

S.16

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; or

(III) acquired immune deficiency syndrome; ~~or~~

~~(IV) is currently under hospice care.~~

(ii) a patient is currently under hospice care.

~~(i)(iii)~~ (iii) 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)~~(iv) a patient who is already on the ~~registry~~ 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.

(v) 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.

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(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, or 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.

(5) “Dispensary” means a nonprofit entity registered under section 4474e of this title ~~which~~ that 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.

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(10) “Ounce” means 28.35 grams.

(11) “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.

~~(11)~~(12) “Registered caregiver” means a person who is at least 21 years of age, has met eligibility requirements as determined by the Department in accordance with this chapter, 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.

~~(12)~~(13) “Registered patient” means a 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.

~~(13)~~(14) “Secure indoor facility” means a building or room equipped with locks or other security devices that permit access only by a registered caregiver, registered patient, or a principal officer or employee of a dispensary.

~~(14)~~(15) “Transport” means the movement of marijuana and marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, to registered patients and registered

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

~~(15)~~(16) “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.

~~(16)~~(17) “Use for symptom relief” means the acquisition, possession, cultivation, use, transfer, or transportation of marijuana; or of paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a registered patient’s debilitating medical condition ~~which~~ that is in compliance with all the limitations and restrictions of this subchapter.

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:

(1) A patient with a debilitating medical condition shall submit a signed application for registration to the Department. ~~A patient’s initial application to the registry shall be notarized, but subsequent renewals shall not require notarization.~~ If the patient is under 18 years of age, 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 health care professional and submitted by a patient applying for registration in the program. The form shall include:

(A) A cover sheet ~~which~~ that includes the following:

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

(ii) Definitions of the following statutory terms:

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

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

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

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

(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~~ that the patient has and whether the patient meets the criteria under section 4472.

(iv) A signature line ~~which~~ that 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 goodstanding of out-of-state health care professionals.

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

(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.

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Sec. 3. 18 V.S.A. § 4474(c)(1) is amended to read:

(c)(1) Except as provided in subdivision (2) of this subsection, 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. A registered patient may serve as a registered caregiver for one other registered patient.

Sec. 4. 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 18 years

of age by portraying anyone under 18 years of age or objects suggestive of the presence of anyone under 18 years of age, or containing the use of a figure, a symbol, or language that is customarily associated with anyone under 18 years of age.

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

(C) All advertising shall contain the following warning: “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~~ 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~~ Registry identification numbers to protect their confidentiality.

* * *

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

* * *

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

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

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND
REGISTRATION

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(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.

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Sec. 5a. DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety shall begin to accept applications for the additional four dispensaries on July 1, 2017.

Sec. 6. 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.

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Sec. 7. 18 V.S.A. § 4474n is added to read:

§ 4474n. TESTING; AGENCY OF AGRICULTURE, FOOD AND
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. 8. 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. 9. AUTHORITY FOR CURRENTLY REGISTERED DISPENSARY
ORGANIZED AS A NONPROFIT CORPORATION TO CONVERT
TO FOR-PROFIT ENTITY.

(a) Notwithstanding the provisions of Title 11B and any other rule to the contrary, a dispensary organized as a nonprofit corporation and registered pursuant to 18 V.S.A. chapter 86 may convert to a domestic corporation pursuant to and in accordance with 11A V.S.A. chapter 11 as if the dispensary were a domestic organization, except that the dispensary shall approve a plan of 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 corporation 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. 10. EFFECTIVE DATES

(a) Sec. 9 shall take effect on passage.

(b) The remaining sections of this act shall take effect on July 1, 2017.