

To: House Committee on Health Care
From: Jessa Barnard, Executive Director
Date: January 24, 2020
RE: S.54 – Youth Prevention & Public Health Protections

The 2,400 physician and physician assistant members of the Vermont Medical Society (VMS) and the American Academy of Pediatrics Vermont Chapter (AAPVT) thank the House Health Care Committee for considering the health implications of S. 54. VMS and 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, including evidence-based afterschool programs.

We believe that last session the House Government Operations Committee made substantial improvements to the bill and are pleased with a number of the additions. Below we present additional changes could minimize the potential negative impact on the health of youth. Page numbers reflect pages in draft. 8.3 of S. 54 dated 5/2/19.

1. Dedicated, Sustainable Funding for Youth Prevention, Including Afterschool (p.68)

Vermont already 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.¹ The latest data show that among high school students, marijuana use during the past 30 days significantly increased from 24% in 2017 to 27% in 2019.² Increased availability of cannabis and the normalization of marijuana use in Vermont has the potential to increase youth and young adult use rates.³ The Governor's Advisory Commission on Marijuana Prevention and Education Subcommittee thoroughly evaluated and described best practices in regulating cannabis and minimizing youth use.⁴ 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. **VMS supports 30% of the excise tax being dedicated to prevention but opposes a \$6 million cap, as this is the minimum amount needed to fund meaningful, statewide prevention efforts.**

The Vermont Medical Society Recommends the following language:

¹https://marijuanacommission.vermont.gov/sites/mc/files/doc_library/12%2018%2018%20FINAL%20Commission%20Adoption%20of%20Prevention%20Report.pdf

² https://www.healthvermont.gov/sites/default/files/documents/pdf/HSVR_YRBS_2019_KeyFindings.pdf

³ 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>

⁴https://marijuanacommission.vermont.gov/sites/mc/files/doc_library/12%2018%2018%20FINAL%20Commission%20Adoption%20of%20Prevention%20Report.pdf

§ 4810. SUBSTANCE MISUSE PREVENTION FUND

...

(b) The Fund shall consist of revenues derived from: (1) The first six million dollars annually and thereafter 30 percent of the revenues raised by the cannabis excise tax imposed by 32 V.S.A. § 7901, but not more than \$6 million per fiscal year; and

2. Public Health Officer Staff Position to Cannabis Control Board (pages 3-8)

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

- prohibit products and packaging that are designed to appeal to persons under 21;
- restrictions on advertising, marketing, and signage;
- health and safety requirements, safety information flyer;
- 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...;
- 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; and
- requirements for opaque, child-resistant packaging.

The Vermont Medical Society appreciates the creation in H. 54 of an Advisory Committee to the Board that includes a public health member and member with an expertise in substance misuse prevention. However, VMS is also well aware of the limitations of board advisory committees, having worked extensively with the Primary Care Advisory Committee to the Green Mountain Care Board. Advisory Committee members are volunteers with limited time to commit to their duties and not able to participate in all Board activities. **VMS recommends that a dedicated staff Public Health Officer position be created so that a staff member with relevant expertise be available to work with the Board members as they promulgate the above referenced rules.**

3. Local Control (page 24)

The location and density of retail outlets and has been shown to have an effect on the prevalence of tobacco and alcohol use among adults and youth.⁵ The Prevention and Education Subcommittee of the Governor's Advisory Commission on Marijuana also found that local control contributes to a culture of health in the community. **For these reasons, VMS strongly supports the current requirement in H. 54 that local municipalities must affirmatively opt-in to cannabis sales.**

4. Restrictions on Mass Advertising (p. 26-27)

The U.S. Surgeon General has identified tobacco marketing and advertising as a primary cause of youth tobacco use.⁶ **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

⁵ http://www.healthvermont.gov/sites/default/files/documents/2016/11/HIA_marijuana_regulation_in_VT_2016.pdf

⁶ http://www.healthvermont.gov/sites/default/files/documents/2016/11/HIA_marijuana_regulation_in_VT_2016.pdf

playing catch-up correcting marketing strategies appealing to youth. **VMS appreciates and supports the House Government Operations Committee moving forward with model in which the Cannabis Control Board reviews all advertising prior to dissemination, and that the audience of a given medium cannot be more than 15% under the age of 21. However, VMS believes that no mass marketing should be permitted.**

The Vermont Medical Society recommends the following language:

CHAPTER 33. CANNABIS ESTABLISHMENTS

Subchapter 1. General Provisions

§ 864. ADVERTISING

...

(b) Cannabis establishments shall not advertise their products via any mass medium ~~unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age.~~ including but not limited to flyers, television, radio, billboards, print, or Internet.

5. Restriction of Potency and Forms of Cannabis that Harm Youth (p. 30)

An article in a cannabis trade publication outlines the youth appeal of, and health concerns caused by, edible cannabis products.⁷ 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 poison control centers and hospital evaluations. The extent of the problem in Washington state led that state to 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 considered in Washington would 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,⁸ 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.

Just since last spring, we have also have extensive new information about the harms of vaping and flavored vaping products. Among Vermont teenagers who currently use marijuana, vaping as the primary method of use significantly increased more than eight times from 2% in 2017 to 17% in 2019.⁹ As of January 14, 2020, a total of 2,668 hospitalized e-cigarette, or vaping, product use-associated lung injury (EVALI) cases or deaths have been reported to CDC from all 50 states. Sixty deaths have been confirmed

⁷ <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).

⁸ <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>

⁹ https://www.healthvermont.gov/sites/default/files/documents/pdf/HSVR_YRBS_2019_KeyFindings.pdf

in 27 states and the District of Columbia. 82% of hospitalized patients with data on substance use reported using THC-containing products; 33% reported exclusive use of THC-containing products.¹⁰ Vaping-related lung injury victims reported using regulated marijuana products from state-licensed dispensaries in Massachusetts and other states with regulated sales.¹¹ The Vermont legislature is currently considering banning all flavored tobacco products (both vaped and combustible) and Oregon has recently banned the sale of flavored cannabinoid vapor products.¹²

Based on these factors, VMS strongly recommends limits on 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:

§ 868. PROHIBITED PRODUCTS

(a) The following are prohibited products and may not be cultivated, produced or sold pursuant to a license issued under this chapter:

- (1) cannabis flower with greater than ~~30~~ 15 percent tetrahydrocannabinol;¹³*
- (2) solid concentrate cannabis products ~~with greater than 60 percent tetrahydrocannabinol~~¹⁴;*
- (3) oil cannabis products ~~except for those that are sold prepackaged for use with battery powered devices~~; and*
- (4) cannabis products that contain delta-9 tetrahydrocannabinol and nicotine or alcoholic beverages;*
- (5) any edible cannabis product that exceeds 5mg of THC per serving or 50mg of THC per package.¹⁵*
- (6) any cannabis product that contains characterizing flavors, meaning a taste or aroma, other than the taste or aroma of cannabis, imparted either prior to or during consumption of a cannabis product including but not limited to, any taste or aroma relating to any fruit, chocolate, vanilla, honey, maple, candy, cocoa, dessert, alcoholic beverage, mint, menthol, wintergreen, herb or spice, or other food or drink, or to any conceptual flavor that imparts a taste or aroma that is distinguishable from cannabis flavor but may not relate to any particular known flavor.*

¹⁰ https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html

¹¹ <https://thehill.com/policy/healthcare/473403-mass-links-vaping-illnesses-with-state-regulated-marijuana>

¹²

www.oregon.gov/olcc/marijuana/Documents/Rules/Vaping_Rules/AdoptedVapingRules_OAR_845_025_2805.pdf

¹³ An expert committee in the Netherlands recommended a maximum of 15% THC be allowed in coffee shop sales based on data that cannabis and hashish with a THC content in excess of 15 percent increases the risks for public health. Laar, Margiet, et al, The Netherlands Drug Situation 2014 Report to the EMCDDA by the Reitox National Focal Point, January 2015, Available at:

https://www.researchgate.net/publication/310288595_The_Netherlands_Drug_Situation_2014_Report_to_the EMCDDA_by_the_Reitox_National_Focal_Point/link/582b08e908ae004f74af8f79/download According to the same

report, Between 2000 and 2004, the percentage of THC in Dutch-grown weed (most favorite type) doubled from 9% to 20%. Between 2010 and 2013, the average concentration decreased from 17.8% to 13.5% and remained at a similar level (14.6%) in 2014. Discussion on pages 18-18, 120-121

See also: https://najis.org/2018_Conference_Presentations/Session_14-Marijuana_Impact.pdf

¹⁴ These are products that are typically smoked or vaporized and due to their concentration and modes of ingestion have particular risks including lung injuries, cancer and exposure to dangerous levels of chemical impurities. See <https://www.healthline.com/health/hash-oil>

¹⁵ This is the limit in Alaska and Oregon, see

https://www.apha.org/~media/files/pdf/topics/state_cannabis_policy.ashx

6. Evidence-Based Medical Cannabis Registry (p.54)

The Vermont Medical Society believes the medical cannabis registry should be evidence-based and designed to serve individuals with legitimate health conditions that will benefit from cannabis. **VMS supports the current draft of S. 54, which removes the sections of the bill that related to the medical cannabis registry and dispensaries.**

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.