

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 16
3 entitled “An act relating to expanding patient access to the Medical Marijuana
4 Registry” respectfully reports that it has considered the same and recommends
5 that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

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

8 § 4472. DEFINITIONS

9 As used in this subchapter:

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

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

16 (i) a patient has been diagnosed with:

17 (I) a terminal illness;

18 (II) cancer; or

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

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

21 (ii) a patient is currently under hospice care.

1 ~~subdivision (4), reasonable medical efforts have been made over a reasonable~~
2 ~~amount of time to relieve the symptoms, means:~~

3 (A) cancer, multiple sclerosis, positive status for human
4 immunodeficiency virus, acquired immune deficiency syndrome, glaucoma,
5 post-traumatic stress disorder, Crohn’s disease, Parkinson’s disease, or the
6 treatment of these conditions, if the disease or the treatment results in severe,
7 persistent, and intractable symptoms; ~~or~~

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

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

13 (5) “Dispensary” means a nonprofit entity registered under section
14 4474e of this title ~~which~~ that acquires, possesses, cultivates, manufactures,
15 transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused
16 products, and marijuana-related supplies and educational materials for or to a
17 registered patient who has designated it as his or her center and to his or her
18 registered caregiver for the registered patient’s use for symptom relief. A
19 dispensary may provide marijuana for symptom relief to registered patients at
20 only one facility or location, but may have a second location associated with

1 the dispensary where the marijuana is cultivated or processed. Both locations
2 are considered to be part of the same dispensary.

3 * * *

4 (10) “Ounce” means 28.35 grams.

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

9 ~~(11)~~(12) “Registered caregiver” means a person who is at least 21 years
10 of age, has met eligibility requirements as determined by the Department in
11 accordance with this chapter, and who has agreed to undertake responsibility
12 for managing the well-being of a registered patient with respect to the use of
13 marijuana for symptom relief.

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

19 ~~(13)~~(14) “Secure indoor facility” means a building or room equipped
20 with locks or other security devices that permit access only by a registered
21 caregiver, registered patient, or a principal officer or employee of a dispensary.

1 ~~(14)~~(15) “Transport” means the movement of marijuana and
2 marijuana-infused products from registered growing locations to their
3 associated dispensaries, between dispensaries, to registered patients and
4 registered caregivers in accordance with delivery protocols, or as otherwise
5 allowed under this subchapter.

6 ~~(15)~~(16) “Usable marijuana” means the dried leaves and flowers of
7 marijuana, and any mixture or preparation thereof, and does not include the
8 seeds, stalks, and roots of the plant.

9 ~~(16)~~(17) “Use for symptom relief” means the acquisition, possession,
10 cultivation, use, transfer, or transportation of marijuana; or of paraphernalia
11 relating to the administration of marijuana to alleviate the symptoms or effects
12 of a registered patient’s debilitating medical condition ~~which~~ that is in
13 compliance with all the limitations and restrictions of this subchapter.

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

15 § 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND

16 PROCEDURES

17 * * *

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

20 (1) A patient with a debilitating medical condition shall submit a signed
21 application for registration to the Department. **A patient’s initial application to**

1 ~~the registry shall be notarized, but subsequent renewals shall not require~~
2 ~~notarization.~~ If the patient is under 18 years of age, the application must be
3 signed by both the patient and a parent or guardian. The application shall
4 require identification and contact information for the patient and the patient's
5 registered caregiver applying for authorization under section 4474 of this title,
6 if any, and the patient's designated dispensary under section 4474e of this title,
7 if any. The applicant shall attach to the application a medical verification form
8 developed by the Department pursuant to subdivision (2) of this subsection.

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

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

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

14 (ii) Definitions of the following statutory terms:

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

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

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

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

5 (B) A verification sheet ~~which~~ that includes the following:

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

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

13 [Repealed.]

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

18 (iv) A signature line ~~which~~ that provides in substantial part: “I
19 certify that I meet the definition of ‘health care professional’ under 18 V.S.A.
20 § 4472, that I am a health care professional in good standing in the State of

1 , and that the facts stated above are accurate to the best of
2 my knowledge and belief.”

3 (v) The health care professional’s contact information, license
4 number, category of his or her health care profession as defined in subdivision
5 4472(6) of this title, and contact information for the out-of-state licensing
6 agency, if applicable. The Department of Public Safety shall adopt rules for
7 verifying the goodstanding of out-of-state health care professionals.

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

12 (3)(A) The Department of Public Safety shall transmit the completed
13 medical verification form to the health care professional and contact him or her
14 for purposes of confirming the accuracy of the information contained in the
15 form. The Department may approve an application, notwithstanding the
16 ~~six month~~ three-month requirement in section 4472 of this title, if the
17 Department is satisfied that the medical verification form confirms that the
18 debilitating medical condition is of recent or sudden onset, ~~and that the patient~~
19 ~~has not had a previous health care professional who is able to verify the nature~~
20 ~~of the disease and its symptoms.~~

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

4 * * *

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

6 (c)(1) Except as provided in subdivision (2) of this subsection, a registered
7 caregiver may serve only one registered patient at a time, and a registered
8 patient may have only one registered caregiver at a time. A registered patient
9 may serve as a registered caregiver for no more than one registered patient.

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

11 § 4474e. DISPENSARIES; CONDITIONS OF OPERATION

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

13 * * *

14 (5) Advertise under the following conditions:

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

16 (i) is false or misleading;

17 (ii) promotes overconsumption; or

18 (iii) is designed to appeal to children or persons under 21 years

19 of age by portraying anyone under 18 years of age or objects suggestive of the
20 presence of anyone under 18 years of age, or containing the use of a figure, a

1 symbol, or language that is customarily associated with anyone under 18 years
2 of age.

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

6 (C) All advertising shall contain the following warning: “Marijuana
7 has intoxicating effects and may impair concentration, coordination, and
8 judgment. Do not operate a motor vehicle or heavy machinery or enter into
9 any contractual agreement under the influence of marijuana.”

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

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

15 * * *

16 (d)(1) A dispensary shall implement appropriate security measures to deter
17 and prevent the unauthorized entrance into areas containing marijuana and the
18 theft of marijuana and shall ensure that each location has an operational
19 security alarm system. All cultivation of marijuana shall take place in an
20 enclosed, locked facility which is either indoors or ~~otherwise~~ outdoors, but not
21 visible to the public, and which can only be accessed by principal officers and

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

11 * * *

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

14 * * *

15 (C) dispense more than ~~two~~ three 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 Sec. 5. 18 V.S.A. § 4474f is amended to read:

19 § 4474f. DISPENSARY APPLICATION, APPROVAL, AND

20 REGISTRATION

21 * * *

1 and shall submit with the form a fee of \$25.00. The Department shall issue a
2 new identification card to the registered patient within 30 days of receiving the
3 notification of change in dispensary. The registered patient's previous
4 identification card shall expire at the time the new identification card takes
5 effect. A registered patient shall submit his or her expired identification card
6 to the Department within 30 days of expiration. A registered patient shall not
7 change his or her designated dispensary more than once in any 30-day period.

8 * * *

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

10 § 4474n. TESTING; AGENCY OF AGRICULTURE, FOOD AND

11 MARKETS

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

16 Sec. 8. 6 V.S.A. chapter 5 is amended to read:

17 CHAPTER 5. CENTRAL TESTING LABORATORY

18 § 121. CREATION AND PURPOSE

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

1 § 122. FEES

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

9 § 123. REGULATED DRUGS

10 (a) Except as provided in subsection (b) of this section, the provisions of
11 18 V.S.A. chapter 84 shall not apply to the Secretary or designee in the
12 otherwise lawful performance of his or her official duties requiring the
13 possession or control of regulated drugs.

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

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

1 **Sec. 9. AUTHORITY FOR CURRENTLY REGISTERED DISPENSARY**
2 **ORGANIZED AS A NONPROFIT CORPORATION TO CONVERT**
3 **TO FOR-PROFIT ENTITY.**

4 (a) Notwithstanding the provisions of Title 11B and any other rule to the
5 contrary, a dispensary organized as a nonprofit corporation and registered
6 pursuant to 18 V.S.A. chapter 86 may convert to a domestic corporation
7 pursuant to and in accordance with 11A V.S.A. chapter 11 as if the dispensary
8 were a domestic organization, except that the dispensary shall approve a plan
9 of conversion pursuant to 11A V.S.A. § 11.04 by a majority vote of its board
10 of directors and may otherwise disregard any provision of 11A V.S.A. chapter
11 11 that relates to shareholders.

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

16 **Sec. 10. EFFECTIVE DATE**

17 This act shall take effect on July 1, 2017.

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19
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21

1

2 (Committee vote: _____)

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Senator _____

5

FOR THE COMMITTEE