



To: House Committee on Government Operations
 From: Jessa Barnard, Executive Director
 Date: April 17, 2019
 RE: S.54 – Youth Prevention & Public Health Protections

The 2,000 physician and physician assistant members of the Vermont Medical Society (VMS) and the American Academy of Pediatrics Vermont Chapter (AAPVT), are dedicated to ensuring that S. 54 includes meaningful protections for Vermont’s youth, most importantly sustainable funding for comprehensive substance misuse prevention programs. Our specific areas of concern and recommendations for language to help protect the health of our State are outlined below.

1. Public Health and Public Safety Membership on the Cannabis Control Board

The Cannabis Control Board is tasked in S. 54 with drafting numerous rules where public health expertise is necessary, including:

- restrictions on advertising, marketing, and signage;
- health and safety requirements;
- regulation of additives to cannabis, including those that are toxic or designed to make the product more addictive, more appealing to persons under the age of 21, or to mislead consumers;
- sanitary requirements;
- procedures and standards for testing cannabis for contaminants and potency;
- labeling requirements for products sold to retailers that include appropriate warnings concerning the potential risks of consuming cannabis;
- requirements for opaque, child-resistant packaging;
- requirements for labeling of cannabis products that include the length of time it typically takes for products to take effect;
- safety information flyer;
- establishing and managing the Vermont Medical Cannabis Registry;
- for the Medical Cannabis Registry, drafting guidelines on advertising, marketing, and signage; health and safety requirements; restrictions on the use of pesticides that are injurious to human health; regulation of additives to cannabis; limitations to a specific number of servings for each individual package of edible cannabis products and more.

The Vermont Medical Society strongly believes that a Board member with expertise in public health is necessary to these functions of the Board. Further, given the public safety implications of the work of the Board, we suggest a member with a background in public safety to add to the business, agriculture and social justice expertise of those Board members currently named in S. 54.

The Vermont Medical Society recommends the following language:

CHAPTER 31. CANNABIS

Subchapter 2. Cannabis Control Board

§ 841. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

(c) Membership.

(1) The Board shall consist of ~~three~~ five members who shall be appointed as follows:

(A) one member to serve as chair who shall be appointed by the Governor and who shall have a background in business management or regulatory compliance;

(B) ~~one~~ two members who shall be appointed by the Senate Committee on Committees ~~and~~ one who shall have a background in agriculture, horticulture, or plant science and one who shall have a background in public safety; and

(C) ~~one~~ two members who shall be appointed by the Speaker of the House ~~and one~~ who shall have a background in systemic social justice and equity issues and one who shall have a background in public health.

2. Meaningful Restrictions on Advertising to Youth

The U.S. Surgeon General has identified tobacco marketing and advertising as a primary cause of youth tobacco use.¹ **Prohibiting mass media advertising is one best-practice strategy in tobacco control and prevention that could be applied to marijuana.** Allowing mass marketing based on the expected age of the audience will be logistically difficult and expensive to monitor. Vermont should not be left playing catch-up correcting marketing strategies appealing to youth.

The Vermont Medical Society recommends the following language:

CHAPTER 33. CANNABIS ESTABLISHMENTS

Subchapter 1. General Provisions

§ 864. ADVERTISING

(a) Cannabis advertising shall comply with rules adopted pursuant to this Chapter and shall not contain any statement or illustration that:

(1) is deceptive, false or misleading;

(2) promotes overconsumption;

(3) represents that the use of cannabis has curative effects;

(4) depicts a person under 21 years of age consuming cannabis; or

(5) is designed to be or has the effect of being particularly appealing to persons under 21 years of age.

(b) Cannabis establishments shall not advertise their products via flyers, television, radio, billboards, print, or Internet ~~unless the licensee can show that no more than 30 percent of the audience is reasonably expected to be under 21 years of age.~~

(c) All advertising shall contain the following warnings: (1) For use only by adults 21 years of age or older. Keep out of the reach of children. (2) Cannabis has intoxicating effects and may impair concentration, coordination, and judgment.

VMS also notes that the location and density of retail outlets and has been shown to have an effect on prevalence of tobacco and alcohol use among adults and youth.² VMS supports municipalities having local control over outlet density, by opting-in to sales, to help contribute to the culture of health in a community.

3. Regulation on Potency and Forms of Cannabis that Harm Youth

An article in a cannabis trade publication outlines the youth appeal of, and health concerns caused by, edible cannabis products.³ The article summarizes research finding that when marijuana edibles are legal, more cases of pediatric marijuana intoxication are reported, as found through increased calls to

¹ http://www.healthvermont.gov/sites/default/files/documents/2016/11/HIA_marijuana_regulation_in_VT_2016.pdf

² http://www.healthvermont.gov/sites/default/files/documents/2016/11/HIA_marijuana_regulation_in_VT_2016.pdf

³ <https://cannabiz.media/the-impact-of-children-and-marijuana-edibles-on-the-cannabis-industry/>. See also numerous news reports of children ingesting, distributing or purchasing edibles such as: <https://boston.cbslocal.com/2019/03/18/marijuana-edibles-3-arrested-lawrence-13-year-old-buys-edibles/> (reporting minors in Massachusetts purchasing edibles including candies, fruity type like cereals, rice crispy treats, chocolates and muffins) and <https://www.cbs17.com/news/national-news/kids-in-missouri-get-sick-after-eating-edibles-police-say/1911421047> (outlining cases of children sharing infused brownies at school, 9 year old sharing infused gummy bears at school; middle school student sharing infused valentine's candy).

poison control centers and hospital evaluations. The extent of the problem in Washington state led that state to recently reexamine its rules regarding edibles to address products including but not limited to “gummy candies, lollipops, cotton candy or brightly colors products.” The new rules in Washington, effective January 1, 2019, will evaluate individual edible products for appearance, color, shape, packaging and other factors to ensure they are not appealing to youth.

Edibles and the potency of THC found in commercial cannabis products is also leading to increased emergency room visits. As found in an April 2019 study published in the *Annals of Internal Medicine*,⁴ records at a Colorado hospital show a three-fold increase in marijuana visits to the hospital, stressing an already burdened emergency department system. Seventeen percent of the visits were for uncontrolled bouts of vomiting, most often from inhaled marijuana. Edibles were also a problem, with edibles making up less than 1 percent of total cannabis sales, measured by THC content, yet triggering 11 percent of ER visits.

Based on these factors, VMS strongly recommends that the Cannabis Control Board draft regulations that address not only additives to cannabis, but the potency of cannabis and the forms that cannabis can take, to reduce toxicity, addiction and youth appeal.

The Vermont Medical Society recommends the following language:

Subchapter 2. Administration

§ 881. RULEMAKING; CANNABIS ESTABLISHMENTS

(a) The Board shall adopt rules to implement and administer this chapter in accordance with subdivisions (1)–(5) of this subsection.

(1) Rules concerning any cannabis establishment shall include:

...

(J) regulation of additives to, potency of and forms of cannabis, including those that are toxic or designed to make the product more addictive, more appealing to persons under the age of 21, or to mislead consumers; ...

4. Evidence-Based Medical Cannabis Registry

The Vermont Medical Society believes the medical cannabis registry should be evidence-based and not an end-run to obtain marijuana for recreational purposes. **VMS objects to the elimination in S. 54 of a “bone fide professional-patient relationship” before a health care professional can complete a verification form for a patient.** Existing statute and program rules generally require a 3-month health care professional relationship with exceptions for certain diagnoses, for patients moving to the state or changing health care providers and for recent diagnoses. 18 VSA § 4472 (1)(B). If there is no requirement for a bone fide health care professional relationship or required length of relationship, we anticipate that “marijuana mills” will appear where patients simply pay an examination fee and walk out with a verification form with no ongoing relationship with the provider who completed the paperwork to monitor dosing, symptoms, improvement or side effects, as has been seen in Maine, Colorado, California and other states without the closely regulated program that Vermont has in place – and as attempted in Vermont in 2017.⁵ We do support the support the enumerated list of “qualifying medical conditions” that is contained in S. 54 as passed the Senate.

⁴ <https://www.cbsnews.com/news/after-legalization-marijuana-related-er-visits-climb-at-colorado-hospital/>, <https://annals.org/aim/article-abstract/2729208/acute-illness-associated-cannabis-use-route-exposure-observational-study>

⁵ <http://digital.vpr.net/post/medical-marijuana-doctor-will-see-you-now-canna-care-connects-patients-pot#stream/0>

The Vermont Medical Society Recommends the following language:

CHAPTER 35. MEDICAL CANNABIS REGISTRY

§ 956. *RULEMAKING* The Board shall adopt rules for the administration of this chapter. No rule shall be more restrictive than any rule adopted by the Department of Public Safety pursuant to 18 V.S.A. chapter 86. The rules must establish standards for a bone fide health care professional-patient relationship.

5. Dedicated, Sustainable Funding for Youth Prevention Programs

Vermont currently has some of the highest rates of young adult use of marijuana in the country, with 38% of 18-25 year-olds using marijuana in the last 30 days.⁶ Increased availability of cannabis and the normalization of marijuana use in Vermont has the potential to increase youth and young adult use rates.⁷ The Governor’s Advisory Commission on Marijuana Prevention and Education Subcommittee thoroughly evaluated and described best practices in regulating cannabis and minimizing youth use.⁸ The Subcommittee report highlights that substance misuse prevention programs work and work best when they are comprehensive and sustained. **A statutory scheme to tax and regulate cannabis must direct dedicated, sustained funding generated by the taxes levied on cannabis sales to implement comprehensive substance misuse prevention strategies throughout the state.**

According to the Prevention and Education Subcommittee, \$6 million dollars per year would fund regional prevention networks responsible for developing and implementing proven population health models that include afterschool programing and youth leadership; educational and counter-marketing campaigns, local public health policies and gathering and evaluating local data. This amount is not sufficient to include funding as recommended by the Subcommittee for statewide media campaigns, substance use prevention professionals in schools or research on the health impacts of cannabis use.

The Vermont Medical Society Recommends the following language:

§ 7901. *CANNABIS EXCISE TAX*

(a) *There is imposed a cannabis excise tax equal to 16 percent of the sales price of each retail sale in this State of cannabis and cannabis products, including food or beverages.*

...

(d) *The first six million dollars annually of the cannabis excise tax revenue shall be directed to evidence-informed, comprehensive, sustainable community prevention programs.*

...

Thank you for considering the comments of the VMS and AAPVT and we look forward to working with you as you consider language for S. 54.

⁶https://marijuanacommission.vermont.gov/sites/mc/files/doc_library/12%2018%2018%20FINAL%20Commission%20Adoption%20of%20Prevention%20Report.pdf

⁷ Rates of marijuana use among young adults have been increasing nationwide, including among young adults in Colorado since that state approved commercial sales of recreational marijuana. According to figures from the National Survey on Drug Use and Health, adults in Colorado who had consumed marijuana in the month before being surveyed went from being 12.86 percent of the adult population in 2012/13 to 16.62 percent in 2015/16. See <https://www.samhsa.gov/data/nsduh/state-reports-NSDUH-2016>

⁸https://marijuanacommission.vermont.gov/sites/mc/files/doc_library/12%2018%2018%20FINAL%20Commission%20Adoption%20of%20Prevention%20Report.pdf