



Memorandum

To: Members of the Senate Government Operations Committee
From: Shayne Lynn, Executive Director, Champlain Valley Dispensary, Inc., on behalf of the Vermont Cannabis Trade Association (VCTA)
Date: November 10, 2015
Re: Marijuana Regulation Legislation

The Vermont Cannabis Trade Association is comprised of three of the four Vermont Medical Marijuana Program dispensaries. The VCTA does not have a position on the advisability of legalizing *Cannabis* for adult usage. VCTA is solely concerned with how the current Vermont Medical Marijuana Program can best serve Vermonters in light of a possible legal and regulated adult *Cannabis* market. We would like to share with you our thoughts and concerns about how such a market will impact the current Vermont Medical Marijuana Program. If the Legislature moves forward with legalization, it is important to ensure the continued availability of medical *Cannabis* and the indispensable patient care services attendant to our work.

Challenges to Vermont's Medical Marijuana Program

Although operating a medical marijuana dispensary in Vermont is very rewarding, given the benefits to Vermonters we see each day, it is also challenging. The Legislature's consideration of how best to sustain and support those who rely on the current Vermont Medical Marijuana Program should start with a clear understanding of the operational challenges the Vermont dispensaries currently face. Without the singular dedication of the principals, employees, and supporters (patients included) of the current dispensaries, none would be operational today.

Challenges include:

- One of the most limited lists of qualifying conditions for medical use in the United States
- The most onerous requirements for medical professional approval in the United States
- A complete ban on advertising services to both health care professionals and patients
- The smallest medical *Cannabis* market in the United States
- Limitations on the number of patients which may be served at one time
- The absence of insurance coverage for the products being dispensed
- Strict and time-consuming reporting requirements, including certified independent financial audits
- Required annual state and federal background checks for all employees and board members
- Extensive annual fees and renewal requirements for both patients and employees
- A requirement to operate as a non-profit, thereby eliminating necessary sources of funding (especially in light of federal prohibitions applicable to traditional banking sources which preclude access to business loans and credit facilities)
- Steep registration fees for dispensary license renewal in relation to the mandatory non-profit operations and size of population served
- A requirement to fund and administer a sliding scale fee system

Without a careful and considered evaluation of the current medical program and the effects of any proposed expansion to full legalization, Vermont's Medical Marijuana Program may be unable to provide for Vermont patients due to the overwhelming competitive economic pressures that will be posed by a legal adult market.

Competitive Staffing

The Vermont Medical Marijuana Program's dispensaries currently employ over 50 Vermonters. We have dedicated thousands of hours of training, education and other resources to developing highly skilled staff at the cultivation, production, testing, packaging and retail levels. This training emphasizes standard operating procedures, which ensure strict compliance to Vermont law (which they have upheld for nearly three years).

Because we are required to operate as non-profits, the Vermont dispensaries are unable to provide any remuneration in the form of equity ownership or other rewards beyond salaries, which are strictly limited by the cash flow of the organization. If *Cannabis* is legalized and regulated for adults in Vermont, there will be a huge influx of capital and competitive bidding for talent. The Vermont dispensaries, under their current operating restrictions (prohibiting equity investment, foreclosing bank loans, etc.), will be unable to compete with such pressures.

Our employees have families and obligations that require them to make decisions in their best interest. The choice between working for an organization that has a limited market, cannot offer equity or ownership interest, and is restricted by its current operations in the amount of remuneration it can offer versus working for a well-funded, private firm willing to pay top dollar for experienced employees is not a choice: it is a foregone conclusion. Unless there is a structure that will allow Vermont's dispensaries to participate in the market as a real competitor, the dispensaries will be unable to operate due to a lack of qualified workers to staff them. In order to continue to offer the products and services Vermont patients have come to rely on, Vermont's dispensaries must be afforded the opportunity to provide the requisite employment incentives to retain their highly skilled and experienced employees.

Pricing

Personal economic challenges are aggravated when the additional burden of poor health or disease is present in a person's life. This reality is starkly demonstrated by the proportion of patients who file applications for financial assistance with the dispensaries, which currently stands at a rate of approximately 65%. Because insurance does not cover any aspect of the treatments offered by Vermont's medical dispensaries, there is every reason to believe that patients already struggling financially will seek the least expensive symptom relief possible.

The low-price argument is one which has been strongly advanced by legalization advocates as a means to eliminate the illicit market in Vermont; however, the pricing pressure will be all the more harmful to the economic viability of the medical dispensaries. Given the competitive advantages that will accrue to the legalized regulated adult market in Vermont under a for-profit model, without the responsibility for counseling or advising on the efficacy of its products for the treatment of symptom relief, it is inevitable that these new operators will be able to offer lower prices for *Cannabis* than it is possible for the medical dispensaries to offer under current regulations. Self-medicating will become the new norm and people may not adhere to the

VCTA-recommended protocol of “go low and slow”, meaning using the smallest dosage possible to achieve symptom relief. Unless direct measures are taken to prevent the pricing pressure from a legalization market, we will have diminished care and fewer tested products offered in the current Vermont Medical Marijuana Program.

VCTA Recommendations

The Legislature moved with foresight, compassion and empathy in initially authorizing a framework to create the current Vermont Medical Marijuana Program for seriously ill Vermonters. It is imperative that this good work, and the advances that have since accrued, be protected. We have outlined several recommendations which will help sustain the program and allow Vermont to become a national leader in the emerging medical *Cannabis* industry.

1. VCTA recommends the four current Vermont medical dispensaries retain their vertical integration, as we have infrastructure and staff already active in all proposed licensing fields. This ensures quality control, adequate supply and competitive pricing.
2. We request that each medical license holder be granted preference when applying for license(s). We have a proven track record of manufacturing, testing, and retailing *Cannabis* and *Cannabis*-infused products.
3. We suggest the current Vermont dispensary license holders be given the sole wholesaler licenses for a predetermined time period. This will provide state regulators the ability to closely monitor and regulate this new market place from the onset. In addition, a percentage of sales could be guaranteed towards supporting both patients using medical *Cannabis* and research on the medical use of *Cannabis*.
4. If granted licenses, we request the option to begin selling to the adult market while rules and regulations are drafted and then in a restricted market for 8 months after rules have been approved. This allows for a controlled roll out and ability to adjust rules, if needed.
5. We recommend that dispensaries have the option to be a non-profit organization, transition to a for-profit organization, or incorporate an allied for-profit entity. These options would allow each organization to determine its own best path.
6. We request being able to continue in-house testing if we are meeting state-mandated International Organization for Standards criteria outlined in the recently distributed paper by Phyto Science Institute.
7. We suggest that delivery remain only for patients with genuine hardships in the current Vermont Medical Marijuana Program, not a retail convenience.
8. Legislation should address the pricing pressure noted above and make accommodations that will allow the dispensaries to continue to operate in a viable and competitive manner.

We believe these recommendations would steward any bill which plans to regulate the sale of marijuana to adults in Vermont. The current Vermont Medical Marijuana Program’s dispensaries have been both transparent and responsible in offering *Cannabis* as treatment for symptom relief to Vermonters. VCTA believes the dispensaries can again serve as a trusted partner to state agencies which will be regulating the legalization program.

VCTA looks forward to seeing a drafted bill and is available to contribute further comments to the Legislature if needed.