



To: Senate Judiciary Committee
From: Jessa Barnard, Vermont Medical Society
Date: January 31, 2019
RE: S.54 – Opposition to Medical Marijuana Registry Changes
& Commercial Sales of Marijuana

On behalf of the 2,000 physician and physician assistant members of the Vermont Medical Society (VMS) and the American Academy of Pediatrics Vermont Chapter (AAPVT), we would like to express our concern regarding S.54 as being considered by the Senate Judiciary Committee.

First, VMS and AAPVT are opposed to the creation of a system for retail sales of marijuana over and above what already exists for the sale of marijuana for symptom relief due to potential negative health effects on the Vermont population, especially youth. While all approaches to legalizing use or sales of marijuana present risks to public health, an alcohol-style commercial model of sales creates the highest incentives for suppliers to promote use harmful to public health, to consolidate the market and to expand of the customer base through mass marketing.¹

For more information on the risks of commercializing sales of marijuana, see the 2018 VMS Resolution, “Opposing a System of Commercialized Sales of Recreational Marijuana²” and the VMS fact sheet.³

Second, VMS is very concerned about the changes proposed to the Medical Marijuana Registry beginning in Section 9 of the bill.

Among other changes, the bill would:

1. Eliminate the definition of “bona fide health care professional-patient relationship” and the requirement for the relationship to have any set length of time;
2. Eliminate current statutes and rules regulating the program related to applications and operations of the dispensaries and defer the details to rulemaking; and
3. Allow marijuana use under the program for any “disease, condition, or treatment as determined in writing by a patient’s health care professional.”

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 “health care professional” under Sec 9 § 951 (5)(A). 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 2017.⁴

(2) Eliminating all Current Application & Dispensary Rules

The Vermont Medical Society opposes the proposal to rewrite all rules related to the application process (see Sec 9. § 952 (d)) and the dispensaries (see Sec. § 974). VMS believes a number of

¹ https://www.rand.org/content/dam/rand/pubs/research_reports/RR800/RR864/RAND_RR864.pdf

² http://www.vtmd.org/sites/default/files/2018%20Opposing%20Commercial%20Sale%20of%20Marijuana_0.pdf

³ http://www.vtmd.org/sites/default/files/Commercialization%20fact%20sheet_final.pdf

⁴ <http://digital.vpr.net/post/medical-marijuana-doctor-will-see-you-now-canna-care-connects-patients-pot#stream/0>

details in the current program are working well, such as the verification form process for health care professionals and the Marijuana Review Board that meets approximately monthly to review appeals of application denials. VMS also believes a number of the safety and oversight requirements for dispensaries are working well for patients and the public and opposes the return to rulemaking for advertising, marketing, signage and health and safety requirements by a newly-created Cannabis Control Board, with no healthcare representation.

(3) 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 9. § 951 (8)(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 review⁵ 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.

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. For example, last year psychiatrists testified about the difficulty of following side effects of marijuana use for patients with mental health conditions when other clinicians are completing the marijuana registry paperwork.

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.⁶

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.

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

⁵ [http://nationalacademies.org/hmd/~media/Files/Report%20Files/2017/Cannabis-Health-Effects/Cannabis-report-highlights.pdf](http://nationalacademies.org/hmd/~/media/Files/Report%20Files/2017/Cannabis-Health-Effects/Cannabis-report-highlights.pdf)

⁶ <http://www.vtmd.org/vermont-guide-health-care-law>