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.
An act relating to expanding patient access to the Medical Marijuana Registry

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

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

§ 4472. DEFINITIONS

As used in this subchapter:

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

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

(i) a patient has been diagnosed with:

(I) a terminal illness;

(II) cancer;

(III) acquired immune deficiency syndrome; or

(IV) is currently under hospice care.

(ii) a patient had been diagnosed with a debilitating medical condition by a health care professional in another jurisdiction in which the patient had been formerly a resident and the patient, now a resident of Vermont, has the diagnosis confirmed by a health care professional in this State or a neighboring state as provided in subdivision (6) of this section, and
the new health care professional has completed a full assessment of the
patient’s medical history and current medical condition, including a personal
physical examination.

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

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

* * *

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

(A) cancer, multiple sclerosis, positive status for human
immunodeficiency virus, acquired immune deficiency syndrome, glaucoma,
post-traumatic stress disorder, Crohn’s disease, Parkinson’s disease, 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 one or more of the following intractable symptoms: cachexia or wasting syndrome; chronic pain; severe nausea; or seizures; or

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

(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 or processed. Both locations are considered to be part of the same dispensary.

* * *

(10) “Possession limit” means the amount of marijuana collectively possessed between the registered patient and the patient’s registered caregiver
which [that] is no more than two mature marijuana plants, seven immature
plants, and two three ounces of usable marijuana.

* * *

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

§ 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND
PROCEDURES

* * *

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

* * *

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

* * *

(B) A verification sheet which [that] includes the following:

(i) A statement that a bona fide health care professional-patient
relationship exists under 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 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.

[Repealed.]

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

(iv) A signature line which provides in substantial part: “I certify that I meet the definition of ‘health care professional’ under 18 V.S.A. § 4472, that I am a 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 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 good standing of out-of-state health care professionals.

(3)(A) The Department of Public Safety shall transmit the completed medical verification form to the 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 three-month requirement in 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 health care professional who is able to verify the nature
of the disease and its symptoms.

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

* * *

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

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

* * *

(5) Advertise under the following conditions:

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

(i) is false or misleading;

(ii) promotes overconsumption; or

(iii) is designed to appeal to children or persons under 21 years
of age.

(B) Outdoor advertising shall not be located within 1,000 feet of a
preexisting public or private school or licensed or regulated child care facility.
(C) All advertising shall contain the following warnings:

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

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

(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.

* * *

(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 outdoors, but 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.

* * *

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

* * *

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

* * *

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

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND
REGISTRATION

* * *
(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 eight dispensaries shall hold valid registration certificates at 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 eight dispensaries hold valid registration certificates in Vermont, the Department of Public Safety shall accept applications for a new dispensary.

* * *

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

§ 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. 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 30-day period.

* * *

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

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

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

Sec. 7. AUTHORITY FOR CURRENTLY REGISTERED NONPROFIT
DISPENSARY TO CONVERT TO FOR-PROFIT ENTITY

(a) Notwithstanding any rule to the contrary, a nonprofit dispensary
registered pursuant to 18 V.S.A. chapter 86 may convert to a domestic
organization pursuant to and in accordance with 11A V.S.A. chapter 11 as if
the dispensary were a domestic corporation, except that the dispensary may
approve a conversion pursuant to 11A V.S.A. § 11.04 by a majority vote of its board of directors and may otherwise disregard any provision of 11A V.S.A. chapter 11 that relates to shareholders.

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

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

§ 1400. RENEWAL OF LICENSE; CONTINUING MEDICAL EDUCATION

* * *

(b) A licensee for renewal of an active license to practice medicine shall have completed continuing medical education which shall meet minimum criteria as established by rule, by the board, by August 31, 2012 and which shall be in effect for the renewal of licenses to practice medicine expiring after August 31, 2014. The board shall require a minimum of 10 hours of continuing medical education by rule. The training provided by the continuing medical education shall be designed to ensure that the licensee has updated his or her knowledge and skills in his or her own specialties and also has kept abreast of advances in other fields for which patient referrals may be appropriate. The board shall require evidence
of current professional competence in recognizing the need for timely appropriate consultations and referrals to ensure fully informed patient choice of treatment options, including treatments such as those offered by hospice, palliative care, and pain management services, and one hour specifically devoted to the Medical Marijuana Registry.

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

CHAPTER 5. CENTRAL TESTING LABORATORY

§ 121. CREATION AND PURPOSE

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

§ 122. FEES

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

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

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

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

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2017.