

1 S.117

2 Introduced by Senators Sears and White

3 Referred to Committee on Judiciary

4 Date: February 21, 2019

5 Subject: Health; therapeutic use of cannabis

6 Statement of purpose of bill as introduced: This bill proposes to eliminate the
7 three-month requirement for a bona fide health care professional-patient
8 relationship; to expand the definition of debilitating medical condition to
9 include any disease, condition, or treatment as determined in writing by a
10 qualifying patient's health care professional; to increase a patient's possession
11 limit from two mature plants to three and from two ounces of useable
12 marijuana to three; to align patient cultivation rules with cultivation rules for
13 nonmedical adult use; to allow patients and caregivers to purchase marijuana
14 and marijuana-infused products from any registered dispensary; and to
15 eliminate the requirement that patients with chronic diseases reapply annually
16 to renew their Registry status.

17 An act relating to the therapeutic use of cannabis

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

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

3 § 4472. DEFINITIONS

4 As used in this subchapter:

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

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

11 ~~(i) a patient has been diagnosed with:~~

12 ~~(I) a terminal illness;~~

13 ~~(II) cancer; or~~

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

15 ~~(ii) a patient is currently under hospice care;~~

16 ~~(iii) a patient had been diagnosed with a debilitating medical~~

17 ~~condition by a health care professional in another jurisdiction in which the~~

18 ~~patient had been formerly a resident and the patient, now a resident of~~

19 ~~Vermont, has the diagnosis confirmed by a health care professional in this~~

20 ~~State or a neighboring state as provided in subdivision (6) of this section, and~~

21 ~~the new health care professional has completed a full assessment of the~~

1 patient's medical history and current medical condition, including a personal
2 physical examination;

3 (iv) a patient who is already on the Registry changes health care
4 professionals three months or less prior to the annual renewal of the patient's
5 registration, provided the patient's new health care professional has completed
6 a full assessment of the patient's medical history and current medical
7 condition, including a personal physical examination;

8 (v) a patient is referred by his or her health care professional to
9 another health care professional who has completed advanced education and
10 clinical training in specific debilitating medical conditions, and that health care
11 professional conducts a full assessment of the patient's medical history and
12 current medical condition, including a personal physical examination; or

13 (vi) a patient's debilitating medical condition is of recent or sudden
14 onset.

15 * * *

16 (4) "Debilitating medical condition" means:

17 (A) cancer, multiple sclerosis, positive status for human
18 immunodeficiency virus, acquired immune deficiency syndrome, glaucoma,
19 Crohn's disease, Parkinson's disease, or the treatment of these conditions, if
20 the disease or the treatment results in severe, persistent, and intractable
21 symptoms;

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

4 (C) ~~a disease or medical condition or its treatment that is chronic,~~
5 ~~debilitating, and produces one or more of the following intractable symptoms:~~
6 ~~cachexia or wasting syndrome; chronic pain; severe nausea; or seizures~~ another
7 disease, condition, or treatment as determined in writing by a qualifying
8 patient's health care professional.

9 (5) "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.

15 A dispensary may serve patients and caregivers at not more than two locations,
16 as approved by the Department 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.

21 * * *

1 (7)(A) “Health care professional” means an individual licensed to
2 practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a
3 naturopathic physician under 26 V.S.A. chapter 81, an individual certified as a
4 physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an
5 advanced practice registered nurse under 26 V.S.A. chapter 28.

6 (B) This definition includes individuals who are professionally
7 licensed under substantially equivalent provisions in New Hampshire,
8 Massachusetts, or New York.

9 * * *

10 (11) “Mental health care provider” means a person licensed to practice
11 medicine who specializes in the practice of psychiatry; a psychologist, a
12 psychologist-doctorate, or a psychologist-master as defined in 26 V.S.A.
13 § 3001; a clinical social worker as defined in 26 V.S.A. § 3201; or a clinical
14 mental health counselor as defined in 26 V.S.A. § 3261.

15 * * *

16 (14) “Possession limit” means the amount of marijuana collectively
17 possessed between the registered patient and the patient’s registered caregiver
18 that is no more than ~~two~~ three mature marijuana plants, seven immature plants,
19 and ~~two~~ three ounces of usable marijuana. Any marijuana harvested from the
20 plants shall not count toward the three-ounce possession limit, provided it is
21 stored in an indoor facility on the property where the marijuana was cultivated

1 and reasonable precautions are taken to prevent unauthorized access to the
2 marijuana.

3 * * *

4 (17) “Registered patient” means a ~~resident of Vermont~~ person who has
5 been issued a registration card by the Department, identifying the person as
6 having a debilitating medical condition pursuant to the provisions of this
7 subchapter. ~~“Resident of Vermont” means a person whose domicile is Vermont.~~

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

11 * * *

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

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

15 * * *

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

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

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

6 * * *

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

14 * * *

15 ~~Sec. 3. 18 V.S.A. § 4474a is amended to read:~~

16 § 4474a. REGISTRATION; FEES

17 (a) The Department shall collect a fee of \$50.00 for the application
18 authorized by sections 4473 and 4474 of this title. The fees received by the
19 Department shall be deposited into a registration fee fund and used to offset
20 ~~the costs of processing applications under this subchapter.~~

1 ~~(b)(1) A. Except as provided in subdivision (2) of this subsection, a~~
2 registration card shall expire one year after the date of issue, with the option of
3 renewal, provided the patient submits a new application ~~which that~~ is approved
4 by the Department of Public Safety, pursuant to section 4473 or 4474 of this
5 title, and pays the fee required under subsection (a) of this section.

6 (2) A patient who has a chronic disease shall not be required to renew
7 his or her application and the patient's registration card shall not expire during
8 the life of the patient unless the patient requests to be removed from the
9 Registry.

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

§ 4474a. REGISTRATION; FEES

(a) The Department shall collect a fee of \$50.00 for the application authorized by sections 4473 and 4474 of this title. The fees received by the Department shall be deposited into a registration fee fund and used to offset the costs of processing applications under this subchapter.

(b) A registration card shall expire one year after the date of issue, ~~with the option of renewal, provided the patient submits.~~ A patient may renew his or her registration card as follows:

(1) A patient may submit a new application ~~which is approved by~~ to the Department of Public Safety, pursuant to section 4473 or 4474 of this title, and ~~pays~~ pay the fee required under subsection (a) of this section.

(2) If the medical verification form submitted by a patient pursuant to subdivision 4473(b)(2) of this chapter states that the debilitating medical condition is incurable, a patient who chooses to renew shall not be required to submit a new application but shall be required to pay the fee required under subsection (a) of this section.

Sec. 3a. DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety shall amend the medical verification form as necessary to implement Sec. 3 of this act.

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

2 § 4474c. PROHIBITIONS, RESTRICTIONS, AND LIMITATIONS
3 REGARDING THE USE OF MARIJUANA FOR SYMPTOM
4 RELIEF

5 * * *

6 (c) ~~A registered patient or registered caregiver who elects to grow~~
7 ~~marijuana to be used for symptom relief by the patient may do so only if the~~
8 ~~marijuana is cultivated in a single, secure indoor facility~~ Personal cultivation
9 of marijuana by a patient or caregiver on behalf of a patient shall only occur:

10 (1) on property lawfully in possession of the cultivator or with the
11 written consent of the person in lawful possession of the property; and

12 (2) in an enclosure that is screened from public view and is secure so
13 that access is limited to the cultivator and persons 21 years of age or older who
14 have permission from the cultivator.

15 * * *

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

17 § 4474e. DISPENSARIES; CONDITIONS OF OPERATION

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

19 (1) Acquire, possess, cultivate, manufacture, process, transfer, transport,
20 supply, sell, and dispense marijuana, marijuana-infused products, and
21 marijuana-related supplies and educational materials for or to a registered

1 patient ~~who has designated it as his or her dispensary~~ and to his or her
2 registered caregiver for the registered patient's use for symptom relief.

3 (A) Marijuana-infused products shall include tinctures, oils, solvents,
4 and edible or potable goods. Only the portion of any marijuana-infused
5 product that is attributable to marijuana shall count toward the possession
6 limits of the dispensary and the patient. The Department of Public Safety shall
7 establish by rule the appropriate method to establish the weight of marijuana
8 that is attributable to marijuana-infused products. A dispensary shall dispense
9 marijuana-infused products in child-resistant packaging as defined in 7 V.S.A.
10 § 1012.

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

13 (2)(A) Acquire marijuana seeds or parts of the marijuana plant capable
14 of regeneration from or dispense them to registered patients or their caregivers
15 or acquire them from another registered Vermont dispensary, provided that
16 records are kept concerning the amount and the recipient.

17 (B) Acquire, purchase, or borrow marijuana, marijuana-infused
18 products, or services from another registered Vermont dispensary or give, sell,
19 or lend marijuana, marijuana-infused products, or services to another
20 registered Vermont dispensary, provided that records are kept concerning the
21 product, the amount, and the recipient. ~~Each Vermont dispensary is required~~

1 to adhere to all possession limits pertaining to cultivation as determined by the
2 number of patients designating that dispensary and may not transfer eligibility
3 to another dispensary.

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

10 (B) Notwithstanding subdivision (A) of this subdivision, if a
11 dispensary is designated by a registered patient under 18 years of age who
12 qualifies for the registry because of seizures, the dispensary may apply to the
13 Department for a waiver of the limits in subdivision (A) of this subdivision (3)
14 if additional capacity is necessary to develop and provide an adequate supply
15 of a product for symptom relief for the patient. The Department shall have
16 discretion whether to grant a waiver and limit the possession amounts in
17 excess of subdivision (A) of this subdivision (3) in accordance with rules
18 adopted pursuant to section 4474d of this title.

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

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 * * *

5 Sec. 6. 6 V.S.A. § 567 is amended to read:

6 § 567. AGENCY OF AGRICULTURE, FOOD AND MARKETS; TESTING

7 (a) The Agency of Agriculture, Food and Markets shall establish a
8 cannabis quality control program for the following purposes:

9 (1) to develop potency and contaminant testing protocols for hemp₂ and
10 hemp-infused products, marijuana, and marijuana-infused products;

11 (2) to verify cannabinoid label guarantees of hemp₂ and hemp-infused
12 products, marijuana, and marijuana-infused products;

13 (3) to test for pesticides, solvents, heavy metals, mycotoxins, and
14 bacterial and fungal contaminants in hemp₂ and hemp-infused products,
15 marijuana, and marijuana-infused products; and

16 (4) to certify testing laboratories that can offer the services in
17 subdivisions (2) and (3) of this section.

18 (b) For purposes of this section, a laboratory operating under a dispensary
19 registration pursuant to 18 V.S.A. chapter 86 that offers the services in
20 subdivisions (2) and (3) of subsection (a) of this section on July 1, 2019 shall
21 be deemed certified by the Agency.

1 (c) The Department of Public Safety shall be responsible for the cost of a
2 test of a product produced at a registered dispensary.

3 Sec. 7. REPEAL

4 18 V.S.A. § 4474h is repealed.

Sec. 8. 18 V.S.A. § 4474n is added to read:

§ 4474n. USE OF U.S. FOOD AND DRUG ADMINISTRATION-
APPROVED DRUGS CONTAINING ONE OR MORE
CANNABINOIDS

(a) Upon approval by the U.S. Food and Drug Administration (FDA) of one or more prescription drugs containing one or more cannabinoids, the following activities shall be lawful in Vermont:

(1) the clinically appropriate prescription for a patient of an FDA-approved prescription drug containing one or more cannabinoids by a health care provider licensed to prescribe medications in this State and acting within his or her authorized scope of practice;

(2) the dispensing, pursuant to a valid prescription, of an FDA-approved prescription drug containing one or more cannabinoids to a patient or a patient's authorized representative by a pharmacist or by another health care provider licensed to dispense medications in this State and acting within his or her authorized scope of practice;

(3) the possession and transportation of an FDA-approved prescription drug containing one or more cannabinoids by a patient to whom a valid prescription was issued or by the patient's authorized representative;

(4) the possession and transportation of an FDA-approved prescription drug containing one or more cannabinoids by a licensed pharmacy or wholesaler in order to facilitate the appropriate dispensing and use of the drug; and

(5) the use of an FDA-approved prescription drug containing one or more cannabinoids by a patient to whom a valid prescription was issued, provided the patient uses the drug only for legitimate medical purposes in conformity with instructions from the prescriber and dispenser.

(b) Upon approval by the U.S. Food and Drug Administration of one or more prescription drugs containing one or more cannabinoids, the Department of Health shall amend its rules to conform to the provisions of subsection (a) of this section.

Sec. 9. REPEAL

2017 Act and Resolves No. 62, Sec. 8 (use of U.S. Food and Drug Administration-approved drugs containing cannabidiol) is repealed.

1 Sec. ~~9~~ 10. EFFECTIVE DATE

2 This act shall take effect on July 1, 2019.