

1 S.216

2 Introduced by Senators Sears and Ashe

3 Referred to Committee on

4 Date:

5 Subject: Health; therapeutic use of cannabis

6 Statement of purpose of bill as introduced: This bill proposes to move
7 responsibility for administration of Vermont's Medical Marijuana Registry
8 from the Department of Public Safety to the Agency of Agriculture, Food and
9 Markets.

10 An act relating to the administration of Vermont's Medical Marijuana
11 Registry

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

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

14 Subchapter 2. Marijuana for Medical Symptom Use by Persons

15 With Severe Illness

16 § 4472. DEFINITIONS

17 As used in this subchapter:

18 (1) "Agency" means the Agency of Agriculture, Food and Markets.

19 (2)(A) "Bona fide health care professional-patient relationship" means a
20 treating or consulting relationship of not less than three months' duration, in

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

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

5 (i) a patient has been diagnosed with:

6 (I) a terminal illness;

7 (II) cancer; or

8 (III) acquired immune deficiency syndrome;

9 (ii) a patient is currently under hospice care;

10 (iii) a patient had been diagnosed with a debilitating medical
11 condition by a health care professional in another jurisdiction in which the
12 patient had been formerly a resident and the patient, now a resident of
13 Vermont, has the diagnosis confirmed by a health care professional in this
14 State or a neighboring state as provided in subdivision (6) of this section, and
15 the new health care professional has completed a full assessment of the
16 patient's medical history and current medical condition, including a personal
17 physical examination;

18 (iv) a patient who is already on the Registry changes health care
19 professionals three months or less prior to the annual renewal of the patient's
20 registration, provided the patient's new health care professional has completed

1 a full assessment of the patient’s medical history and current medical
2 condition, including a personal physical examination;

3 (v) a patient is referred by his or her health care professional to
4 another health care professional who has completed advanced education and
5 clinical training in specific debilitating medical conditions, and that health care
6 professional conducts a full assessment of the patient’s medical history and
7 current medical condition, including a personal physical examination; or

8 (vi) a patient’s debilitating medical condition is of recent or
9 sudden onset.

10 ~~(2)~~(3) “Clone” means a plant section from a female marijuana plant not
11 yet root-bound, growing in a water solution, which is capable of developing
12 into a new plant.

13 ~~(3)~~(4) “Criminal history record” means all information documenting an
14 individual’s contact with the criminal justice system, including data regarding
15 identification, arrest or citation, arraignment, judicial disposition, custody, and
16 supervision.

17 ~~(4)~~(5) “Debilitating medical condition” means:

18 (A) cancer, multiple sclerosis, positive status for human
19 immunodeficiency virus, acquired immune deficiency syndrome, glaucoma,
20 Crohn’s disease, Parkinson’s disease, or the treatment of these conditions, if

1 the disease or the treatment results in severe, persistent, and intractable
2 symptoms;

3 (B) post-traumatic stress disorder, provided the ~~Department~~ Agency
4 confirms the applicant is undergoing psychotherapy or counseling with a
5 licensed mental health care provider; or

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

9 (5)(6) “Dispensary” means a business organization registered under
10 section 4474e of this title that acquires, possesses, cultivates, manufactures,
11 transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused
12 products, and marijuana-related supplies and educational materials for or to a
13 registered patient who has designated it as his or her center and to his or her
14 registered caregiver for the registered patient’s use for symptom relief. A
15 dispensary may serve patients and caregivers at not more than two locations, as
16 approved by the ~~Department~~ Agency in consideration of factors provided in
17 subsection 4474f(e) of this title, and may cultivate and process marijuana at a
18 separate location from where patients and caregivers are served. All locations
19 shall be considered part of the same dispensary operation under one
20 registration.

1 ~~(6)~~(7) “Financier” means a person, other than a financial institution as
2 defined in 8 V.S.A. § 11101, that makes an investment in, or a gift, loan, or
3 other financing to, another person with the expectation of a financial return. If
4 a financier is a business organization, as used in this chapter, the term
5 “financier” includes each owner and principal of that organization.

6 ~~(7)~~(8)(A) “Health care professional” means an individual licensed to
7 practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a
8 naturopathic physician under 26 V.S.A. chapter 81, an individual certified as a
9 physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an
10 advanced practice registered nurse under 26 V.S.A. chapter 28.

11 (B) This definition includes individuals who are professionally
12 licensed under substantially equivalent provisions in New Hampshire,
13 Massachusetts, or New York.

14 ~~(8)~~(9) “Immature marijuana plant” means a female marijuana plant that
15 has not flowered and ~~which~~ that does not have buds that may be observed by
16 visual examination.

17 ~~(9)~~(10) “Marijuana” shall have the same meaning as ~~provided~~ in
18 subdivision 4201(15) of this title.

19 ~~(10)~~(11) “Mature marijuana plant” means a female marijuana plant that
20 has flowered and that has buds that may be observed by visual examination.

1 ~~(11)~~(12) “Mental health care provider” means a person licensed to
2 practice medicine who specializes in the practice of psychiatry; a psychologist,
3 a psychologist-doctorate, or a psychologist-master as defined in 26 V.S.A.
4 § 3001; a clinical social worker as defined in 26 V.S.A. § 3201; or a clinical
5 mental health counselor as defined in 26 V.S.A. § 3261.

6 ~~(12)~~(13) “Ounce” means 28.35 grams.

7 ~~(13)~~(14) “Owner” means:

8 (A) a person that has a direct or beneficial ownership interest of ten
9 percent or more in a business organization, including attribution of the
10 ownership interests of a spouse or domestic partner, parent, spouse’s or
11 domestic partner’s parent, sibling, and children; or

12 (B) a person that has the power to direct, or cause the direction of, the
13 management and policies of a business organization, including through the
14 ownership of voting securities, by contract, or otherwise.

15 ~~(14)~~(15) “Possession limit” means the amount of marijuana collectively
16 possessed between the registered patient and the patient’s registered caregiver
17 that is ~~no~~ not more than two mature marijuana plants, seven immature plants,
18 and two ounces of usable marijuana.

19 ~~(15)~~(16) “Principal” means a person that has the authority to conduct,
20 manage, or supervise the operation of a business organization, and includes the
21 president, vice president, secretary, treasurer, manager, or similar executive

1 officer of a business organization; a director of a business corporation,
2 nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit
3 corporation, cooperative, or member-managed limited liability company; a
4 manager of a manager-managed limited liability company; and a general
5 partner of a partnership, limited partnership, or limited liability partnership.

6 ~~(16)~~(17) “Registered caregiver” means a person who is at least 21 years
7 of age, has met eligibility requirements as determined by the ~~Department~~
8 Agency in accordance with this chapter, and has agreed to undertake
9 responsibility for managing the well-being of a registered patient with respect
10 to the use of marijuana for symptom relief.

11 ~~(17)~~(18) “Registered patient” means a resident of Vermont who has
12 been issued a registration card by the ~~Department~~ Agency, identifying the
13 person as having a debilitating medical condition pursuant to the provisions of
14 this subchapter. “Resident of Vermont” means a person whose domicile is
15 Vermont.

16 ~~(18)~~(19) “Secure indoor facility” means a building or room equipped
17 with locks or other security devices that permit access only by a registered
18 caregiver or registered patient.

19 ~~(19)~~(20) “Transport” means the movement of marijuana and marijuana-
20 infused products from registered growing locations to their associated
21 dispensaries, between dispensaries, to registered patients and registered

1 caregivers in accordance with delivery protocols, or as otherwise allowed
2 under this subchapter.

3 ~~(20)~~(21) “Usable marijuana” means the dried leaves and flowers of
4 marijuana, and any mixture or preparation thereof, and does not include the
5 seeds, stalks, and roots of the plant.

6 ~~(21)~~(22) “Use for symptom relief” means the acquisition, possession,
7 cultivation, use, transfer, or transportation of marijuana or of paraphernalia
8 relating to the administration of marijuana to alleviate the symptoms or effects
9 of a registered patient’s debilitating medical condition that is in compliance
10 with all of the limitations and restrictions of this subchapter.

11 (23) “VCIC” means the Vermont Crime Information Center.

12 § 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND
13 PROCEDURES

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

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

19 (1) A patient with a debilitating medical condition shall submit a signed
20 application for registration to the ~~Department~~ Agency. If the patient is under
21 18 years of age, the application must be signed by both the patient and a parent

1 or guardian. The application shall require identification and contact
2 information for the patient and the patient's registered caregiver applying for
3 authorization under section 4474 of this title, if any, and the patient's
4 designated dispensary under section 4474e of this title, if any. The applicant
5 shall attach to the application a medical verification form developed by the
6 ~~Department~~ Agency pursuant to subdivision (2) of this subsection.

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

10 (A) A cover sheet that includes the following:

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

12 (ii) Definitions of the following statutory terms:

13 (I) "Bona fide health care professional-patient relationship" as
14 defined in section 4472 of this title.

15 (II) "Debilitating medical condition" as defined in section 4472
16 of this title.

17 (III) "Health care professional" as defined in section 4472 of
18 this title.

19 (iii) A statement that the medical verification form is not
20 considered a prescription and that the only purpose of the medical verification

1 form is to confirm that the applicant patient has a debilitating medical
2 condition.

3 (B) A verification sheet that includes the following:

4 (i) A statement that a bona fide health care professional-patient
5 relationship exists under section 4472 of this title or that, under subdivision
6 (3)(A) of this subsection (b), the debilitating medical condition is of recent or
7 sudden onset.

8 (ii) [Repealed.]

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

13 (iv) A signature line that provides in substantial part: "I certify
14 that I meet the definition of 'health care professional' under 18 V.S.A. § 4472,
15 that I am a health care professional in good standing in the State of
16 , and that the facts stated above are accurate to the best of
17 my knowledge and belief."

18 (v) The health care professional's contact information, license
19 number, category of his or her health care profession as defined in subdivision
20 4472(6) of this title, and contact information for the out-of-state licensing

1 agency, if applicable. The ~~Department~~ Agency shall adopt rules for verifying
2 the ~~goodstanding~~ good standing of out-of-state health care professionals.

3 (vi) A statement that the medical verification form is not
4 considered a prescription and that the only purpose of the medical verification
5 form is to confirm that the applicant patient has a debilitating medical
6 condition.

7 (3)(A) The ~~Department~~ Agency shall transmit the completed medical
8 verification form to the health care professional and contact him or her for
9 purposes of confirming the accuracy of the information contained in the form.

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

13 (4) The ~~Department~~ Agency shall approve or deny the application for
14 registration in writing within 30 days from receipt of a completed registration
15 application. If the application is approved, the ~~Department~~ Agency shall issue
16 the applicant a registration card, which shall include the registered patient's
17 name and photograph, the registered patient's designated dispensary, if any,
18 and a unique identifier for law enforcement verification purposes under section
19 4474d of this title.

20 (5)(A) ~~A~~ The Review Board is established. The Review Board shall
21 comprise three members:

- 1 (i) a physician appointed by the Medical Practice Board;
- 2 (ii) a naturopathic physician appointed by the Office of
- 3 Professional Regulation; and
- 4 (iii) an advanced practice registered nurse appointed by the Office
- 5 of Professional Regulation.

6 (B) The Board shall meet periodically to review studies, data, and

7 any other information relevant to the use of marijuana for symptom relief. The

8 Board may make recommendations to the General Assembly for adjustments

9 and changes to this chapter.

10 (C) Members of the Board shall serve for three-year terms, beginning

11 on February 1 of the year in which the appointment is made, except that the

12 first members appointed shall serve as follows: one for a term of two years,

13 one for a term of three years, and one for a term of four years. Members shall

14 be entitled to per diem compensation authorized under 32 V.S.A. § 1010.

15 Vacancies shall be filled in the same manner as the original appointment for

16 the unexpired portion of the term vacated.

17 (D) If an application under subdivision (1) of this subsection (b) is

18 denied, within seven days the patient may appeal the denial to the Board.

19 Review shall be limited to information submitted by the patient under

20 subdivision (1) of this subsection, and consultation with the patient's treating

21 health care professional. All records relating to the appeal shall be kept

1 confidential. An appeal shall be decided by majority vote of the members of
2 the Board.

3 § 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS
4 AND PROCEDURES

5 (a) A person may submit a signed application to the ~~Department of Public~~
6 ~~Safety~~ Agency to become a registered patient's registered caregiver. The
7 ~~Department~~ Agency shall approve or deny the application in writing within
8 30 days. In accordance with rules adopted pursuant to section 4474d of this
9 title, the ~~Department~~ Agency shall consider an individual's criminal history
10 record when making a determination as to whether to approve the application.
11 An applicant shall not be denied solely on the basis of a criminal conviction
12 that is not listed in subsection 4474g(e) of this title or 13 V.S.A. chapter 28.
13 The ~~Department~~ Agency shall approve a registered caregiver's application and
14 issue the person an authorization card, including the caregiver's name,
15 photograph, and a unique identifier, after verifying the person will serve as the
16 registered caregiver for one registered patient only.

17 (b) Prior to acting on an application, the ~~Department~~ Agency shall obtain
18 from the Vermont Crime Information Center (VCIC) a Vermont criminal
19 record, an out-of-state criminal record, and a criminal record from the Federal
20 Bureau of Investigation for the applicant. Each applicant shall consent to
21 release of criminal records to the ~~Department~~ Agency on forms developed by

1 ~~the Center~~ VCIC. The ~~Department~~ Agency shall comply with all laws
2 regulating the release of criminal history records and the protection of
3 individual privacy. ~~The Vermont Crime Information Center~~ VCIC shall send
4 to the requester any record received pursuant to this section or inform the
5 ~~Department of Public Safety~~ Agency that no record exists. If the ~~Department~~
6 Agency disapproves an application, the ~~Department~~ Agency shall promptly
7 provide a copy of any record of convictions and pending criminal charges to
8 the applicant and shall inform the applicant of the right to appeal the accuracy
9 and completeness of the record pursuant to rules adopted by ~~the Vermont~~
10 ~~Crime Information Center~~ VCIC. No person shall confirm the existence or
11 nonexistence of criminal record information to any person who would not be
12 eligible to receive the information pursuant to this subchapter.

13 (c)(1) Except as provided in subdivision (2) of this subsection, a registered
14 caregiver may serve only one registered patient at a time, and a registered
15 patient may have only one registered caregiver at a time. A registered patient
16 may serve as a registered caregiver for one other registered patient.

17 (2) A registered patient who is under 18 years of age may have two
18 registered caregivers.

19 § 4474a. REGISTRATION; FEES

20 (a) The ~~Department~~ Agency shall collect a fee of \$50.00 for the application
21 authorized by sections 4473 and 4474 of this title. The fees received by the

1 ~~Department~~ Agency shall be deposited into a registration fee fund and used to
2 offset the costs of processing applications under this subchapter.

3 (b) A registration card shall expire one year after the date of issue, with the
4 option of renewal, provided the patient submits a new application ~~which~~ that is
5 approved by the ~~Department of Public Safety,~~ Agency pursuant to section 4473
6 or 4474 of this title, and pays the fee required under subsection (a) of this
7 section.

8 § 4474b. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES;

9 SEIZURE OF PROPERTY

10 (a) A person who has in his or her possession a valid registration card
11 issued pursuant to this subchapter and who is in compliance with the
12 requirements of this subchapter, including the possession limits in section 4472
13 of this title, shall be exempt from arrest or prosecution under subsection
14 4230(a) of this title and from seizure of marijuana, marijuana-infused products,
15 and marijuana-related supplies.

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

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

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

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

17 § 4474c. PROHIBITIONS, RESTRICTIONS, AND LIMITATIONS

18 REGARDING THE USE OF MARIJUANA FOR SYMPTOM
19 RELIEF

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

1 (1) Being under the influence of marijuana while:

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

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

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

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

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

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

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

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

16 (B) a workplace or place of employment;

17 (C) any school grounds;

18 (D) any correctional facility; or

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

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

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

5 (2) Medicaid or any other public health care assistance program;

6 (3) an employer; or

7 (4) for purposes of workers' compensation, an employer as defined in
8 21 V.S.A. § 601(3).

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

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

14 (e) Within 72 hours after the death of a registered patient, the patient's
15 registered caregiver shall return to the ~~Department of Public Safety~~ Agency for
16 disposal any marijuana or marijuana plants in the possession of the patient or
17 registered caregiver at the time of the patient's death. If the patient did not
18 have a registered caregiver, the patient's next of kin shall contact the
19 ~~Department of Public Safety~~ Agency within 72 hours after the patient's death
20 and shall ask the ~~Department~~ Agency to retrieve such marijuana and marijuana
21 plants for disposal.

1 (f) Notwithstanding any law to the contrary, a person who knowingly gives
2 to any law enforcement officer false information to avoid arrest or prosecution,
3 or to assist another in avoiding arrest or prosecution, shall be imprisoned for
4 not more than one year or fined not more than \$1,000.00, or both. This penalty
5 shall be in addition to any other penalties that may apply for the possession or
6 use of marijuana.

7 § 4474d. LAW ENFORCEMENT VERIFICATION OF INFORMATION;
8 RULEMAKING

9 (a) The ~~Department of Public Safety~~ Agency shall maintain and keep
10 confidential, except as provided in subsection (b) of this section and except for
11 purposes of a prosecution for false swearing under 13 V.S.A. § 2904, the
12 records of all persons registered under this subchapter or registered caregivers
13 in a secure database accessible by authorized ~~Department of Public Safety~~
14 Agency employees only.

15 (b) In response to a person-specific or property-specific inquiry by a law
16 enforcement officer or agency made in the course of a bona fide investigation
17 or prosecution, the ~~Department~~ Agency may verify the identities and registered
18 property addresses of the registered patient and the patient's registered
19 caregiver, a dispensary, and an owner, a principal, a financier, and the
20 employees of a dispensary.

1 (c) The ~~Department~~ Agency shall maintain a separate secure electronic
2 database accessible to law enforcement personnel 24 hours a day that uses a
3 unique identifier system to allow law enforcement to verify that a person or
4 entity is a registered patient, a registered caregiver, a dispensary, an owner, a
5 principal, a financier, or an employee of a dispensary.

6 (d) ~~The Department of Public Safety shall implement the requirements of~~
7 ~~this act within 120 days of its effective date.~~ The ~~Department~~ Agency may
8 adopt rules under 3 V.S.A. chapter 25 and shall develop forms to implement
9 this ~~act~~ subchapter.

10 (e) The ~~Department~~ Agency shall adopt rules for the issuance of a caregiver
11 Registry identification card that shall include standards for approval or denial
12 of an application based on an individual's criminal history record. The rules
13 shall address whether an applicant who has been convicted of an offense listed
14 in subsection 4474g(e) of this title or 13 V.S.A. chapter 28 has been
15 rehabilitated and should be otherwise eligible for a caregiver ~~registry~~ Registry
16 identification card.

17 (f) The ~~Department~~ Agency shall adopt rules establishing protocols for the
18 safe delivery of marijuana to patients and caregivers.

19 (g) The ~~Department~~ Agency shall adopt rules for granting a waiver of the
20 dispensary possession limits in section 4474e of this title upon application of a
21 dispensary for the purpose of developing and providing a product for symptom

1 relief to a registered patient who is under 18 years of age who suffers from
2 seizures.

3 § 4474e. DISPENSARIES; CONDITIONS OF OPERATION

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

5 (1) Acquire, possess, cultivate, manufacture, transfer, transport, supply,
6 sell, and dispense marijuana, marijuana-infused products, and marijuana-
7 related supplies and educational materials for or to a registered patient who has
8 designated it as his or her dispensary and to his or her registered caregiver for
9 the registered patient's use for symptom relief.

10 (A) Marijuana-infused products shall include tinctures, oils, solvents,
11 and edible or potable goods. Only the portion of any marijuana-infused
12 product that is attributable to marijuana shall count toward the possession
13 limits of the dispensary and the patient. The ~~Department of Public Safety~~
14 Agency shall establish by rule the appropriate method to establish the weight
15 of marijuana that is attributable to marijuana-infused products. A dispensary
16 shall dispense marijuana-infused products in child-resistant packaging as
17 defined in 7 V.S.A. § 1012.

18 (B) Marijuana-related supplies shall include pipes, vaporizers, and
19 other items classified as drug paraphernalia under chapter 89 of this title.

20 (2)(A) Acquire marijuana seeds or parts of the marijuana plant capable
21 of regeneration from or dispense them to registered patients or their caregivers

1 or acquire them from another registered Vermont dispensary, provided that
2 records are kept concerning the amount and the recipient.

3 (B) Acquire, purchase, or borrow marijuana, marijuana-infused
4 products, or services from another registered Vermont dispensary or give, sell,
5 or lend marijuana, marijuana-infused products, or services to another registered
6 Vermont dispensary, provided that records are kept concerning the product, the
7 amount, and the recipient. Each Vermont dispensary is required to adhere to
8 all possession limits pertaining to cultivation as determined by the number of
9 patients designating that dispensary and may not transfer eligibility to another
10 dispensary.

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

17 (B) Notwithstanding subdivision (A) of this subdivision, if a
18 dispensary is designated by a registered patient under 18 years of age who
19 qualifies for the ~~registry~~ Registry because of seizures, the dispensary may
20 apply to the ~~Department~~ Agency for a waiver of the limits in subdivision (A)
21 of this subdivision (3) if additional capacity is necessary to develop and

1 provide an adequate supply of a product for symptom relief for the patient.

2 The ~~Department~~ Agency shall have discretion whether to grant a waiver and
3 limit the possession amounts in excess of subdivision (A) of this subdivision
4 (3) in accordance with rules adopted pursuant to section 4474d of this title.

5 (4) With approval from the ~~Department~~ Agency and in accordance with
6 patient delivery protocols set forth in rule, transport and transfer marijuana to a
7 Vermont postsecondary academic institution for the purpose of research.

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

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

13 (d)(1) A dispensary shall implement appropriate security measures to deter
14 and prevent the unauthorized entrance into areas containing marijuana and the
15 theft of marijuana and shall ensure that each location has an operational
16 security alarm system. All cultivation of marijuana shall take place in a secure,
17 locked facility which is either indoors or outdoors, but not visible to the public
18 and that can only be accessed by the owners, principals, financiers, and
19 employees of the dispensary who have valid Registry identification cards. An
20 outdoor facility is not required to have a roof, provided all other requirements
21 are met. The ~~Department~~ Agency shall perform an annual on-site assessment

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

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

10 (B) A dispensary may deliver marijuana to a registered patient or
11 registered caregiver. The marijuana shall be transported in a locked container.

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

15 (4) A dispensary shall submit the results of a financial audit to the
16 ~~Department of Public Safety~~ no Agency not later than 60 days after the end of
17 the dispensary's first fiscal year, and every other year thereafter. The audit
18 shall be conducted by an independent certified public accountant, and the costs
19 of any such audit shall be borne by the dispensary. The ~~Department~~ Agency
20 may also periodically require, within its discretion, the audit of a dispensary's
21 financial records by the ~~Department~~ Agency.

1 (5) A dispensary shall destroy or dispose of marijuana, marijuana-
2 infused products, clones, seeds, parts of marijuana that are not usable for
3 symptom relief or are beyond the possession limits provided by this
4 subchapter, and marijuana-related supplies only in a manner approved by rules
5 adopted by the ~~Department of Public Safety~~ Agency.

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

8 (f) A person may be denied the right to serve as an owner, principal,
9 financier, or employee of a dispensary because of the person's criminal history
10 record in accordance with section 4474g of this title and rules adopted by the
11 ~~Department of Public Safety~~ Agency pursuant to that section.

12 (g)(1) A dispensary shall notify the ~~Department~~ Agency within 10 days of
13 when an owner, principal, financier, or employee ceases to be associated with
14 or work at the dispensary. His or her Registry identification card shall be
15 deemed null and void, and the person shall be liable for any penalties that may
16 apply.

17 (2) A dispensary shall notify the ~~Department~~ Agency in writing of the
18 name, address, and date of birth of any proposed new owner, principal,
19 financier, or employee and shall submit a fee for a new Registry identification
20 card before a new owner, principal, financier, or employee begins his or her
21 official duties related to the dispensary and shall submit a complete set of

1 fingerprints for each prospective owner, principal, financier, or employee who
2 is a natural person.

3 (h) A dispensary shall include a label on the packaging of all marijuana that
4 is dispensed. The label shall:

5 (1) Identify the particular strain of marijuana. Cannabis strains shall be
6 either pure breeds or hybrid varieties of cannabis and shall reflect properties of
7 the plant.

8 (2) Identify the amount of tetrahydrocannabinol in each single dose
9 marijuana-infused edible or potable product.

10 (3) Contain a statement to the effect that the State of Vermont does not
11 attest to the medicinal value of cannabis.

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

14 (1) a job description or employment contract developed for all
15 employees that includes duties, authority, responsibilities, qualification, and
16 supervision;

17 (2) training in and adherence to confidentiality laws; and

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

19 (j) Each dispensary shall maintain a personnel record for each employee
20 that includes an application for employment and a record of any disciplinary

1 action taken. Each dispensary shall provide each employee, at the time of his
2 or her initial appointment, training in the following:

3 (1) the proper use of security measures and controls that have been
4 adopted; and

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

7 (k)(1) No dispensary or owner, principal, or financier of a dispensary shall:

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

12 (B) acquire usable marijuana or marijuana plants from any source
13 other than registered dispensary owners, principals, financiers, or employees
14 who cultivate marijuana in accordance with this subchapter;

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

18 (D) dispense an amount of usable marijuana to a qualifying patient or
19 a designated caregiver that the owner, principal, financier, or employee knows
20 would cause the recipient to possess more marijuana than is permitted under
21 this subchapter;

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

4 (2) A person found to have violated subdivision (1) of this subsection
5 may no longer serve as an owner, principal, financier, or employee of any
6 dispensary, and such person's Registry identification card shall be immediately
7 revoked by the ~~Department~~ Agency.

8 (3) The board of a dispensary shall be required to report to the
9 ~~Department of Public Safety~~ Agency any information regarding a person who
10 violates this section.

11 (1)(1) A registered dispensary shall not be subject to the following,
12 provided that it is in compliance with this subchapter:

13 (A) prosecution for the acquisition, possession, cultivation,
14 manufacture, transfer, transport, supply, sale, or dispensing of marijuana,
15 marijuana-infused products, or marijuana-related supplies for symptom relief
16 in accordance with the provisions of this subchapter and any rule adopted by
17 the ~~Department~~ Agency pursuant to this subchapter;

18 (B) inspection and search, except pursuant to this subchapter or upon
19 a search warrant issued by a court or judicial officer;

20 (C) seizure of marijuana, marijuana-infused products, and marijuana-
21 related supplies, except upon a valid order issued by a court;

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

6 (2) No owner, principal, financier, or employee of a dispensary shall be
7 subject to arrest, prosecution, search, seizure, or penalty in any manner or
8 denial of any right or privilege, including civil penalty or disciplinary action by
9 an occupational or professional licensing board or entity, solely for working
10 for or with a dispensary to engage in acts permitted by this subchapter.

11 (m) [Repealed.]

12 (n) Nothing in this subchapter shall prevent a dispensary from acquiring,
13 possessing, cultivating, manufacturing, transferring, transporting, supplying,
14 selling, and dispensing hemp and hemp-infused products for symptom relief.

15 “Hemp” shall have the same meaning as ~~provided~~ in 6 V.S.A. § 562. A
16 dispensary shall not be required to comply with the provisions of 6 V.S.A.
17 chapter 34.

18 § 4474f. DISPENSARY APPLICATION, APPROVAL, AND

19 REGISTRATION

20 (a)(1) The ~~Department of Public Safety~~ Agency shall adopt rules on the
21 following:

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

3 (B) Minimum oversight requirements for a dispensary.

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

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

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

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

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

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

20 (2) The ~~Department of Public Safety~~ Agency shall adopt such rules with
21 the goal of protecting against diversion and theft without imposing an undue

1 burden on a registered dispensary or compromising the confidentiality of
2 registered patients and their registered caregivers. Any dispensing records that
3 a registered dispensary is required to keep shall track transactions according to
4 registered patients' and registered caregivers' Registry identification numbers,
5 rather than their names, to protect confidentiality.

6 (b)(1) Except as provided in subdivision (2) of this subsection, ~~no~~ not more
7 than five dispensaries shall hold valid registration certificates at one time. Any
8 time a dispensary registration certificate is revoked, is relinquished, or expires,
9 the ~~Department~~ Agency shall accept applications for a new dispensary.

10 (2) Once the Registry reaches 7,000 registered patients, the number of
11 dispensary registrations shall expand to six and the ~~Department~~ Agency shall
12 begin accepting applications forthwith.

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

15 (1) a nonrefundable application fee in the amount of \$2,500.00 paid to
16 the ~~Department~~ Agency;

17 (2) the legal name of the dispensary and the organizational documents
18 that create the dispensary, govern its operation and internal affairs, and govern
19 relations between and among its owners;

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

1 (4) a description of the secure, locked facility where marijuana will be
2 grown, cultivated, harvested, or otherwise prepared for distribution by the
3 dispensary;

4 (5) the name, address, and date of birth of each owner, principal, and
5 financier of the dispensary who is a natural person and a complete set of
6 fingerprints for each of them;

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

11 (7) proposed procedures to ensure accurate ~~record-keeping~~ record
12 keeping.

13 (d) Any time one or more dispensary registration applications are being
14 considered, the ~~Department~~ Agency shall solicit input from registered patients
15 and registered caregivers.

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

19 (1) geographic convenience to patients from throughout the State of
20 Vermont to a dispensary if the applicant were approved;

1 (2) the entity's ability to provide an adequate supply to the registered
2 patients in the State;

3 (3) the entity's ability to demonstrate that its owners, principals, and
4 financiers have sufficient experience running a business;

5 (4) the comments, if any, of registered patients and registered caregivers
6 regarding which applicant should be granted a registration certificate;

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

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

14 (f) The ~~Department~~ Agency may deny an application for a dispensary if it
15 determines that an applicant's criminal history record indicates that the
16 association of an owner, principal, or financier with a dispensary would pose a
17 demonstrable threat to public safety.

18 (g) After a dispensary is approved but before it begins operations, it shall
19 submit the following to the ~~Department~~ Agency:

1 (1) the legal name of the dispensary and the organizational documents
2 that create the dispensary, govern its operation and internal affairs, and govern
3 relations between and among its owners;

4 (2) the physical address of the dispensary;

5 (3) the name, address, and date of birth of each owner, principal, and
6 financier of the dispensary along with a complete set of fingerprints for each;

7 (4) a registration fee of \$20,000.00 for the first year of operation, and an
8 annual fee of \$25,000.00 in subsequent years.

9 § 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD;

10 CRIMINAL BACKGROUND CHECK

11 (a) Except as provided in subsection (b) of this section, the ~~Department~~
12 Agency shall issue each owner, principal, financier, and employee of a
13 dispensary a Registry identification card or renewal card within 30 days of
14 receipt of the person's name, address, and date of birth and a fee of \$50.00.

15 The fee shall be paid by the dispensary and the cost shall not be passed on to
16 an owner, principal, financier, or employee. A person shall not serve as an
17 owner, principal, financier, or employee of a dispensary until that person has
18 received a Registry identification card issued under this section. Each card
19 shall specify whether the cardholder is an owner, principal, financier, or
20 employee of a dispensary and shall contain the following:

21 (1) the name, address, and date of birth of the person;

1 (2) the legal name of the dispensary with which the person is affiliated;

2 (3) a random identification number that is unique to the person;

3 (4) the date of issuance and the expiration date of the Registry

4 identification card; and

5 (5) a photograph of the person.

6 (b) Prior to acting on an application for a Registry identification card, the
7 ~~Department~~ Agency shall obtain with respect to the applicant a Vermont
8 criminal history record, an out-of-state criminal history record, and a criminal
9 history record from the Federal Bureau of Investigation. Each applicant shall
10 consent to the release of criminal history records to the ~~Department~~ Agency on
11 forms developed by ~~the Vermont Crime Information Center~~ VCIC.

12 (c) When the ~~Department~~ Agency obtains a criminal history record, the
13 ~~Department~~ Agency shall promptly provide a copy of the record to the
14 applicant and to the owner, principal, or financier of the dispensary if the
15 applicant is to be an employee. The ~~Department~~ Agency shall inform the
16 applicant of the right to appeal the accuracy and completeness of the record
17 pursuant to rules adopted by the ~~Department~~ Agency.

18 (d) The ~~Department~~ Agency shall comply with all laws regulating the
19 release of criminal history records and the protection of individual privacy. No
20 person shall confirm the existence or nonexistence of criminal history record

1 information to any person who would not be eligible to receive the information
2 pursuant to this subchapter.

3 (e) The ~~Department~~ Agency shall not issue a Registry identification card to
4 any applicant who has been convicted of a drug-related offense or a violent
5 felony or who has a pending charge for such an offense. As used in this
6 subchapter, “violent felony” means a listed crime as defined in 13 V.S.A.
7 § 5301(7) or an offense involving sexual exploitation of children in violation
8 of 13 V.S.A. chapter 64.

9 (f) The ~~Department~~ Agency shall adopt rules for the issuance of a Registry
10 identification card and shall set forth standards for determining whether an
11 applicant should be denied a Registry identification card because his or her
12 criminal history record indicates that the person’s association with a dispensary
13 would pose a demonstrable threat to public safety. The rules shall consider
14 whether a person who has a conviction for an offense not listed in subsection
15 (e) of this section has been rehabilitated. A conviction for an offense not listed
16 in subsection (e) of this section shall not automatically disqualify a person for a
17 Registry identification card. A dispensary may deny a person the opportunity
18 to serve as a board member or an employee based on his or her criminal history
19 record. An applicant who is denied a Registry identification card may appeal
20 the ~~Department’s~~ Agency’s determination in Superior Court in accordance
21 with Rule 75 of the Vermont Rules of Civil Procedure.

1 (g) A Registry identification card of an owner, principal, financier, or
2 employee shall expire one year after its issuance or upon the expiration of the
3 registered organization's registration certificate, whichever occurs first.

4 § 4474h. PATIENT DESIGNATION OF DISPENSARY

5 (a) A registered patient or his or her caregiver may obtain marijuana only
6 from the patient's designated dispensary and may designate only one
7 dispensary. A registered patient who wishes to change his or her dispensary
8 shall notify the ~~Department~~ Agency in writing on a form issued by the
9 ~~Department~~ Agency and shall submit with the form a fee of \$25.00. The
10 ~~Department~~ Agency shall issue a new identification card to the registered
11 patient within 30 days of receiving the notification of change in dispensary.
12 The registered patient's previous identification card shall expire at the time the
13 new identification card takes effect. A registered patient shall submit his or
14 her expired identification card to the ~~Department~~ Agency within 30 days of
15 following expiration. A registered patient shall not change his or her
16 designated dispensary more than once in any 30-day period.

17 (b) The ~~Department of Public Safety~~ Agency shall track the number of
18 registered patients who have designated each dispensary. The ~~Department~~
19 Agency shall issue a monthly written statement to the dispensary identifying
20 the number of registered patients who have designated that dispensary and the

1 Registry identification numbers of each patient and each patient's designated
2 caregiver, if any.

3 (c) In addition to the monthly reports, the ~~Department of Public Safety~~
4 Agency shall provide written notice to a dispensary whenever any of the
5 following events ~~occurs~~ occur:

6 (1) a qualifying patient designates the dispensary to serve his or her
7 needs under this subchapter;

8 (2) an existing registered patient revokes the designation of the
9 dispensary because he or she has designated a different dispensary; or

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

12 § 4474i. CONFIDENTIALITY OF INFORMATION REGARDING
13 DISPENSARIES AND REGISTERED PATIENTS

14 The confidentiality provisions in section 4474d of this title shall apply to
15 records of all registered patients and registered caregivers within dispensary
16 records in the ~~Department of Public Safety~~ Agency.

17 § 4474j. ANNUAL REPORT

18 (a)(1) There is established the Marijuana for Symptom Relief Oversight
19 Committee. The Committee shall be composed of the following members:

20 (A) one registered patient appointed by each dispensary;

1 (B) one registered nurse and one registered patient appointed by the
2 Governor;

3 (C) one physician appointed by the Vermont Medical Society;

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

6 (E) one representative appointed jointly by the Vermont Sheriffs'
7 Association and the Vermont Association of Chiefs of Police; and

8 (F) the Commissioner of Public Safety or ~~his or her~~ designee.

9 (2) The Oversight Committee shall meet at least two times per year for
10 the purpose of evaluating and making recommendations to the General
11 Assembly regarding:

12 (A) the ability of qualifying patients and registered caregivers in all
13 areas of the State to obtain timely access to marijuana for symptom relief;

14 (B) the effectiveness of the registered dispensaries individually and
15 together in serving the needs of qualifying patients and registered caregivers,
16 including the provision of educational and support services; and

17 (C) sufficiency of the regulatory and security safeguards contained in
18 this subchapter and adopted by the ~~Department of Public Safety~~ Agency to
19 ensure that access to and use of cultivated marijuana is provided only to
20 cardholders authorized for such purposes.

1 (b) On or before January 1 of each year, beginning in 2013, the Oversight
2 Committee shall provide a report on its findings to the ~~Department of Public~~
3 ~~Safety Agency~~, the House Committee on Human Services, the Senate
4 Committee on Health and Welfare, the House and Senate Committees on
5 Judiciary, and the House and Senate Committees on Government Operations
6 ~~on its findings~~.

7 § 4474k. FEES; DISPOSITION

8 All fees collected by the ~~Department of Public Safety Agency~~ relating to
9 dispensaries and pursuant to this subchapter shall be deposited in the
10 registration fee fund ~~as referenced in~~ under section 4474a of this title.

11 § 4474l. REGULATION BY MUNICIPALITIES

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

16 § 4474m. ~~DEPARTMENT OF PUBLIC SAFETY AGENCY OF~~
17 AGRICULTURE, FOOD AND MARKETS; PROVISION OF
18 EDUCATIONAL AND SAFETY INFORMATION

19 The ~~Department of Public Safety Agency~~ shall provide educational and
20 safety information developed by the Vermont Department of Health to each
21 registered patient upon registration pursuant to section 4473 of this title, and to

1 each registered caregiver upon registration pursuant to section 4474 of this
2 title.

3 Sec. 2. TRANSFER OF POSITIONS; TRANSITIONAL PROVISIONS;
4 MEDICAL MARIJUANA REGISTRY

5 (a) After March 15, 2019 but not later than July 1, 2019, the Secretary of
6 Administration shall transfer to and place under the supervision of the
7 Secretary of Agriculture, Food and Markets all employees, professional and
8 support staff, consultants, positions, and all balances of all appropriation
9 amounts for personal services and operating expenses for the administration of
10 the Medical Marijuana Registry currently contained in the Department of
11 Public Safety. On or before January 15, 2019, the Secretary of Administration
12 shall provide to the Senate Committees on Judiciary and on Government
13 Operations and the House Committees on Judiciary and on Human Services a
14 plan for transferring the positions and funds.

15 (b) On July 1, 2019, individuals and entities regulated under 18 V.S.A.
16 chapter 86, subchapter 2 shall be regulated by the Agency of Agriculture, Food
17 and Markets as provided in Sec. 1 of this act.

18 Sec. 3. EFFECTIVE DATES

19 (a) This section and Sec. 2 shall take effect on passage.

20 (b) Sec. 1 shall take effect on July 1, 2019.