applications to understand and record the chronology of events that took place in issuing individual cannabis registry identification cards and calculating how long the process took.

The patient application checklist contained fields to record the dates: 1) an application was received; 2) an application was reviewed by staff; 3) a notice of an incomplete application was sent; 4) an application was approved, denied, or case closed; 5) was incomplete; and 6) the card was issued or a denial letter was sent. However, the application approval field was used to capture dates of two different events occurring over the life of an application. According to TCP practices, this field may be referred to as the date the application was received (if all pieces of information were accurate and complete upon receipt) or the date the TCP received additional information to complete the application. However, in a few instances, we also identified that the field was mistakenly used to record the date the application was reviewed by staff. Similar problems were encountered with the designated caregiver checklist.

Database Inaccuracies

Since inaccurate and incomplete data from the checklists were ultimately input into the database, neither the program nor the auditors were able to efficiently use the database to accurately determine how long it took to process applications for registry identification cards. Because data recorded on the checklists and the database was inconsistent, data analysis was made much more difficult. Data stored in a single field cannot have two different meanings if the data was to be useful.

Informal Policies And Procedures

The TCP did not have adequate policies and procedures to ensure checklists were completed consistently and completely. The TCP maintained a binder referred to as the “TCP Training Manual,” which contained a purpose and mission statement, laws, rules, memorandums, scattered procedures, policies, and forms. The manual contained emails with some inconsistent procedures for processing caregiver and patient applications and contained no definitions of what dates meant in each field for the checklists. For example, toward the beginning of the TCP manual, there was a process for updating a patient’s Alternative Treatment Center, which noted one staff member would be responsible for making the change in the database after staff had entered the change in the comment field. However, several pages later a policy decision memo allowed staff to make this change in the database themselves. Standards must be implemented to promote uniformity in data entry to ensure accurate information was captured.

Inconsistent And Inadequate Staffing

A contributing factor to data inconsistency and incompleteness was the lack of adequate staffing. Due to the lack of an allocated budget to staff the program when it was established, the TCP relied

on borrowed staff to answer phones, approve and issue registry identification cards, and assist with organizing files. The TCP administrator was not officially reclassified until August 2018, although the program administrator had been functionally acting as administrator since February 2018. Prior to February 2018, the administrator had been splitting time between working on rulemaking for other programs and TCP policy. The TCP borrowed staff from other programs over the course of CY 2016 and the beginning of CY 2017, also utilizing additional help from unallocated positions from other programs when possible. The program did not have all three staff positions dedicated to the program, one full-time and two-part time, filled until June 2017; however, its full-time staff position subsequently became vacant only four months later in October. The current full-time staff member did not join the program until February 2018, although this staff member had been working for the program since CY 2016. The second, current part-time staff member came aboard in October 2018.

Recommendations:

We recommend TCP management review and update, as necessary, information contained in the TCP manual to reflect the current application process. As a part of this process, TCP management should improve policies and procedures for using checklists to ensure consistent and useful data are captured and entered into the database.

We also recommend TCP management provide adequate training of program policies and procedures, including those for processing applications. If the TCP continues to borrow staff from other programs, we further recommend these staff are also adequately trained on the TCP policies and procedures to ensure they have an accurate understanding of the process.

Auditee Response:

The Department concurs.

The Department will undertake a systematic review and analysis of its current policy, procedure, and training manual. The Department will update the manual based on its assessment to include formal written policies, procedures, and tools and to ensure that all materials are accurate, up to date, reflect current practice, and are compliant with applicable rule and law. The manual will be reviewed and updated as needed so that it remains current, accurate, and up to date. Current and future TCP staff, and, to the extent needed, any staff borrowed from other areas, will be trained on up-to-date policies and procedures, both initially and periodically as needed.

A focus of this improvement process will be on the application process itself and the use of internal tools for application processing, like application checklists. Such tools will be updated and staff will be trained on those tools to ensure consistent and accurate data capture and data entry, as well as to be compliant with the statutory timeframes for application processing and card issuance.

It is assumed that the implementation of the new registry database will continue to necessitate the refinement of the application process, and associated policies, procedures, and tools, which will be kept up to date and trained on.

The estimated implementation timeframe for these activities will range from 6 to 18 months, based on the timing of database implementation and new staff being hired.

Observation No. 6

Supervisory Review Needed

To ensure the accuracy and completeness of information, an agency must employ a variety of control activities, such as building in edit checks of data entered by staff. Data entered into an information system like the TCP application database should have been periodically compared with physical files, and any discrepancies should have been examined. Supervisory or independent review of data entered into the agency's application system should have occurred. Additionally, management should have ensured duties and responsibilities among staff were separated, and no individual controlled all key aspects of a process to reduce the risk of error, omissions, or fraud.

We found applications approved by the TCP were not systematically reviewed by management before the registry identification cards were issued. At the time of the audit, the TCP had one full-time and one part-time staff, who both stated they worked in tandem to review initial applications for new caregivers and patients. However, we found many of the renewal applications were reviewed only by the full-time staff member and those database entries were not reviewed by other staff. The part-time staff member's work was often reviewed by the full-time staff person before registry cards were issued; yet, the full-time staff person's database entries usually remained unchecked. Prior to December 2018, clerical checks were made by borrowed staff to review printed cards for certain elements against application information; however, not all information entered into the database was reflected on these cards, which therefore went unchecked. Additionally, no periodic management review of physical files occurred after cards were issued.

Outdated Procedures

The TCP had a binder, referred to as the "TCP Training Manual," which specified instances when an application should be reviewed by another staff member. These instances included cases where: a person applied to be a caregiver but their corresponding patient's application had not yet been received, when the applicant was a minor, when a renewal application was received after the card became inactive, or when a medical provider did not appear to be licensed. However, these references were outdated, as the staff person referenced was no longer with the program at the time of the audit.

Inconsistent Review Of Data

TCP management stated information input into the database was not always reviewed by other staff; however, some checks of cards issued after the fact were made. This card review practice was discontinued after December 2018 as errors were infrequently encountered at this stage of the process and due to limited staffing. Previously, borrowed staff aided in preparing envelopes with cards for mailing that included checking the name, address, date of birth, photo, registry identification number, issue date, and expiration date located on cards against physical application materials. We found other application information was not located on physical cards and therefore

were not reviewed by other staff including: patient phone number, email, patient Alternative Treatment Center location, medical condition, symptoms, and processing dates.

Program Organization And Limited Staffing

Oversight was hampered by the program manager being physically located in a different building than staff processing applications during part of the audit period. As of April 2019, staff were relocated to the same building as management. The program was also not fully staffed and was short by at least one position during part of the audit period. Without an independent review of work performed by all staff, the program may have risked errors, omissions, or fraud. Additionally, without a consistent risk-based approach to supervisory review, application information contained on physical forms and in the TCP's database may have contained discrepancies, which may have otherwise been unnoticed and could have remained uncorrected.

Recommendation:

We recommend TCP management establish policy and procedures to periodically review physical files for errors and omissions to ensure the database contains accurate information.

Auditee Response:

The Department concurs.

The Department will undertake a systematic review and analysis of its current policy, procedure, and training manual. The Department will update the manual based on its assessment to include formal written policies, procedures, and tools and to ensure that all materials are accurate, up to date, and are compliant with applicable rule and law.

The Department will establish new policies and procedures for the periodic review of physical files for errors and omissions, as well as to ensure that the database contains accurate information. Procedures shall include steps for addressing identified discrepancies, including both individual errors and systemic errors.

The Department will assess, and reorganize as needed, the business processes and work environment to reduce the risk of error, omission, or fraud by separating duties and responsibilities among different staff, so that no one staff member controls all key aspects of a process.

The Department has budgeted for a new position for SFY 2020, namely, a Program Specialist III to supervise the program's registry function and staff, to develop policies and procedures for patient registration, and to perform quality assurance and quality improvement by monitoring, analyzing, and interpreting registration data. This position is expected to be hired by October 2019. A complete policy and procedure manual will be completed 12 months after hire, and will be continuously reviewed and updated.

Observation No. 7

Improve Client Service

Tracking Patient, Healthcare Providers, And Caregiver Questions

For an organization to engage in effective client service, expectations must be clearly defined, and plans should be developed with measurable criteria to assess client service performance. An organization should be able to extract pertinent information from data collected to continually improve its service functions. Additionally, systematically logging client complaints was a necessary first step. An organization should analyze this data to develop solutions that address the causes of any complaints. We found the TCP's practice of manually tracking calls was rudimentary, and some calls required staff to go through files by hand to determine the applicant's status if the application had not yet been processed and entered into the database.

Providing Status Information

Although the TCP now provides application status over the telephone, applicants were still advised in application instructions that information regarding application status would not be given over the telephone. Similar language appeared on the TCP's website contact information page. This gave the appearance staff were unavailable to assist clients if they had questions. According to TCP staff, the program began accepting and returning more telephone calls and emails as the program developed.

Policies, Procedures, And Staffing

Without adequate staffing and an effective complaint management system, small issues may have escalated to the point where management needed to become involved. The TCP did not have formal policies and procedures for how staff should handle email or telephone inquiries. Instead, the "TCP Training Manual" contained a directive to one person who was no longer with the program at the time of the audit. It did not include how to respond to clients or how to use the color-coded spreadsheet used as a call log.

Lack of staffing appeared to be the primary cause for the delay in processing registry identification cards and answering telephone calls. Prior to SFY 2017, staffing for the TCP was ad hoc, as no funds were budgeted for the program for staffing purposes. Instead, the TCP utilized borrowed staff positions from other DHHS programs through most of SFY 2016. In SFY 2017 the TCP still utilized assistance from other programs, although no borrowed positions were specifically allocated. Starting in October 2018, the TCP had one full-time staff and one part-time staff in addition to a program administrator to process all applications and answer calls from the public. Establishing a new program with inadequate funding was less than ideal and likely negatively affected the development of the program and its ability to provide service.

Recommendations:

We recommend TCP management:

- **establish client service policies and procedures,**
- **train staff on policies and procedures,**
- **revise program information documents and website information to align with the current practice of providing clients with the status of their applications, and**
- **revise the current call log system to ensure information obtained was organized in a consistent manner, which enables the program to use the information for analysis and further performance enhancement purposes.**

Auditee Response:

The Department concurs.

The Department will undertake a systematic review and analysis of its current policy, procedure, and training manual. The Department will update the manual based on its assessment to include formal written policies, procedures, and tools to ensure that all materials are accurate, up to date, and are compliant with applicable rule and law. Public-facing documents, including applications, information sheets, and information published on the program's website, will be updated to reflect current practice, including that of providing application status over the phone.

The Department will establish new policies and procedures related to customer service. Such policies and procedures shall include receiving, logging, and evaluating requests for information, requests for application status, complaints, and other customer-service related issues. The Department shall establish measurable criteria to assess and improve client service performance and so that customer service data can be analyzed for the purpose of developing solutions which address the causes of any individual or systemic complaints.

Current and future TCP staff, and, to the extent needed, any staff borrowed from other areas, will be trained on up-to-date customer service-related policies and procedures, both initially and periodically as needed.

The Department has budgeted for a new position for SFY 2020, namely, a Program Specialist III to supervise the program's registry function and staff, to develop policies and procedures for patient registration, and to perform quality assurance and quality improvement by monitoring, analyzing, and interpreting customer service data. This position is expected to be hired by October 2019. A complete policy and procedure manual will be completed 12 months after hire and will be continuously reviewed and updated.

In late 2018, the program began improving its customer service activities, to include fixing the TCP phone system so that the main program phone line rings on all TCP staff phones, as well as on a bureau support staff phone, directly answering as many calls as possible, systematically clearing and logging voice mail messages so that new messages can be received, and directing staff to return as many messages as possible. In March 2019, the program instituted a shared

phone log document to record all calls received, both answered and retrieved, to record calls by color code and category, and to record the date of resolution. Such information will be used for further analysis and for customer service performance enhancement purposes. The Department will further refine call log procedures for continuing improvement in this area.

Observation No. 8

Formalize Program Policies And Procedures

The “TCP Training Manual” contained a purpose and mission statement, laws, rules, memorandums, procedures, policies, and forms. However, the binder was loosely organized and contained a mixture of outdated and current application forms. For example, the binder contained the current Qualifying Patient Application Form and instructions with a revision date of February 2017, but also contained outdated forms with revision dates of November 2015 and May 2016. This would have led to confusion if outdated instructions or forms were mistakenly used or referenced. Many of the policies and procedures in the binder consisted of printed emails rather than a formal written and approved document evidencing effective dates and management approval. Some of the emails were directed to or were written by individuals no longer with the program and it was unclear if the procedures outlined still applied.

Management should have implemented control activities through policies. Formal, written policies would help management achieve desired results through effective stewardship of public resources. Management was responsible for designing policies and procedures to fit an entity’s circumstances and building them as an integral part of the entity’s operations.

Prior to SFY 2017, staffing for the TCP was ad hoc as no funds were budgeted for the program for staffing purposes. Instead, the TCP borrowed staff from other DHHS programs during the startup phase beginning in CY 2016. The program administrator divided his time between working in another position within the DHHS and the TCP. In fact, the position was not reclassified to full-time TCP administrator until August 2018, limiting the amount of influence over the program during the startup phase. The TCP had one full-time staff and one part-time staff in addition to a program administrator to process all applications and answer calls from the public.

Without formal, clearly written policies and procedures, competence in program personnel cannot be effectively measured and clients may have received inconsistent service.

Recommendation:

We recommend TCP management develop and maintain a formal, written policy and procedures manual. Expired applications and instructions should be removed from the manual.

Auditee Response:

The Department concurs.

The Department will undertake a systematic review and analysis of its current policy, procedure, and training manual. The Department will update the manual based on its assessment to include formal written policies, procedures, and tools and to ensure that all materials are accurate, up to date, reflect current practice, and are compliant with applicable rule and law. The manual will be reviewed and updated as needed so that it remains current, accurate, and up to date. Current and future TCP staff, and, to the extent needed, any staff borrowed from other areas, will be trained on up-to-date policies and procedures, both initially and periodically as needed. Old, expired, outdated material will be removed from electronic and physical copies of the manual.

The Department has budgeted for a new position for SFY 2020, namely, a Program Specialist III to supervise the program's registry function and staff, to develop policies and procedures for patient registration, and to perform quality assurance and quality improvement by monitoring, analyzing, and interpreting customer service data. This position is expected to be hired by October 2019. A complete policy and procedure manual will be completed 12 months after hire and will be continuously reviewed and updated.

Observation No. 9

Amend Administrative Rules

Some practices of the TCP were contrary to its administrative rules. For example, TCP rules had the following requirements.

- Patients and caregivers must submit their photographs electronically on a compact disc; however, the program currently accepts photographs on thumb drives.
- Patients must appear in photographs without head coverings that may disguise overall features of the patient's face; however, current practice allows patients to appear in photographs with head coverings.

Although good reasons may have existed for practices to have changed since these rules were adopted in November 2015, the TCP must follow administrative rules unless a waiver procedure had been adopted or the rule had been amended. Statute stated no agency shall grant waivers of, or variances from, any provisions of its rules without either amending the rules or providing by rule for a waiver or variance procedure. In this case, the TCP had adopted a waiver procedure, which required individuals seeking waivers to submit a written request explaining why the waiver was requested. However, the program did not appear to require a written waiver as required by its administrative rule.

By not having practice align with rules, and not informing all applicants of program changes, the program was not following law nor treating applicants equitably.

Recommendation:

We recommend TCP management review its administrative rules and amend those areas of rules as soon as practical where practice differs from rules and good cause exists why the current practice should be continued.

Auditee Response:

The Department concurs.

The Department will undertake a systematic review and analysis of its current policy, procedure, and training manual as compared to program rules He-C 401. The Department will update the manual based on its assessment to include formal written policies, procedures, and tools to ensure that all materials are accurate, up to date, reflect current practice, and are compliant with applicable rule and law. The manual will be reviewed and updated so that it remains current, accurate, and up to date. Current and future TCP staff, and, to the extent needed, any staff borrowed from other areas, will be trained on up-to-date policies and procedures, both initially and periodically as needed.

To the extent that current practice is identified as being inconsistent with current rule, and where good cause exists for a rule change, such rules will be amended through the formal rulemaking process described in RSA 541-A.

To the extent that a current rule is appropriate in most cases, but in certain individual cases it may be waived for good cause, the Department will adhere to the waiver procedures currently in rule, or as amended.

To the extent that current practice is inconsistently known by applicants due to a lack of publicizing such practice or the publishing of outdated information, the Department will update public-facing documents so that all applicants have the same access to current information.

Regarding the two examples provided in the audit findings, the photograph submission requirements are being addressed legislatively through SB 88 by the proposed removal of the photo submission requirement.

**STATE OF NEW HAMPSHIRE
THERAPEUTIC CANNABIS IDENTIFICATION CARD TIMELINESS**

**APPENDIX A
SCOPE, OBJECTIVE, AND METHODOLOGY**

Scope & Objectives

In September 2018, the Fiscal Committee of the General Court adopted a joint Legislative Performance Audit and Oversight Committee recommendation to conduct a performance audit of the Therapeutic Cannabis Program (TCP), issuance of registry identification cards. The entrance conference with the Department of Health and Human Services was held in November 2018 and the Oversight Committee approved the scope of the audit in March 2019.

Our audit was designed to answer the following question:

Did the TCP distribute registry identification cards to qualifying patients and caregivers timely during calendar year 2018?

To answer this question, we determined how long it took to process patient and designated caregiver applications and issue registry identification cards.

Methodology

To gain an understanding of the TCP and its operating environment, we:

- reviewed relevant State laws, administrative rules, policies and procedures, relevant news articles, court cases, TCP data reports, TCP program information, and forms;
- documented the process from the submission of applications to issuance of registry identification cards;
- interviewed TCP management and key stakeholders;
- obtained a dataset from the TCP's database related to measuring timeliness of patient and designated caregiver applications; and
- conducted a judgmental sample of patient files to determine the accuracy of data contained in the TCP's database and determined whether it was suitable for data analysis.

To determine how long it took the TCP to process a patient or designated caregiver applications and issue a registry identification card, we conducted two file reviews and reviewed TCP operations and specific management controls to the extent necessary to determine the cause of any delays.

TCP File Reviews

We reviewed two different types of files held by the TCP: 1) patient files, and 2) designated caregiver files.

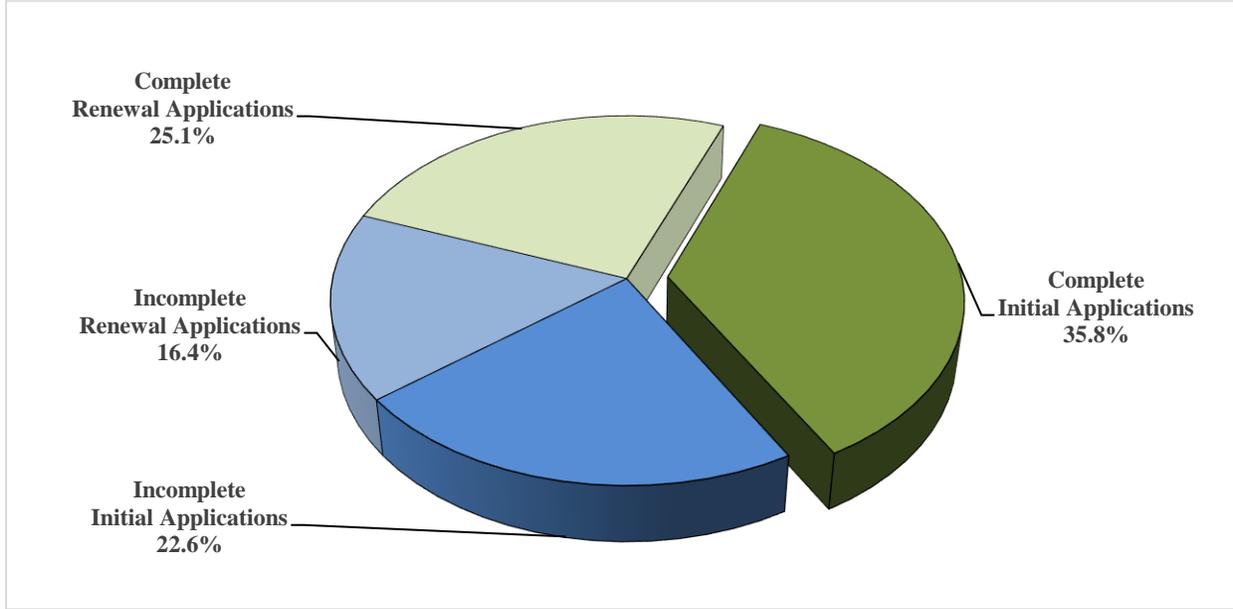
Patient Files

We examined the TCP patient dataset to identify the population of patients issued a patient registry identification card during calendar year (CY) 2018. We determined this population size was 7,208 patients. We used statistical software to determine the sample size that would provide statistically valid estimates of patients receiving cards in CY 2018 with 95 percent confidence and a margin of error of + or – five percent. The sample size was determined to be 380 cases to achieve the desired precision. The software was then used to select a simple random sample from the total population of 7,208, with each case having the same chance of selection. We ultimately examined 371 patient application files due to files that could not be located or had other problems that kept us from including the files in our analysis. Additionally, we examined initial applications filed in CYs 2016 and 2017 if the patient had been selected as part of our CY 2018 sample. Due to the sample selection method, the results from CYs 2016 and 2017 should not be considered to represent all initial applications issued in those years, but only as a subset of the patients who have remained in the program and received a renewal card in CY 2018.

The sample was broken down according to the type of application and whether it was filed complete or not. Figure 2 shows how the sample was broken down by complete versus incomplete and initial versus renewal applications. We determined 60.9 percent of the applicants in our sample (n=371) submitted a completed application during CY 2018 while 39.0 percent of the applications were incomplete when submitted. We also determined 41.4 percent of the sample were renewal applications and 58.4 percent were initial applications during CY 2018.

Figure 2

**LBA Sample Of Patient Applications
In CY 2018**



Source: LBA analysis of 371 randomly sampled TCP patient files.

Initial Application Files

To determine how long it took to process an initial application (where the patient had not previously been approved for a card), we analyzed applications that were submitted complete upon initial presentation to the TCP to avoid analyzing files missing paperwork before processing. We then recorded receipt and issuance dates in a spreadsheet and calculated elapsed days. To determine the percentage of cases which took longer than a specified standard, we counted the number of cases exceeding those standards. For cases where the application was considered originally incomplete, requiring the TCP to request additional information before processing the application, we calculated the number of elapsed business days between the date the application was received and the date a notice of incompleteness was sent to the patient, and analyzed patterns of information which were requested to complete applications.

Renewal Application Files

We were unable to calculate how long it took for renewal patient applications to be processed from the date of receipt by the program to the date the card was subsequently issued due to the way the TCP processed these applications. Depending on when a renewal was received by the program, the applications were placed on hold until the month the previous card was due to expire to avoid any overlap in issuing a registry card, which would have been outside of the one-year mark required by law.

Designated Caregiver Files

We examined the TCP designated caregiver dataset to identify the population of designated caregivers issued a registry identification card during CY 2018. We determined this population size was 456 designated caregivers. We used statistical software to determine the sample size that would provide statistically valid estimates of patients receiving cards in CY 2018 with 95 percent confidence interval with a + or – five percent margin of error. The sample size was determined to be 215 cases to achieve the desired precision. The software was then used to select a simple random sample from the total population of 456 caregivers, with each case having the same chance of selection.

We ultimately determined not enough information was contained in the designated caregiver files to reliably calculate the number of elapsed days between when the application was received and when the designated caregiver card was issued. This was due to the fact caregiver applications were only allowed to be processed after a corresponding qualifying patient application was approved. As required by State law, a designated caregiver must agree to assist at least one qualifying patient. The checklists utilized by TCP staff did not consistently contain sufficient information regarding when a caregiver's corresponding qualifying patient was approved, making it difficult to calculate when it would have been appropriate for the caregiver card to have been issued.

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**STATE OF NEW HAMPSHIRE
THERAPEUTIC CANNABIS IDENTIFICATION CARD TIMELINESS**

**APPENDIX B
AGENCY RESPONSE TO AUDIT**



Jeffrey A. Meyers
Commissioner

Lisa M. Morris
Director

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES**

29 HAZEN DRIVE, CONCORD, NH 03301
603-271-4501 1-800-852-3345 Ext. 4501
Fax: 603-271-4827 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

June 3, 2019

The Honorable Mary Beth Wallner, Chairperson
Joint Legislative Fiscal Committee
Legislative Office Building
Concord, NH 03301

Dear Representative Wallner:

The Department of Health and Human Services appreciates the work of the Office of Legislative Budget Assistant, Audit Division in reviewing the operations of the Department's Therapeutic Cannabis Program (TCP) relative to the timeliness of processing applications and issuing registry identification cards.

The audit provides a clear roadmap for the Therapeutic Cannabis Program to improve its operations by developing and implementing formal policies and procedures, amending its administrative rules, seeking legislative changes, hiring new staff, purchasing a new registry database, improving customer service, and ensuring that the statutory timeliness standard for card issuance is met. The Department concurs with all of the audit's observations, and over the next year it will work towards implementing all of the audit's recommendations.

Over the past 3 years, since the first Alternative Treatment Center for the dispensing of therapeutic cannabis opened in April 2016, the Therapeutic Cannabis Program has matured: the program has seen significant growth in registered patients and participating medical providers (there are currently more than 8,200 registered patients and more than 1,000 participating medical providers); the program now has stable and adequate revenue to sufficiently fund and staff the program; and in 2018-2019 the program has been reorganized within the Department's Division of Public Health Services. As the audit indicates, timeliness of registry ID card issuance improved significantly from calendar years 2016 and 2017. In 2018, program data shows compliance with the Department's informal standard of issuing a card within 20 days of receipt of a complete application for all but 9 weeks of the year.

Based on the audit findings, the Department has already begun a systematic review and analysis of its current processes with the goal of reorganizing its business processes and work environment to align with the statutory timeframes of 15 days to approve or deny an application and 5 days after approval to issue a card. The Department is committed to improving operations, improving customer service, and improving timeliness of card issuance, and over the next year it will implement needed changes, including statutory changes, rule changes, policy and procedure changes, purchase and implementation of a new registry database, work flow changes, and staffing improvements.

The auditors should be commended for their thorough and fair review of this new state program and their continued professionalism throughout the audit process.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Morris".

Lisa Morris
Director

*The Department of Health and Human Services' Mission is to join communities and families
in providing opportunities for citizens to achieve health and independence.*

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