



To: Senate Judiciary Committee
From: Jessa Barnard, Vermont Medical Society
Date: February 27, 2019
RE: S. 117, An Act Relating to the Therapeutic Use of Cannabis

On behalf of the 2,000 physician and physician assistant members of the Vermont Medical Society (VMS), we would like to express our concern regarding S.117.

VMS opposes the changes proposed to the Medical Marijuana Registry found in Sections 1 and 3 of the bill. Among other changes, the bill would:

1. Eliminate the requirement that a “bona fide health care professional-patient relationship” be established over three months;
2. Eliminate a Vermont residency requirement;
3. Allow marijuana use under the program for any “disease, condition, or treatment as determined in writing by a patient’s health care professional;”
4. Eliminate the need for any renewal of a patient’s registration.

Our concerns with these proposals are detailed below.

(1) Elimination of a requirement for a bone fide 3-month health care professional-patient relationship

The Vermont Medical Society objects to efforts to eliminate the requirement for a 3-month health care professional-patient relationship before a health care professional can complete a verification form. See the new proposed definition of “bona fide health care professional-patient relationship” under Sec 1 § 4472 (1). Existing statute and program rules already provide a number of 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, 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 2017.¹ Further, patients may well obtain and continue use of cannabis with no ongoing monitoring for positive or harmful effects. Our concern regarding an ongoing, meaningful relationship with a health professional will be exacerbated by the proposed elimination of a residency requirement, meaning patients may be traveling to Vermont for the sole purpose of obtaining cannabis and not maintaining any contact with a health professional who knows about the individual’s use. Sec. 1. 18 V.S.A. § 4472 (17).

(2) Allowing marijuana use under the program for any condition

VMS opposes the use of marijuana under the program for any “disease, condition, or treatment as determined in writing by a patient’s health care professional.” See Sec 1. § 4472 (4)(c). Conditions should only be added to the Marijuana Registry program if peer-reviewed scientific research demonstrates that marijuana is safe and effective for a specific condition. According to a January 2017 review² of the research, while there is strong evidence that marijuana may alleviate symptoms for some conditions, such as chronic pain and chemotherapy-induced nausea, there is very limited evidence of its usefulness for a host of other conditions, especially psychological conditions.

¹ <http://digital.vpr.net/post/medical-marijuana-doctor-will-see-you-now-canna-care-connects-patients-pot#stream/0>

² <http://nationalacademies.org/hmd/~media/Files/Report%20Files/2017/Cannabis-Health-Effects/Cannabis-report-highlights.pdf>

Marijuana contrasts with other medications which physicians can prescribe. Given marijuana's continued status as a schedule I drug and restrictions on the ability to study marijuana, there is limited information regarding efficacy, indications for use and potential side effects. Physicians oppose being made into a gatekeeper for a substance for which they have limited information and evidence. Given the current state of research, patients and health professionals expect the legislature to be driven by data – please keep the registry law a source that patients and health professionals can rely on. Marijuana is further distinguishable from other medications in that it is difficult to coordinate care involving marijuana use even for medicinal purposes: it does not show up in the Vermont Prescription Monitoring System, may not be documented in an EHR, and dose, type and mode of administration may be difficult or impossible to know. If one clinician is filling out the paperwork for any condition this may be unknown to all other clinicians involved in the care of the patient.

Physicians must also be cautious about crossing the legal line to “recommending” or “prescribing” marijuana. Having an undefined category of “any other” condition would put physicians closer to the line of documenting that they have made a determination that they are recommending marijuana for a given condition. We do not recommend that the legislature put physicians in this legal gray area. For more information on the legal and regulatory barriers that remain when physicians consider their participation in the program, see the VMS Guide to Health Care Law.³

Finally, the expansion of the registry to non-evidence-based conditions becomes even less necessary when Vermonters can choose to legally grow their own marijuana for any purpose. If they desire marijuana for other indications, they have avenues to obtain it that do not involve health care providers.

(3) Eliminating the need for any renewal of a patient's registration

Section 3 of the bill, 18 V.S.A. § 4474a (b)(2), states that a patient with a chronic disease will “not be required to renew his or her application and the patient's registration card shall not expire during the life of the patient unless the patient requests to be removed from the Registry.” This treats cannabis differently than any other prescription medication. Prescriptions for schedule II controlled substances cannot be refilled at all and require new prescriptions. Prescriptions for schedules III and IV controlled substances can only be refilled up to five times in six months. Prescriptions for schedule V controlled substances may be refilled as authorized by the practitioner.⁴ This would single out cannabis as the only substance for which the patient's condition and patient's own opinion of need dictates the length of being able to obtain cannabis rather than the verifying (or prescribing) health professional.

The changes proposed in S. 117 also set up patients and health professionals for confusion. Some of the changes to the registry proposed in S. 54, which passed out of your Committee recently, are inconsistent with changes proposed in S. 117 and S. 117 would only be in effect from July 1, 2019 through the effective date of S. 54, which repeals all of 18 VSA chapter 86 as of January 1, 2021. For example, under S. 54, as of January 2021 there would once again be limited list of qualifying medical conditions under 7 VSA § 951(8).

Thank you for considering our concerns. Please let VMS know if you have any questions regarding our comments.

³ <http://www.vtmd.org/vermont-guide-health-care-law>

⁴ <https://www.deadiversion.usdoj.gov/faq/prescriptions.htm>