

House Proposal of Amendment

S. 17

An act relating to licensing a nonprofit organization to dispense marijuana for therapeutic purposes.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 86, subchapter 2 is amended to read:

Subchapter 2. Marijuana for Medical Symptom Use by Persons with Severe Illness

§ 4472. DEFINITIONS

For the purposes of this subchapter:

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

(2) “Clone” means a plant section from a female marijuana plant not yet root-bound, growing in a water solution, which is capable of developing into a new plant.

(3) “Criminal history record” means all information documenting an individual’s contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(4) “Debilitating medical condition,” provided that, in the context of the specific disease or condition described in subdivision (A) or (B) of this subdivision ~~(2)~~(4), reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms, means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or

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

(5) “Dispensary” means a nonprofit entity registered under section 4474e of this title which acquires, possesses, cultivates, manufactures,

transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient's use for symptom relief. A dispensary may provide marijuana for symptom relief to registered patients at only one facility or location but may have a second location associated with the dispensary where the marijuana is cultivated. Both locations are considered to be part of the same dispensary.

(6) "Health care professional" means an individual licensed to practice medicine under chapter 23 or 33 of Title 26, an individual certified as a physician's assistant under chapter 31 of Title 26, or an individual licensed as an advanced practice registered nurse under chapter 28 of Title 26. This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

(7) "Immature marijuana plant" means a female marijuana plant that has not flowered and which does not have buds that may be observed by visual examination.

~~(3)~~(8) "Marijuana" shall have the same meaning as provided in subdivision 4201(15) of this title.

~~(4)~~ "Physician" means a person who is:

~~(A) licensed under chapter 23 or chapter 33 of Title 26, and is licensed with authority to prescribe drugs under Title 26; or~~

~~(B) a physician, surgeon, or osteopathic physician licensed to practice medicine and prescribe drugs under comparable provisions in New Hampshire, Massachusetts, or New York.~~

(9) "Mature marijuana plant" means a female marijuana plant that has flowered and which has buds that may be observed by visual examination.

~~(5)~~(10) "Possession limit" means the amount of marijuana collectively possessed between the registered patient and the patient's registered caregiver which is no more than two mature marijuana plants, seven immature plants, and two ounces of usable marijuana.

~~(6)~~(11) "Registered caregiver" means a person who is at least 21 years old who has never been convicted of a drug-related crime and who has agreed to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief.

~~(7)~~(12) "Registered patient" means a ~~person~~ resident of Vermont who has been issued a registration card by the department of public safety identifying the person as having a debilitating medical condition pursuant to

the provisions of this subchapter. “Resident of Vermont” means a person whose domicile is Vermont.

~~(8)~~(13) “Secure indoor facility” means a building or room equipped with locks or other security devices that permit access only by a registered caregiver ~~or~~, registered patient, or a principal officer or employee of a dispensary.

~~(9)~~(14) “Usable marijuana” means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant.

~~(10)~~(15) “Use for symptom relief” means the acquisition, possession, cultivation, use, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a registered patient’s debilitating medical condition which is in compliance with all the limitations and restrictions of this subchapter. For the purposes of this definition, “transfer” is limited to the transfer of marijuana and paraphernalia between a registered caregiver and a registered patient.

§ 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND PROCEDURES

(a) To become a registered patient, a person must be diagnosed with a debilitating medical condition by a ~~physician~~ health care professional in the course of a bona fide ~~physician-patient~~ health care professional-patient relationship.

(b) The department of public safety shall review applications to become a registered patient using the following procedures:

(1) A patient with a debilitating medical condition shall submit, under oath, a signed application for registration to the department. If the patient is under the age of 18, the application must be signed by both the patient and a parent or guardian. The application shall require identification and contact information for the patient and the patient’s registered caregiver applying for authorization under section 4474 of this title, if any, and the patient’s designated dispensary under section 4474e of this title, if any. The applicant shall attach to the application a medical verification form developed by the department pursuant to subdivision (2) of this subsection.

(2) The department of public safety shall develop a medical verification form to be completed by a ~~physician~~ health care professional and submitted by a patient applying for registration in the program. The form shall include:

(A) A cover sheet which includes the following:

(i) A statement of the penalties for providing false information.

(ii) Definitions of the following statutory terms:

(I) “Bona fide ~~physician-patient~~ health care professional-patient relationship” as defined in ~~subdivision 4472(1)~~ section 4472 of this title.

(II) “Debilitating medical condition” as defined in ~~subdivision 4472(2)~~ section 4472 of this title.

(III) “~~Physician~~ Health care professional” as defined in ~~subdivision 4472(4)~~ section 4472 of this title.

(B) A verification sheet which includes the following:

(i) A statement that a bona fide ~~physician-patient~~ health care professional-patient relationship exists under ~~subdivision 4472(1)~~ section 4472 of this title, or that under subdivision (3)(A) of this subsection (b), the debilitating medical condition is of recent or sudden onset, and the patient has not had a previous ~~physician~~ health care professional who is able to verify the nature of the disease and its symptoms.

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

(iii) A statement that the patient has a debilitating medical condition as defined in ~~subdivision 4472(2)~~ section 4472 of this title, including the specific disease or condition which the patient has and whether the patient meets the criteria under ~~subdivision 4472(2)(A) or (B)~~ section 4472.

(iv) A signature line which provides in substantial part: “I certify that I meet the definition of “~~physician~~” under ~~18 V.S.A. § 4472(4)(A) or 4472(4)(B)~~ ‘health care professional’ under 18 V.S.A. § 4472, that I am a ~~physician~~ health care professional in good standing in the state of, and that the facts stated above are accurate to the best of my knowledge and belief.”

(v) The ~~physician’s~~ health care professional’s contact information, license number, category of his or her health care profession as defined in subdivision 4472(6) of this title, and contact information for the out-of-state licensing agency, if applicable. The department of public safety shall adopt rules for verifying the goodstanding of out-of-state health care professionals.

(3)(A) The department of public safety shall transmit the completed medical verification form to the ~~physician~~ health care professional and contact him or her for purposes of confirming the accuracy of the information contained in the form. The department may approve an application, notwithstanding the six-month requirement in ~~subdivision 4472(1)~~ section 4472 of this title, if the department is satisfied that the medical verification form confirms that the debilitating medical condition is of recent or sudden onset, and that the patient has not had a previous ~~physician~~ health care professional who is able to verify the nature of the disease and its symptoms.

(B) If the physician health care professional is licensed in another state as provided by ~~subdivision 4472(4)(B)~~ section 4472 of this title, the department shall ~~contact the state's medical practice board and~~ verify that the physician health care professional is in good standing in that state.

(4) The department shall approve or deny the application for registration in writing within 30 days from receipt of a completed registration application. If the application is approved, the department shall issue the applicant a registration card which shall include the registered patient's name and photograph, ~~as well as the registered patient's designated dispensary, if any, and~~ a unique identifier for law enforcement verification purposes under section 4474d of this title.

(5)(A) A review board is established. The medical practice board shall appoint three physicians licensed in Vermont to constitute the review board. If an application under subdivision (1) of this subsection is denied, within seven days the patient may appeal the denial to the board. Review shall be limited to information submitted by the patient under subdivision (1) of this subsection, and consultation with the patient's treating physician health care professional. All records relating to the appeal shall be kept confidential. An appeal shall be decided by majority vote of the members of the board.

(B) The board shall meet periodically to review studies, data, and any other information relevant to the use of marijuana for symptom relief. The board may make recommendations to the general assembly for adjustments and changes to this chapter.

(C) Members of the board shall serve for three-year terms, beginning February 1 of the year in which the appointment is made, except that the first members appointed shall serve as follows: one for a term of two years, one for a term of three years, and one for a term of four years. Members shall be entitled to per diem compensation authorized under ~~section 1010 of Title 32~~ 32 V.S.A. § 1010. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

§ 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS AND PROCEDURES

(a) A person may submit a signed application to the department of public safety to become a registered patient's registered caregiver. The department shall approve or deny the application in writing within 30 days. The department shall approve a registered caregiver's application and issue the person an authorization card, including the caregiver's name, photograph, and a unique identifier, after verifying:

(1) the person will serve as the registered caregiver for one registered patient only; and

(2) the person has never been convicted of a drug-related crime.

(b) Prior to acting on an application, the department shall obtain from the Vermont criminal information center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. For purposes of this subdivision, "criminal record" means a record of whether the person has ever been convicted of a drug-related crime. Each applicant shall consent to release of criminal records to the department on forms substantially similar to the release forms developed by the center pursuant to ~~section 2056c of Title 20~~ 20 V.S.A. § 2056c. The department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. The Vermont criminal information center shall send to the requester any record received pursuant to this section or inform the department of public safety that no record exists. If the department disapproves an application, the department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont criminal information center. No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.

(c) A registered caregiver may serve only one registered patient at a time, and a registered patient may have only one registered caregiver at a time.

§ 4474a. REGISTRATION; FEES

(a) The department shall collect a fee of \$50.00 for the application authorized by sections 4473 and 4474 of this title. The fees received by the department shall be deposited into a registration fee fund and used to offset the costs of processing applications under this subchapter.

(b) A registration card shall expire one year after the date of issue, with the option of renewal, provided the patient submits a new application which is approved by the department of public safety, pursuant to section 4473 or 4474 of this title, and pays the fee required under subsection (a) of this section.

§ 4474b. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES; SEIZURE OF PROPERTY

(a) A person who has in his or her possession a valid registration card issued pursuant to this subchapter and who is in compliance with the requirements of this subchapter, including the possession limits in ~~subdivision 4472(4)~~ section 4472 of this title, shall be exempt from arrest or prosecution under subsection 4230(a) of this title and from seizure of marijuana, marijuana-infused products, and marijuana-related supplies.

(b) A ~~physician~~ health care professional who has participated in a patient's application process under subdivision 4473(b)(2) of this title shall not be subject to arrest, prosecution, or disciplinary action under chapter 23 of Title 26, penalized in any manner, or denied any right or privilege under state law, except for giving false information, pursuant to subsection 4474c(f) of this title.

(c) No person shall be subject to arrest or prosecution for constructive possession, conspiracy, or any other offense for simply being in the presence or vicinity of a registered patient or registered caregiver engaged in use of marijuana for symptom relief.

(d) A law enforcement officer shall not be required to return marijuana ~~or paraphernalia relating to its use,~~ marijuana-infused products, and marijuana-related supplies seized from a registered patient or registered caregiver. However, if marijuana or marijuana-infused products are seized by a law enforcement officer and if there is a subsequent determination that the patient or caregiver was in compliance with this subchapter, the seized marijuana and marijuana-infused products shall not count toward the possession limits or dispensary allocation set forth in this subchapter for the patient or caregiver.

(e) A dispensary may donate marijuana, marijuana-infused products, and marijuana-related supplies to another dispensary in Vermont provided that no consideration is paid and that the recipient does not exceed the possession limits specified in this subchapter.

§ 4474c. PROHIBITIONS, RESTRICTIONS, AND LIMITATIONS

REGARDING THE USE OF MARIJUANA FOR SYMPTOM RELIEF

(a) This subchapter shall not exempt any person from arrest or prosecution for:

(1) Being under the influence of marijuana while:

(A) operating a motor vehicle, boat, or vessel, or any other vehicle propelled or drawn by power other than muscular power;

(B) in a workplace or place of employment; or

(C) operating heavy machinery or handling a dangerous instrumentality.

(2) The use or possession of marijuana or marijuana-infused products by a registered patient or the possession of marijuana or marijuana-infused products by a registered caregiver:

(A) for purposes other than symptom relief as permitted by this subchapter; or

(B) in a manner that endangers the health or well-being of another person.

(3) The smoking of marijuana in any public place, including:

(A) a school bus, public bus, or other public vehicle;

(B) a workplace or place of employment;

(C) any school grounds;

(D) any correctional facility; or

(E) any public park, public beach, public recreation center, or youth center.

(b) This chapter shall not be construed to require that coverage or reimbursement for the use of marijuana for symptom relief be provided by:

(1) a health insurer as defined by section 9402 of this title, or any insurance company regulated under Title 8;

(2) Medicaid, Vermont health access plan, and any other public health care assistance program;

(3) an employer; or

(4) for purposes of workers' compensation, an employer as defined in 21 V.S.A. § 601(3).

(c) A registered patient or registered caregiver who elects to grow marijuana to be used for symptom relief by the patient may do so only if the marijuana is cultivated in a single, secure indoor facility.

(d) A registered patient or registered caregiver may not transport marijuana in public unless it is secured in a locked container.

(e) Within 72 hours after the death of a registered patient, the patient's registered caregiver shall return to the department of public safety for disposal any marijuana or marijuana plants in the possession of the patient or registered caregiver at the time of the patient's death. If the patient did not have a registered caregiver, the patient's next of kin shall contact the department of public safety within 72 hours after the patient's death and shall ask the department to retrieve such marijuana and marijuana plants for disposal.

(f) Notwithstanding any law to the contrary, a person who knowingly gives to any law enforcement officer false information to avoid arrest or prosecution, or to assist another in avoiding arrest or prosecution, shall be imprisoned for not more than one year or fined not more than \$1,000.00 or both. This penalty

shall be in addition to any other penalties that may apply for the possession or use of marijuana.

§ 4474d. LAW ENFORCEMENT VERIFICATION OF INFORMATION;
RULEMAKING

(a) The department of public safety shall maintain and keep confidential, except as provided in subsection (b) of this section and except for purposes of a prosecution for false swearing under 13 V.S.A. § 2904, the records of all persons registered under this subchapter or registered caregivers in a secure database accessible by authorized department of public safety ~~employee's~~ employees only.

(b) In response to a person-specific or property-specific inquiry by a law enforcement officer or agency made in the course of a bona fide investigation or prosecution, the department may verify the identities and registered property addresses of the registered patient and the patient's registered caregiver, a dispensary, and the principal officer, the board members, or the employees of a dispensary.

(c) The department shall maintain a separate secure electronic database accessible to law enforcement personnel 24 hours a day that uses a unique identifier system to allow law enforcement to verify that a person or entity is a registered patient, ~~or a~~ registered caregiver, a dispensary, or the principal officer, a board member, or an employee of a dispensary.

(d) The department of public safety shall implement the requirements of this act within 120 days of its effective date. The department may adopt rules under chapter 25 of Title 3 and shall develop forms to implement this act.

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief. For purposes of this section, "transport" shall mean the movement of marijuana or marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, or as otherwise allowed under this subchapter.

(A) Marijuana-infused products shall include tinctures, oils, solvents, and edible or potable goods. Only the portion of any marijuana-infused product that is attributable to marijuana shall count toward the possession limits of the dispensary and the patient. The department of public safety shall

establish by rule the appropriate method to establish the weight of marijuana that is attributable to marijuana-infused products.

(B) Marijuana-related supplies shall include pipes, vaporizers, and other items classified as drug paraphernalia under chapter 69 of this title.

(2) Acquire marijuana seeds or parts of the marijuana plant capable of regeneration from or dispense them to registered patients or their caregivers or acquire them from another registered Vermont dispensary, provided that records are kept concerning the amount and the recipient.

(3) Cultivate and possess at any one time up to 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of usable marijuana. However, if a dispensary is designated by more than 14 registered patients, the dispensary may cultivate and possess at any one time two mature marijuana plants, seven immature plants, and two ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

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

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

(c) A dispensary shall not be located within 1,000 feet of the property line of a preexisting public or private school or licensed or regulated child care facility.

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in an enclosed, locked facility which is either indoors or otherwise not visible to the public and which can only be accessed by principal officers and employees of the dispensary who have valid registry identification cards. The department of public safety shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' registry identification numbers to protect their confidentiality.

(2) A registered patient or registered caregiver may obtain marijuana from the dispensary facility by appointment only.

(3) The operating documents of a dispensary shall include procedures for the oversight of the dispensary and procedures to ensure accurate record-keeping.

(4) A dispensary shall submit the results of an annual financial audit to the department of public safety no later than 60 days after the end of the dispensary's fiscal year. The annual audit shall be conducted by an independent certified public accountant, and the costs of any such audit shall be borne by the dispensary. The department may also periodically require, within its discretion, the audit of a dispensary's financial records by the department.

(5) A dispensary shall destroy or dispose of marijuana, marijuana-infused products, clones, seeds, parts of marijuana that are not usable for symptom relief or are beyond the possession limits provided by this subchapter, and marijuana-related supplies only in a manner approved by rules adopted by the department of public safety.

(e) A registered patient shall not consume marijuana for symptom relief on dispensary property.

(f) A person may be denied the right to serve as a principal officer, board member, or employee of a dispensary because of the person's criminal history record in accordance with section 4474g of this title and rules adopted by the department of public safety pursuant to that section.

(g)(1) A dispensary shall notify the department of public safety within 10 days of when a principal officer, board member, or employee ceases to be associated with or work at the dispensary. His or her registry identification card shall be deemed null and void, and the person shall be liable for any penalties that may apply.

(2) A dispensary shall notify the department of public safety in writing of the name, address, and date of birth of any proposed new principal officer, board member, or employee and shall submit a fee for a new registry identification card before a new principal officer, board member, or employee begins his or her official duties related to the dispensary and shall submit a complete set of fingerprints for the prospective principal officer, board member, or employee.

(h) A dispensary shall include a label on the packaging of all marijuana that is dispensed. The label shall identify the particular strain of marijuana contained therein. Cannabis strains shall be either pure breeds or hybrid varieties of cannabis and shall reflect properties of the plant. The label also shall contain a statement to the effect that the state of Vermont does not attest to the medicinal value of cannabis.

(i) Each dispensary shall develop, implement, and maintain on the premises employee policies and procedures to address the following requirements:

(1) A job description or employment contract developed for all employees which includes duties, authority, responsibilities, qualification, and supervision;

(2) Training in and adherence to confidentiality laws; and

(3) Training for employees required by subsection (j) of this section.

(j) Each dispensary shall maintain a personnel record for each employee that includes an application for employment and a record of any disciplinary action taken. Each dispensary shall provide each employee, at the time of his or her initial appointment, training in the following:

(1) The proper use of security measures and controls that have been adopted; and

(2) Specific procedural instructions on how to respond to an emergency, including robbery or violent incident.

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

(A) Acquire, possess, cultivate, manufacture, transfer, transport, supply, sell, or dispense marijuana for any purpose except to assist a registered patient with the use of marijuana for symptom relief directly or through the qualifying patient's designated caregiver.

(B) Acquire usable marijuana or marijuana plants from any source other than registered dispensary principal officers, board members, or employees who cultivate marijuana in accordance with this subchapter.

(C) Dispense more than two ounces of usable marijuana to a registered patient directly or through the qualifying patient's registered caregiver during a 30-day period.

(D) Dispense an amount of usable marijuana to a qualifying patient or a designated caregiver that the principal officer, board member, or employee knows would cause the recipient to possess more marijuana than is permitted under this subchapter.

(E) Dispense marijuana to a person other than a registered patient who has designated the dispensary to provide for his or her needs or other than the patient's registered caregiver.

(2) A person found to have violated subdivision (1) of this subsection may no longer serve as a principal officer, board member, or employee of any dispensary, and such person's registry identification card shall be immediately revoked by the department of public safety.

(3) The board of a dispensary shall be required to report to the department of public safety any information regarding a person who violates this section.

(1)(1) A registered dispensary shall not be subject to the following provided that it is in compliance with this subchapter:

(A) Prosecution for the acquisition, possession, cultivation, manufacture, transfer, transport, supply, sale, or dispensing of marijuana, marijuana-infused products, or marijuana-related supplies for symptom relief in accordance with the provisions of this subchapter and any rule adopted by the department of public safety pursuant to this subchapter.

(B) Inspection and search, except pursuant to this subchapter or upon a search warrant issued by a court or judicial officer.

(C) Seizure of marijuana, marijuana-infused products, and marijuana-related supplies, except upon a valid order issued by a court.

(D) Imposition of any penalty or denied any right or privilege, including imposition of a civil penalty or disciplinary action by an occupational or professional licensing board or entity, solely for acting in accordance with this subchapter to assist registered patients or registered caregivers.

(2) No principal officer, board member, or employee of a dispensary shall be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including civil penalty or disciplinary action by a occupational or professional licensing board or entity, solely for working for or with a dispensary to engage in acts permitted by this subchapter.

(m) The governor may suspend the implementation and enforcement of subsection (a) of this section if the governor determines that it is in the interest of justice and public safety.

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND

REGISTRATION

(a)(1) The department of public safety shall adopt rules on the following:

(A) The form and content of dispensary registration and renewal applications.

(B) Minimum oversight requirements for a dispensary.

(C) Minimum record-keeping requirements for a dispensary.

(D) Minimum security requirements for a dispensary, which shall include a fully operational security alarm system. This provision shall apply to each location where marijuana will be grown, cultivated, harvested, or otherwise prepared for distribution by the dispensary or will be distributed by

the dispensary.

(E) Procedures for suspending or terminating the registration of a dispensary that violates the provisions of this subchapter or the rules adopted pursuant to this subchapter.

(F) The medium and manner in which a dispensary may notify registered patients of its services.

(G) Procedures to guide reasonable determinations as to whether an applicant would pose a demonstrable threat to public safety if he or she were to be associated with a dispensary.

(H) Procedures for providing notice to applicants regarding federal law with respect to marijuana.

(2) The department of public safety shall adopt such rules with the goal of protecting against diversion and theft without imposing an undue burden on a registered dispensary or compromising the confidentiality of registered patients and their registered caregivers. Any dispensing records that a registered dispensary is required to keep shall track transactions according to registered patients' and registered caregivers' registry identification numbers, rather than their names, to protect confidentiality.

(b) Within 30 days of the adoption of rules, the department shall begin accepting applications for the operation of dispensaries. Within 365 days of the effective date of this section, the department shall grant registration certificates to four dispensaries, provided at least four applicants apply and meet the requirements of this section. No more than four dispensaries shall hold valid registration certificates at one time. The total statewide number of registered patients who have designated a dispensary shall not exceed 1,000 at any one time. Any time a dispensary registration certificate is revoked, is relinquished, or expires, the department shall accept applications for a new dispensary. If at any time after one year after the effective date of this section fewer than four dispensaries hold valid registration certificates in Vermont, the department of public safety shall accept applications for a new dispensary.

(c) Each application for a dispensary registration certificate shall include all of the following:

(1) A nonrefundable application fee in the amount of \$2,500.00 paid to the department of public safety.

(2) The legal name, articles of incorporation, and bylaws of the dispensary.

(3) The proposed physical address of the dispensary, if a precise address has been determined or, if not, the general location where it would be located.

(4) A description of the enclosed, locked facility where marijuana will

be grown, cultivated, harvested, or otherwise prepared for distribution by the dispensary.

(5) The name, address, and date of birth of each principal officer and board member of the dispensary and a complete set of fingerprints for each of them.

(6) Proposed security and safety measures, which shall include at least one security alarm system for each location and planned measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana.

(7) Proposed procedures to ensure accurate record-keeping.

(d) Any time one or more dispensary registration applications are being considered, the department of public safety shall solicit input from registered patients and registered caregivers.

(e) Each time a dispensary certificate is granted, the decision shall be based on the overall health needs of qualified patients. The following factors shall weigh heavily in the consideration of an application:

(1) Geographic convenience to patients from throughout the state of Vermont to a dispensary if the applicant were approved.

(2) The entity's ability to provide an adequate supply to the registered patients in the state.

(3) The entity's ability to demonstrate its board members' experience running a nonprofit organization or business.

(4) The comments, if any, of registered patients and registered caregivers regarding which applicant should be granted a registration certificate.

(5) The sufficiency of the applicant's plans for record-keeping, which records shall be considered confidential health care information under Vermont law and are intended to be deemed protected health care information for purposes of the federal Health Insurance Portability and Accountability Act of 1996, as amended.

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

(f) The department of public safety may deny an application for a dispensary if it determines that an applicant's criminal history record indicates that the person's association with a dispensary would pose a demonstrable threat to public safety.

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the department of public safety:

- (1) The legal name and articles of incorporation of the dispensary.
- (2) The physical address of the dispensary.
- (3) The name, address, and date of birth of each principal officer and board member of the dispensary along with a complete set of fingerprints for each.
- (4) A registration fee of \$20,000.00 for the first year of operation, and an annual fee of \$30,000.00 in subsequent years.

(h) The governor may suspend the implementation and enforcement of subsection (a) or subsection (b) of this section, or both, if the governor determines that implementation of the suspended subsection is in the interest of justice and public safety.

§ 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD;

CRIMINAL BACKGROUND CHECK

(a) Except as provided in subsection (b) of this section, the department of public safety shall issue each principal officer, board member, and employee of a dispensary a registry identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the dispensary and the cost shall not be passed on to a principal officer, board member, or employee. A person shall not serve as principal officer, board member, or employee of a dispensary until that person has received a registry identification card issued under this section. Each card shall specify whether the cardholder is a principal officer, board member, or employee of a dispensary and shall contain the following:

- (1) The name, address, and date of birth of the person.
- (2) The legal name of the dispensary with which the person is affiliated.
- (3) A random identification number that is unique to the person.
- (4) The date of issuance and the expiration date of the registry identification card.
- (5) A photograph of the person.

(b) Prior to acting on an application for a registry identification card, the department of public safety shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the department on forms substantially similar to the release forms developed in accordance with 20 V.S.A. § 2056c.

(c) When the department of public safety obtains a criminal history record, the department shall promptly provide a copy of the record to the applicant and

to the principal officer and board of the dispensary if the applicant is to be an employee. The department shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the department.

(d) The department of public safety shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this subchapter.

(e) The department of public safety shall not issue a registry identification card to any applicant who has been convicted of a drug-related offense or a violent felony or who has a pending charge for such an offense. For purposes of this subchapter, "violent felony" means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of chapter 64 of Title 13.

(f) The department of public safety shall adopt rules for the issuance of a registry identification card and shall set forth standards for determining whether an applicant should be denied a registry identification card because his or her criminal history record indicates that the person's association with a dispensary would pose a demonstrable threat to public safety. The rules shall consider whether a person who has a conviction for an offense not listed in subsection (e) of this section has been rehabilitated. A conviction for an offense not listed in subsection (e) of this section shall not automatically disqualify a person for a registry identification card. A dispensary may deny a person the opportunity to serve as a board member or an employee based on his or her criminal history record. An applicant who is denied a registry identification card may appeal the department of public safety's determination in superior court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(g) A registration identification card of a principal officer, board member, or employee shall expire one year after its issuance or upon the expiration of the registered organization's registration certificate, whichever occurs first.

§ 4474h. PATIENT DESIGNATION OF DISPENSARY

(a) A registered patient may obtain marijuana only from the patient's designated dispensary and may designate only one dispensary. A registered patient and his or her caregiver may not grow marijuana for symptom relief if the patient designates a dispensary. A registered patient who wishes to change his or her dispensary shall notify the department of public safety in writing on a form issued by the department and shall submit with the form a fee of \$25.00. The department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary.

The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any 90-day period.

(b) The department of public safety shall track the number of registered patients who have designated each dispensary. The department shall issue a monthly written statement to the dispensary identifying the number of registered patients who have designated that dispensary and the registry identification numbers of each patient and each patient's designated caregiver, if any.

(c) In addition to the monthly reports, the department of public safety shall provide written notice to a dispensary whenever any of the following events occurs:

(1) A qualifying patient designates the dispensary to serve his or her needs under this subchapter.

(2) An existing registered patient revokes the designation of the dispensary because he or she has designated a different dispensary.

(3) A registered patient who has designated the dispensary loses his or her status as a registered patient under this subchapter.

§ 4474i. CONFIDENTIALITY OF INFORMATION REGARDING
DISPENSARIES AND REGISTERED PATIENTS

The confidentiality provisions in section 4474d of this title shall apply to records of all registered patients and registered caregivers within dispensary records in the department of public safety.

§ 4474j. ANNUAL REPORT

(a)(1) There is established a marijuana for symptom relief oversight committee. The committee shall be composed of the following members:

(A) one registered patient appointed by each dispensary;

(B) one registered nurse and one registered patient appointed by the governor;

(C) one physician appointed by the Vermont medical society;

(D) one member of a local zoning board appointed by the Vermont League of Cities and Towns;

(E) one representative appointed jointly by the Vermont sheriffs' association and the Vermont association of chiefs of police; and

(F) the commissioner of public safety or his or her designee.

(2) The oversight committee shall meet at least two times per year for the purpose of evaluating and making recommendations to the general assembly regarding:

(A) The ability of qualifying patients and registered caregivers in all areas of the state to obtain timely access to marijuana for symptom relief.

(B) The effectiveness of the registered dispensaries individually and together in serving the needs of qualifying patients and registered caregivers, including the provision of educational and support services.

(C) Sufficiency of the regulatory and security safeguards contained in this subchapter and adopted by the department of public safety to ensure that access to and use of cultivated marijuana is provided only to cardholders authorized for such purposes.

(b) On or before January 1 of each year, beginning in 2013, the oversight committee shall provide a report to the department of public safety, the house committee on human services, the senate committee on health and welfare, the house and senate committees on judiciary, and the house and senate committees on government operations on its findings.

§ 4474k. FEES; DISPOSITION

All fees collected by the department of public safety relating to dispensaries and pursuant to this subchapter shall be deposited in the registration fee fund as referenced in section 4474a of this title.

§ 4474l. REGULATION BY MUNICIPALITIES

Nothing in this subchapter shall be construed to prevent a municipality from prohibiting the establishment of a dispensary within its boundaries or from regulating the time, place, and manner of dispensary operation through zoning or other local ordinances.

Sec. 1a. 18 V.S.A. § 4474h(a) is amended to read:

(a) A registered patient may obtain marijuana only from the patient's designated dispensary and may designate only one dispensary. ~~A registered patient and his or her caregiver may not grow marijuana for symptom relief if the patient designates a dispensary~~ If a registered patient designates a dispensary, the patient and his or her caregiver may not grow marijuana or obtain marijuana or marijuana-infused products for symptom relief from any source other than the designated dispensary. A registered patient who wishes to change his or her dispensary shall notify the department of public safety in writing on a form issued by the department and shall submit with the form a fee of \$25.00. The department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall

submit his or her expired identification card to the department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any 90-day period.

Sec. 2. DEPARTMENT OF PUBLIC SAFETY; IDENTIFICATION CARDS

The department of public safety shall take measures to improve the quality and security of identification cards required pursuant to chapter 86 of Title 18. The department shall consider the feasibility of a "swipe card" that could be used by law enforcement or a dispensary.

Sec. 2a. REPORT FROM THE DEPARTMENT OF PUBLIC SAFETY

The department of public safety shall report to the general assembly no later than January 1, 2012 on the following:

(1) The actual and projected income and costs for administering this act.

(2) Recommendations for how dispensaries could deliver marijuana to registered patients and their caregivers in a safe manner. Delivery to patients and caregivers is expressly forbidden until the general assembly takes affirmative action to permit delivery.

(3) Whether prohibiting growing marijuana for symptom relief by patients and their caregivers if the patient designates a dispensary interferes with patient access to marijuana for symptom relief and, if so, recommendations for regulating the ability of a patient and a caregiver to grow marijuana at the same time the patient has designated a dispensary.

Sec. 2b. JOINT FISCAL OFFICE REPORT

No later than January 15, 2012, the joint fiscal office shall report to the house committee on ways and means and the senate committee on finance regarding the projected costs of administering this act, the projected fee revenue from this act, the feasibility of a sales tax on marijuana sold through registered dispensaries, and any other information that would assist the committees in adopting policies that will encourage the viability of the dispensaries while remaining, at a minimum, revenue neutral to the state.

Sec. 3. SURVEY

(a) By September 1, 2011, the department of public safety shall develop a survey of patients registered to possess and use marijuana for symptom relief and shall send the survey to such patients. The department shall request that patients return the survey by October 1, 2011.

(b) The survey shall make the following inquiries:

(1) Please describe your medical diagnosis and the "debilitating medical condition" that qualifies you to be a registered patient under Vermont law.

Please describe the symptoms that are aided by your use of marijuana for symptom relief.

(2) Please describe how much marijuana you typically use in one month for symptom relief and the strain or strains of marijuana that you use or that are particularly helpful in alleviating symptoms of your medical condition.

(3) Would you purchase marijuana for symptom relief from a state-regulated dispensary if it were available to you at an affordable price? How much do you typically spend in one month on marijuana for symptom relief?

(c) The department of public safety shall clearly state on the survey that the information is being gathered solely for the purpose of assessing the needs of registered medical patients in order to facilitate a safer, more reliable means for patients to obtain marijuana for symptom relief. The completed surveys shall remain confidential and shall not be subject to public inspection; however, summary information shall be available as provided in subsection (d) of this section.

(d) The department of public safety shall summarize the survey responses in a manner that protects the identity of patients, providing information that will assist state decision-makers, the department of public safety, and potential dispensary applicants to better understand the needs of registered patients. This summary shall not be confidential and shall be provided with other information about the medical marijuana registry on the Vermont criminal information website. The department of public safety shall ensure that any patient identifiers are not included in the summary.

Sec. 3a. APPROPRIATION

The amount of \$108,500.00 is appropriated from the registry fee fund in fiscal year 2012 to the department of public safety for the performance of the department's responsibilities under this act.

Sec. 3b. DEPARTMENT OF PUBLIC SAFETY; POSITION

The department of public safety is authorized to establish one new classified position for the administration of the marijuana dispensary program in fiscal year 2012. The position shall be transferred and converted from existing vacant positions in the executive branch of state government.

Sec. 3c. REPEAL

18 V.S.A. § 4474e(m) (governor suspension; dispensaries implementation) and 18 V.S.A. § 4474f(h) (governor suspension; dispensary application) shall be repealed January 31, 2012.

Sec. 4. EFFECTIVE DATE

Sec. 1a of this act shall take effect July on 1, 2014, and the remainder of the act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to registering four nonprofit organizations to dispense marijuana for symptom relief”