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S.16

Introduced by Senators Sears, Ashe, Benning, Campion, Degree, Lyons, and
White

Referred to Committee on

Date:

Subject: Health; therapeutic use of cannabis

Statement of purpose of bill as introduced: This bill proposes to waive the
three-month patient-health care professional relationship requirement when the
patient is referred to a specialist who completes a full examination and signs
the medical verification form; expand list of qualifying medical conditions;
increase the number of dispensaries from four to eight; allow dispensaries to
advertise; allow a patient to possess up to three ounces of marijuana; clarify
that a dispensary may cultivate marijuana outdoors provided the marijuana is
in an enclosed, locked facility shielded from public view; allow a patient or
caregiver to cultivate marijuana even if the patient has designated a dispensary;
allow a dispensary to convert to a for-profit; require continuing medical
education to include training on the Medical Marijuana Registry; require the
Agency of Agriculture, Food and Markets to independently test marijuana-
infused edible or potable products sold by a dispensary to ensure appropriate
labeling of the tetrahydrocannabinol content.

1 An act relating to expanding patient access to the Medical Marijuana
2 Registry

3 It is hereby enacted by the General Assembly of the State of Vermont:

4 Sec. 1. 18 V.S.A. § 4472 is amended to read:

5 § 4472. DEFINITIONS

6 As used in this subchapter:

7 (1)(A) “Bona fide health care professional-patient relationship” means a
8 treating or consulting relationship of not less than three months’ duration, in
9 the course of which a health care professional has completed a full assessment
10 of the registered patient’s medical history and current medical condition,
11 including a personal physical examination.

12 (B) The three-month requirement shall not apply if:

13 (i) a patient has been diagnosed with:

14 (I) a terminal illness;

15 (II) cancer;

16 (III) acquired immune deficiency syndrome; or

17 (IV) is currently under hospice care.

18 (ii) a patient had been diagnosed with a debilitating medical
19 condition by a health care professional in another jurisdiction in which the
20 patient had been formerly a resident and the patient, now a resident of
21 Vermont, has the diagnosis confirmed by a health care professional in this
22 State or a neighboring state as provided in subdivision (6) of this section, and

1 the new health care professional has completed a full assessment of the
2 patient's medical history and current medical condition, including a personal
3 physical examination.

4 (iii) a patient who is already on the ~~registry~~ Registry changes
5 health care professionals three months or less prior to the annual renewal of the
6 patient's registration, provided the patient's new health care professional has
7 completed a full assessment of the patient's medical history and current
8 medical condition, including a personal physical examination.

9 (iv) a patient is referred by his or her health care professional to a
10 health care professional who specializes in diagnosing and treating certain
11 debilitating medical conditions and that specialist has completed a full
12 assessment of the patient's medical history and current medical condition,
13 including a personal physical examination.

14 * * *

15 (4) "Debilitating medical condition;" ~~provided that, in the context of the~~
16 ~~specific disease or condition described in subdivision (A) or (B) of this~~
17 ~~subdivision (4), reasonable medical efforts have been made over a reasonable~~
18 ~~amount of time to relieve the symptoms,~~ means:

19 (A) cancer, multiple sclerosis, positive status for human
20 immunodeficiency virus, acquired immune deficiency syndrome, glaucoma,
21 post-traumatic stress disorder, Crohn's disease, Parkinson's disease, or the

1 treatment of these conditions, if the disease or the treatment results in severe,
2 persistent, and intractable symptoms; ~~or~~

3 (B) a disease, medical condition, or its treatment that is chronic,
4 debilitating, and produces one or more of the following intractable symptoms:
5 cachexia or wasting syndrome; chronic pain; severe nausea; or seizures; or

6 (C) other disease, condition, or treatment as determined in writing by
7 a qualifying patient's health care professional.

8 (5) "Dispensary" means a nonprofit entity registered under section
9 4474e of this title ~~which~~ that acquires, possesses, cultivates, manufactures,
10 transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused
11 products, and marijuana-related supplies and educational materials for or to a
12 registered patient who has designated it as his or her center and to his or her
13 registered caregiver for the registered patient's use for symptom relief. A
14 dispensary may provide marijuana for symptom relief to registered patients at
15 only one facility or location, but may have a second location associated with
16 the dispensary where the marijuana is cultivated or processed. Both locations
17 are considered to be part of the same dispensary.

18 * * *

19 (10) "Possession limit" means the amount of marijuana collectively
20 possessed between the registered patient and the patient's registered caregiver

1 ~~which~~ that is no more than two mature marijuana plants, seven immature
2 plants, and ~~two~~ three ounces of usable marijuana.

3 * * *

4 Sec. 2. 18 V.S.A. § 4473 is amended to read:

5 § 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND
6 PROCEDURES

7 * * *

8 (b) The Department of Public Safety shall review applications to become a
9 registered patient using the following procedures:

10 * * *

11 (2) The Department of Public Safety shall develop a medical
12 verification form to be completed by a health care professional and submitted
13 by a patient applying for registration in the program. The form shall include:

14 * * *

15 (B) A verification sheet ~~which~~ that includes the following:

16 (i) A statement that a bona fide health care professional-patient
17 relationship exists under section 4472 of this title, or that under subdivision
18 (3)(A) of this subsection (b), the debilitating medical condition is of recent or
19 sudden onset, and the patient has not had a previous health care professional
20 who is able to verify the nature of the disease and its symptoms.

1 (ii) ~~A statement that reasonable medical efforts have been made~~
2 ~~over a reasonable amount of time without success to relieve the symptoms.~~

3 [Repealed.]

4 (iii) A statement that the patient has a debilitating medical
5 condition as defined in section 4472 of this title, including the specific disease
6 or condition which the patient has and whether the patient meets the criteria
7 under section 4472.

8 (iv) A signature line which provides in substantial part: “I certify
9 that I meet the definition of ‘health care professional’ under 18 V.S.A. § 4472,
10 that I am a health care professional in good standing in the State of
11 , and that the facts stated above are accurate to the best of
12 my knowledge and belief.”

13 (v) The health care professional’s contact information, license
14 number, category of his or her health care profession as defined in subdivision
15 4472(6) of this title, and contact information for the out-of-state licensing
16 agency, if applicable. The Department of Public Safety shall adopt rules for
17 verifying the goodstanding of out-of-state health care professionals.

18 (3)(A) The Department of Public Safety shall transmit the completed
19 medical verification form to the health care professional and contact him or her
20 for purposes of confirming the accuracy of the information contained in the
21 form. The Department may approve an application, notwithstanding the

1 ~~six-month~~ three-month requirement in section 4472 of this title, if the
2 Department is satisfied that the medical verification form confirms that the
3 debilitating medical condition is of recent or sudden onset, ~~and that the patient~~
4 ~~has not had a previous health care professional who is able to verify the nature~~
5 ~~of the disease and its symptoms.~~

6 (B) If the health care professional is licensed in another state as
7 provided section 4472 of this title, the Department shall verify that the health
8 care professional is in good standing in that state.

9 * * *

10 Sec. 3. 18 V.S.A. § 4474e is amended to read:

11 § 4474e. DISPENSARIES; CONDITIONS OF OPERATION

12 (a) A dispensary registered under this section may:

13 * * *

14 (5) Advertise under the following conditions:

15 (A) Advertising shall not contain any statement or illustration that:

16 (i) is false or misleading;

17 (ii) promotes overconsumption; or

18 (iii) is designed to appeal to children or persons under 21 years

19 of age.

20 (B) Outdoor advertising shall not be located within 1,000 feet of a
21 preexisting public or private school or licensed or regulated child care facility.

1 (C) All advertising shall contain the following warnings:

2 (i) “For use only by adults 21 years of age or older. Keep out of
3 the reach of children.”

4 (ii) “Marijuana has intoxicating effects and may impair
5 concentration, coordination, and judgment. Do not operate a motor vehicle or
6 heavy machinery or enter into any contractual agreement under the influence
7 of marijuana.”

8 ~~(b)(1) A dispensary shall be operated on a nonprofit basis for the mutual~~
9 ~~benefit of its patients but need not be recognized as a tax-exempt organization~~
10 ~~by the Internal Revenue Service.~~

11 ~~(2)~~ A dispensary shall have a sliding-scale fee system that takes into
12 account a registered patient’s ability to pay.

13 * * *

14 (d)(1) A dispensary shall implement appropriate security measures to deter
15 and prevent the unauthorized entrance into areas containing marijuana and the
16 theft of marijuana and shall ensure that each location has an operational
17 security alarm system. All cultivation of marijuana shall take place in an
18 enclosed, locked facility which is either indoors or ~~otherwise~~ outdoors, but not
19 visible to the public, and which can only be accessed by principal officers and
20 employees of the dispensary who have valid ~~registry~~ Registry identification
21 cards. The Department of Public Safety shall perform an annual on-site

1 assessment of each dispensary and may perform on-site assessments of a
2 dispensary without limitation for the purpose of determining compliance with
3 this subchapter and any rules adopted pursuant to this subchapter and may
4 enter a dispensary at any time for such purpose. During an inspection, the
5 Department may review the dispensary's confidential records, including its
6 dispensing records, which shall track transactions according to registered
7 patients' ~~registry~~ Registry identification numbers to protect their
8 confidentiality.

9 * * *

10 (k)(1) No dispensary, principal officer, board member, or employee of a
11 dispensary shall:

12 * * *

13 (C) dispense more than ~~two~~ three ounces of usable marijuana to a
14 registered patient directly or through the qualifying patient's registered
15 caregiver during a 30-day period;

16 * * *

17 Sec. 4. 18 V.S.A. § 4474f is amended to read:

18 § 4474f. DISPENSARY APPLICATION, APPROVAL, AND
19 REGISTRATION

20 * * *

1 (b) ~~Within 30 days of the adoption of rules, the Department shall begin~~
2 ~~accepting applications for the operation of dispensaries. Within 365 days of~~
3 ~~the effective date of this section, the Department shall grant registration~~
4 ~~certificates to four dispensaries, provided at least four applicants apply and~~
5 ~~meet the requirements of this section.~~ No more than ~~four~~ eight dispensaries
6 shall hold valid registration certificates at one time. Any time a dispensary
7 registration certificate is revoked, is relinquished, or expires, the Department
8 shall accept applications for a new dispensary. ~~If at any time after one year~~
9 ~~after the effective date of this section~~ fewer than ~~four~~ eight dispensaries hold
10 valid registration certificates in Vermont, the Department ~~of Public Safety~~ shall
11 accept applications for a new dispensary.

12 * * *

13 Sec. 5. 18 V.S.A. § 4474h is amended to read:

14 § 4474h. PATIENT DESIGNATION OF DISPENSARY

15 (a) A registered patient may obtain marijuana only from the patient's
16 designated dispensary and may designate only one dispensary. ~~If a registered~~
17 ~~patient designates a dispensary, the patient and his or her caregiver may not~~
18 ~~grow marijuana or obtain marijuana or marijuana infused products for~~
19 ~~symptom relief from any source other than the designated dispensary.~~ A
20 registered patient who wishes to change his or her dispensary shall notify the
21 Department of Public Safety in writing on a form issued by the Department

1 and shall submit with the form a fee of \$25.00. The Department shall issue a
2 new identification card to the registered patient within 30 days of receiving the
3 notification of change in dispensary. The registered patient's previous
4 identification card shall expire at the time the new identification card takes
5 effect. A registered patient shall submit his or her expired identification card
6 to the Department within 30 days of expiration. A registered patient shall not
7 change his or her designated dispensary more than once in any 30-day period.

8 * * *

9 Sec. 6. 18 V.S.A. § 4474n is added to read:

10 § 4474n. TESTING; AGENCY OF AGRICULTURE, FOOD

11 MARKETS

12 The Agency of Agriculture, Food and Markets shall conduct periodic
13 analytical sample testing of marijuana-infused edible or potable products sold
14 by a dispensary to ensure appropriate labeling of the tetrahydrocannabinol
15 content as required by subdivision 4474e(h)(2) of this chapter.

16 Sec. 7. AUTHORITY FOR CURRENTLY REGISTERED NONPROFIT

17 DISPENSARY TO CONVERT TO FOR-PROFIT ENTITY

18 (a) Notwithstanding any rule to the contrary, a nonprofit dispensary
19 registered pursuant to 18 V.S.A. chapter 86 may convert to a domestic
20 organization pursuant to and in accordance with 11A V.S.A. chapter 11 as if
21 the dispensary were a domestic corporation, except that the dispensary may

1 approve a conversion pursuant to 11A V.S.A. § 11.04 by a majority vote of its
2 board of directors and may otherwise disregard any provision of 11A V.S.A.
3 chapter 11 that relates to shareholders.

4 (b) Notwithstanding 18 V.S.A. § 4474e or any rule to the contrary, the
5 converted domestic organization may continue to operate on a for-profit basis
6 in accordance with the terms of its registration, 18 V.S.A. chapter 86, and any
7 rules adopted pursuant to that chapter.

8 Sec. 8. 26 V.S.A. § 1400 is amended to read:

9 § 1400. RENEWAL OF LICENSE; CONTINUING MEDICAL

10 EDUCATION

11 * * *

12 (b) A licensee for renewal of an active license to practice medicine shall
13 have completed continuing medical education ~~which~~ that shall meet minimum
14 criteria as established by rule, by the ~~board~~ Board, by August 31, 2012 and
15 which shall be in effect for the renewal of licenses to practice medicine
16 expiring after August 31, 2014. The ~~board~~ Board shall require a minimum of
17 10 hours of continuing medical education by rule. The training provided by
18 the continuing medical education shall be designed to ~~assure~~ ensure that the
19 licensee has updated his or her knowledge and skills in his or her own
20 specialties and also has kept abreast of advances in other fields for which
21 patient referrals may be appropriate. The ~~board~~ Board shall require evidence

1 of current professional competence in recognizing the need for timely
2 appropriate consultations and referrals to ~~assure~~ ensure fully informed patient
3 choice of treatment options, including treatments such as those offered by
4 hospice, palliative care, and pain management services, and one hour
5 specifically devoted to the Medical Marijuana Registry.

6 * * *

7 Sec. 9. 6 V.S.A. chapter 5 is amended to read:

8 CHAPTER 5. CENTRAL TESTING LABORATORY

9 § 121. CREATION AND PURPOSE

10 There is created within the Agency of Agriculture, Food and Markets a
11 central testing laboratory for the purpose of providing agricultural, ~~and~~
12 environmental, and other necessary testing services.

13 § 122. FEES

14 Notwithstanding 32 V.S.A. § 603, the Agency shall establish fees for
15 providing agricultural, ~~and~~ environmental, and other necessary testing services
16 at the request of private individuals and State agencies. The fees shall be
17 reasonably related to the cost of providing the services. Fees collected under
18 this chapter shall be credited to a special fund which shall be established and
19 managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and which shall be
20 available to the Agency to offset the cost of providing the services.

1 § 123. REGULATED DRUGS

2 (a) Except as provided in subsection (b) of this section, the provisions of
3 18 V.S.A. chapter 84 shall not apply to the Secretary or designee in the
4 otherwise lawful performance of his or her official duties requiring the
5 possession or control of regulated drugs.

6 (b) The central testing laboratory shall obtain a certificate of approval from
7 the Department of Health pursuant to 18 V.S.A. § 4207.

8 (c) As used in this section, “regulated drug” shall have the same meaning
9 as in 18 V.S.A. § 4201.

10 Sec. 10. EFFECTIVE DATE

11 This act shall take effect on July 1, 2017.