

1 S.247

2 Introduced by Senator White

3 Referred to Committee on Health and Welfare

4 Date: January 7, 2014

5 Subject: Health; therapeutic use of cannabis; dispensaries

6 Statement of purpose of bill as introduced: This bill proposes to eliminate the
7 restriction of a maximum of 1,000 registered patients who can obtain medical
8 marijuana through a licensed dispensary; add post-traumatic stress disorder as
9 a debilitating medical condition for purposes of the medical marijuana registry;
10 add naturopathic physicians to the list of health care providers who can attest
11 to a patient's illness; increase the limits of marijuana a dispensary may
12 possess; authorize additional dispensaries on an as-needed basis as determined
13 by the Department of Public Safety; and permit dispensaries to deliver to
14 patients pursuant to rules adopted by the Department of Public Safety.

15 An act relating to the regulation of medical marijuana dispensaries

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

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

18 § 4472. DEFINITIONS

19 ~~As used in this subchapter:~~

1 ~~(1) "Bona fide health care professional-patient relationship" means a~~
2 ~~treating or consulting relationship of not less than six months' duration, in the~~
3 ~~course of which a health care professional has completed a full assessment of~~
4 ~~the registered patient's medical history and current medical condition,~~
5 ~~including a personal physical examination. If a patient has a terminal illness,~~
6 ~~the six-month requirement shall not apply.~~

7 * * *

8 (4) "Debilitating medical condition," provided that, in the context of the
9 specific disease or condition described in subdivision (A) or (B) of this
10 subdivision (4), reasonable medical efforts have been made over a reasonable
11 amount of time without success to relieve the symptoms, means:

12 (A) cancer, multiple sclerosis, positive status for human
13 immunodeficiency virus, acquired immune deficiency syndrome,
14 post-traumatic stress disorder, or the treatment of these conditions, if the
15 disease or the treatment results in severe, persistent, ~~and or~~ or intractable
16 symptoms; or

17 (B) a disease, medical condition, or its treatment that is chronic,
18 debilitating, and produces severe, persistent, ~~and one or more of the following~~
19 or intractable symptoms: such as cachexia or wasting syndrome; severe pain;
20 severe nausea; or seizures.

21 * * *

1 ~~(6) "Health care professional" means an individual licensed to practice~~
2 ~~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. This definition~~
6 ~~includes individuals who are professionally licensed under substantially~~
7 ~~equivalent provisions in New Hampshire, Massachusetts, or New York.~~

8 * * *

9 Sec. 2. 18 V.S.A. § 4474 is amended to read:

10 § 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS
11 AND PROCEDURES

12 (a) A person may submit a signed application to the ~~department of public~~
13 ~~safety~~ Department of Public Safety to become a registered patient's registered
14 caregiver. The ~~department~~ Department shall approve or deny the application
15 in writing within 30 days. The ~~department~~ Department shall approve a
16 registered caregiver's application and issue the person an authorization card,
17 including the caregiver's name, photograph, and a unique identifier,
18 after verifying:

- 19 (1) the person will serve as the registered caregiver for one registered
20 patient only; and
21 (2) the person has never been convicted of a drug-related crime.

1 ~~(b) Prior to acting on an application, the department~~ Department shall
2 obtain from the Vermont ~~criminal information center~~ Criminal Information
3 Center a Vermont criminal record, an out-of-state criminal record, and a
4 criminal record from the Federal Bureau of Investigation for the applicant for
5 the previous 10 years. ~~For purposes of~~ As used in this subdivision, “criminal
6 record” means a record of whether the person has ever been convicted of a
7 drug-related crime. Each applicant shall consent to release of criminal records
8 to the ~~department~~ Department on forms substantially similar to the release
9 forms developed by the ~~center~~ Center pursuant to 20 V.S.A. § 2056c. The
10 ~~department~~ Department shall comply with all laws regulating the release of
11 criminal history records and the protection of individual privacy. The Vermont
12 ~~criminal information center~~ Criminal Information Center shall send to the
13 requester any record received pursuant to this section or inform the ~~department~~
14 ~~of public safety~~ Department that no record exists. If the ~~department~~
15 Department disapproves an application, the ~~department~~ Department shall
16 promptly provide a copy of any record of convictions and pending criminal
17 charges to the applicant and shall inform the applicant of the right to appeal the
18 accuracy and completeness of the record pursuant to rules adopted by the
19 Vermont ~~criminal information center~~ Criminal Information Center. No person
20 shall confirm the existence or nonexistence of criminal record information to

1 ~~any person who would not be eligible to receive the information pursuant to~~
2 ~~this subchapter.~~

3 (c)(1) ~~A Except as provided in subdivision (2) of this subsection, a~~
4 ~~registered caregiver may serve only one registered patient at a time, and a~~
5 ~~registered patient may have only one registered caregiver at a time.~~

6 (2) ~~A registered patient who is under 18 years of age may have two~~
7 ~~registered caregivers.~~

8 Sec. 3. 18 V.S.A. § 4473(c) is added to read:

9 (c) ~~Documents submitted by applicants and patients shall not be required~~
10 ~~to be notarized.~~

11 Sec. 4. 18 V.S.A. § 4474e is amended to read:

12 § 4474e. DISPENSARIES; CONDITIONS OF OPERATION

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

14 (1) Acquire, possess, cultivate, manufacture, transfer, transport, supply,
15 sell, and dispense marijuana, marijuana-infused products, and
16 marijuana-related supplies and educational materials for or to a registered
17 patient who has designated it as his or her dispensary and to his or her
18 registered caregiver for the registered patient's use for symptom relief. ~~For~~
19 ~~purposes of~~ As used in this section, "transport" shall mean the movement of
20 marijuana or marijuana-infused products from registered growing locations to
21 their associated dispensaries, between dispensaries, to registered patients and

1 ~~registered caregivers in accordance with delivery protocols, or as otherwise~~
2 allowed under this subchapter.

3 * * *

4 (3) 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~~ four mature
8 marijuana plants, ~~seven~~ 14 immature plants, and ~~two~~ six ounces of usable
9 marijuana for every registered patient for which the dispensary serves as the
10 designated dispensary.

11 (b)(1) A dispensary shall be operated on a nonprofit basis for the mutual
12 benefit of its patients ~~but need~~. A dispensary does not need to be recognized as
13 a tax-exempt organization by the Internal Revenue Service. Notwithstanding
14 any other provision of law, a dispensary shall be exempt from taxes imposed
15 by 32 V.S.A. §§ 5822 and 5832.

16 (2) A dispensary shall have a sliding-scale fee system that takes into
17 account a registered patient's ability to pay.

18 * * *

19 (d)(1) A dispensary shall implement appropriate security measures to deter
20 and prevent the unauthorized entrance into areas containing marijuana and the
21 theft of marijuana and shall ensure that each location has an operational

1 ~~security alarm system. All cultivation of marijuana shall take place in an~~
2 enclosed, locked facility which is either indoors or otherwise not visible to the
3 public and which can only be accessed by principal officers and employees of
4 the dispensary who have valid registry identification cards. ~~The department of~~
5 ~~public safety~~ Department of Public Safety shall perform an annual on-site
6 assessment of each dispensary and may perform on-site assessments of a
7 dispensary without limitation for the purpose of determining compliance with
8 this subchapter and any rules adopted pursuant to this subchapter and may
9 enter a dispensary at any time for such purpose. During an inspection, the
10 ~~department~~ Department may review the dispensary's confidential records,
11 including its dispensing records, which shall track transactions according to
12 registered patients' registry identification numbers to protect
13 their confidentiality.

14 (2)(A) A registered patient or registered caregiver may obtain marijuana
15 from the dispensary ~~facility~~ by appointment only. The dispensary shall
16 schedule appointments so that no more than three patients or caregivers are
17 present at the dispensary at any one time.

18 (B) A dispensary may deliver marijuana to a registered patient or
19 registered caregiver. The marijuana shall be transported in a locked container.
20 The Department of Public Safety shall adopt rules establishing protocols for
21 the safe delivery of marijuana to patients and caregivers.

1 ~~(3) The operating documents of a dispensary shall include procedures~~
2 for the oversight of the dispensary and procedures to ensure accurate
3 record keeping.

4 ~~(4) A dispensary shall submit the results of an annual financial audit to~~
5 ~~the department of public safety no later than 60 days after the end of the~~
6 ~~dispensary's fiscal year. The annual audit shall be conducted by an~~
7 ~~independent certified public accountant, and the costs of any such audit shall~~
8 ~~be borne by the dispensary. The department may also periodically require,~~
9 ~~within its discretion, the audit of a dispensary's financial records by the~~
10 ~~department.~~

11 ~~(5) A dispensary shall destroy or dispose of marijuana,~~
12 ~~marijuana-infused products, clones, seeds, parts of marijuana that are not~~
13 ~~usable for symptom relief or are beyond the possession limits provided by this~~
14 ~~subchapter, and marijuana-related supplies only in a manner approved by rules~~
15 ~~adopted by the department of public safety Department of Public Safety.~~

16 * * *

17 Sec. 5. 18 V.S.A. § 4474f(b) is amended to read:

18 (b) Within 30 days of the adoption of rules, the ~~department~~ Department
19 shall begin accepting applications for the operation of dispensaries. Within
20 365 days of the effective date of this section, the ~~department~~ Department shall
21 grant registration certificates to four dispensaries, provided at least four

1 ~~applicants apply and meet the requirements of this section. No more than four~~
2 ~~dispensaries shall hold valid registration certificates at one time. The total~~
3 ~~statewide number of registered patients who have designated a dispensary shall~~
4 ~~not exceed 1,000 at any one time. Any time a dispensary registration~~
5 ~~certificate is revoked, is relinquished, or expires, the ~~department~~ Department~~
6 ~~shall accept applications for a new dispensary. If at any time after one year~~
7 ~~after the effective date of this section fewer than four dispensaries hold valid~~
8 ~~registration certificates in Vermont, the department of public safety shall~~
9 ~~accept applications for a new dispensary. The Department may grant~~
10 ~~registration certificates to additional dispensaries on an as-needed basis as~~
11 ~~determined by the Department.~~

12 Sec. 6. 18 V.S.A. § 4474h(a) is amended to read:

13 (a) A registered patient may obtain marijuana only from the patient's
14 designated dispensary and may designate only one dispensary. ~~A registered~~
15 ~~patient and his or her caregiver may not grow marijuana for symptom relief if~~
16 ~~the patient designates a dispensary. A registered patient who wishes to change~~
17 ~~his or her dispensary shall notify the ~~department of public safety~~ Department~~
18 ~~of Public Safety in writing on a form issued by the ~~department~~ Department and~~
19 ~~shall submit with the form a fee of \$25.00. The ~~department~~ Department shall~~
20 ~~issue a new identification card to the registered patient within 30 days of~~
21 ~~receiving the notification of change in dispensary. The registered patient's~~

1 ~~previous identification card shall expire at the time the new identification card~~
2 takes effect. A registered patient shall submit his or her expired identification
3 card to the ~~department~~ Department within 30 days of expiration. A registered
4 patient shall not change his or her designated dispensary more than once in any
5 90-day period.

6 Sec. 7. REPEAL

7 2011 Acts and Resolves No. 65, Sec. 1a (patient designation of dispensary)
8 is repealed.

9 Sec. 8. 2011 Acts and Resolves No. 65, Sec. 4 is amended to read:

10 Sec. 4. EFFECTIVE DATE

11 ~~Sec. 1a of this act shall take effect July on 1, 2014, and the remainder of the~~
12 This act shall take effect on passage.

13 Sec. 9. EFFECTIVE DATES

14 (a) This section and Secs. 7 (repeal) and 8 (amended effective date) shall
15 take effect on passage.

16 ~~(b) All remaining sections shall take effect on July 1, 2014.~~

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

§ 4472. DEFINITIONS

As used in this subchapter:

(1) "Bona fide health care professional-patient relationship" means a treating or consulting relationship of not less than six months' duration, in the course of which a health care professional has completed a full assessment of the registered patient's medical history and current medical condition, including a personal physical examination. If a patient has a terminal illness, the six-month requirement shall not apply.

* * *

(6) “Health care professional” means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. chapter 81 who has a special license endorsement authorizing the individual to prescribe, dispense, and administer prescription medicines, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28. This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

* * *

Sec. 2. 18 V.S.A. § 4474 is amended to read:

§ 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS
AND PROCEDURES

(a) A person may submit a signed application to the ~~department of public safety~~ Department of Public Safety to become a registered patient’s registered caregiver. The ~~department~~ Department shall approve or deny the application in writing within 30 days. The Department shall adopt rules for the issuance of a registry identification card which shall include standards for approval or denial of an application based on an individual’s criminal history record. The rules shall address whether an applicant who has been convicted of an offense listed in subsection 4474g(e) of this title has been rehabilitated and should be otherwise eligible for a registry identification card. An applicant shall not be denied solely on the basis of a criminal conviction that is not listed in subsection 4474g(e) of this title. The ~~department~~ Department shall approve a registered caregiver’s application and issue the person an authorization card, including the caregiver’s name, photograph, and a unique identifier, after verifying:

~~(1) the person will serve as the registered caregiver for one registered patient only; and~~

~~(2) the person has never been convicted of a drug-related crime.~~

~~(b) Prior to acting on an application, the ~~department~~ Department shall obtain from the Vermont ~~criminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. ~~For purposes of~~ As used in this subdivision, “criminal record” means a record of whether the person has ever been convicted of a drug-related crime. Each applicant shall consent to release of criminal records to the ~~department~~ Department on forms substantially similar to the release forms developed by~~

~~the center Center pursuant to 20 V.S.A. § 2056e. The department Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. The Vermont ~~eriminal information center~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the ~~department of public safety~~ Department that no record exists. If the ~~department~~ Department disapproves an application, the ~~department~~ Department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont ~~eriminal information center~~ Crime Information Center. No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.~~

~~(b) Prior to acting on an application, the ~~department~~ Department shall obtain from the Vermont ~~eriminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. For purposes of this subdivision, “criminal record” means a record of whether the person has ever been convicted of a drug related crime. Each applicant shall consent to release of criminal records to the ~~department~~ Department on forms substantially similar to the release forms developed by the ~~center~~ Center pursuant to 20 V.S.A. § 2056c. The ~~department~~ Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. The Vermont ~~eriminal information center~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the ~~department of public safety~~ Department that no record exists. If the ~~department~~ Department disapproves an application, the ~~department~~ Department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont ~~eriminal information center~~ Crime Information Center. No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.~~

~~(c)(1) A Except as provided in subdivision (2) of this subsection, a registered caregiver may serve only one registered patient at a time, and a registered patient may have only one registered caregiver at a time.~~

~~(2) A registered patient who is under 18 years of age may have two registered caregivers.~~

~~Sec. 3. 18 V.S.A. § 4473(b) is amended to read:~~

(b) ~~The department of public safety~~ Department of Public Safety shall review applications to become a registered patient using the following procedures:

(1) A patient with a debilitating medical condition shall submit, ~~under oath,~~ a signed application for registration to the ~~department~~ Department. If the patient is under ~~the age of 18~~ years of age, the application must be signed by both the patient and a parent or guardian. The application shall require identification and contact information for the patient and the patient's registered caregiver applying for authorization under section 4474 of this title, if any, and the patient's designated dispensary under section 4474e of this title, if any. The applicant shall attach to the application a medical verification form developed by the ~~department~~ Department pursuant to subdivision (2) of this subsection.

** * **

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

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief. ~~For purposes of~~ As used in this section, "transport" shall mean the movement of marijuana or marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, to registered patients and registered caregivers in accordance with delivery protocols, or as otherwise allowed under this subchapter.

** * **

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

** * **

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and

the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in an enclosed, locked facility which is either indoors or otherwise not visible to the public and which can only be accessed by principal officers and employees of the dispensary who have valid registry identification cards. The ~~department of public safety~~ Department of Public Safety shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the ~~department~~ Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' registry identification numbers to protect their confidentiality.

(2)(A) A registered patient or registered caregiver may obtain marijuana from the dispensary ~~facility~~ by appointment only.

(B) A dispensary may deliver marijuana to a registered patient or registered caregiver. The marijuana shall be transported in a locked container. The Department of Public Safety shall adopt rules establishing protocols for the safe delivery of marijuana to patients and caregivers.

(3) The operating documents of a dispensary shall include procedures for the oversight of the dispensary and procedures to ensure accurate record-keeping.

(4) A dispensary shall submit the results of ~~an annual~~ a biennial financial audit to the ~~department of public safety~~ Department of Public Safety no later than 60 days after the end of the dispensary's fiscal year. The ~~annual~~ audit shall be conducted by an independent certified public accountant, and the costs of any such audit shall be borne by the dispensary. The ~~department~~ Department may also periodically require, within its discretion, the audit of a dispensary's financial records by the ~~department~~ Department.

(5) A dispensary shall destroy or dispose of marijuana, marijuana-infused products, clones, seeds, parts of marijuana that are not usable for symptom relief or are beyond the possession limits provided by this subchapter, and marijuana-related supplies only in a manner approved by rules adopted by the ~~department of public safety~~ Department of Public Safety.

* * *

~~Sec. 4a. 18 V.S.A. § 4474e(b) is amended to read.~~

~~(b)(1) A dispensary shall be operated on a nonprofit basis for the mutual benefit of its patients but need. A dispensary does not need to be recognized as~~

~~a 401 exempt organization by the Internal Revenue Service. Notwithstanding any other provision of law, a dispensary shall be exempt from taxes imposed by 32 V.S.A. §§ 5822 and 5832.~~

~~(2) A dispensary shall have a sliding-scale fee system that takes into account a registered patient's ability to pay.~~

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

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND REGISTRATION

* * *

~~(b) Within 30 days of the adoption of rules, the ~~department~~ Department shall begin accepting applications for the operation of dispensaries. Within 365 days of the effective date of this section, the ~~department~~ Department shall grant registration certificates to four dispensaries, provided at least four applicants apply and meet the requirements of this section. No more than ~~four~~ six dispensaries shall hold valid registration certificates at one time. ~~The total statewide number of registered patients who have designated a dispensary shall not exceed 1,000 at any one time.~~ Any time a dispensary registration certificate is revoked, is relinquished, or expires, the ~~department~~ Department shall accept applications for a new dispensary. ~~If at any time after one year after the effective date of this section fewer than four dispensaries hold valid registration certificates in Vermont, the department of public safety shall accept applications for a new dispensary.~~~~

* * *

~~(g) After a dispensary is approved but before it begins operations, it shall submit the following to the ~~department of public safety~~ Department:~~

* * *

~~(4) A registration fee of \$20,000.00 for the first year of operation, and an annual fee of \$30,000.00 in subsequent years that do not require a biennial audit and \$25,000.00 in subsequent years that require a biennial audit.~~

~~(g) After a dispensary is approved but before it begins operations, it shall submit the following to the ~~department of public safety~~ Department:~~

* * *

~~(4) A registration fee of \$20,000.00 for the first year of operation, and an annual fee of \$30,000.00 in subsequent years.~~

~~Sec. 6. EFFECTIVE DATES~~

~~(a) This section and Sec. 4a shall take effect on passage.~~

~~*(b) All remaining sections shall take effect on July 1, 2014.*~~

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2014.