

1 H.813

2 Introduced by Representatives Zagar of Barnard and Michelsen of Hardwick

3 Referred to Committee on

4 Date:

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 may obtain medical
8 marijuana through a licensed dispensary; add amyotrophic lateral sclerosis and
9 post-traumatic stress disorder as debilitating medical conditions for purposes of
10 the medical marijuana registry; add naturopathic physicians to the list of health
11 care providers who may attest to a patient's illness; eliminate the six-month
12 requirement for a health care professional-patient relationship in cases where
13 the patient is terminally ill, the patient is a veteran diagnosed with
14 post-traumatic stress disorder, or the patient was previously on a registry in
15 another state or jurisdiction; increase the limits of marijuana a dispensary may
16 possess; authorize additional dispensaries on an as-needed basis as determined
17 by the Department of Public Safety; permit dispensaries to deliver to patients
18 pursuant to rules adopted by the Department of Public Safety; and permit a
19 registered patient to grow marijuana within the possession limits even if he or
20 she has designated a dispensary as long as the person does not exceed the
21 possession limit.

1 An act relating to the regulation of medical marijuana dispensaries

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

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

4 § 4472. DEFINITIONS

5 As used in this subchapter:

6 (1) “Bona fide health care professional-patient relationship” means a
7 treating or consulting relationship of not less than ~~six months~~ six-months
8 duration, in the course of which a health care professional has completed a full
9 assessment of the registered patient’s medical history and current medical
10 condition, including a personal physical examination. The six-month
11 requirement shall not apply if:

12 (A) the patient is terminally ill;

13 (B) the patient is a veteran diagnosed with post-traumatic stress
14 disorder; or

15 (C) the patient was registered with another state or jurisdiction for the
16 purpose of obtaining marijuana for therapeutic use related to a debilitating
17 medical condition.

18 * * *

19 (4) “Debilitating medical condition,” provided that, in the context of the
20 specific disease or condition described in subdivision (A) or (B) of this

1 subdivision (4), reasonable medical efforts have been made over a reasonable
2 amount of time without success to relieve the symptoms, means:

3 (A) cancer, multiple sclerosis, amyotrophic lateral sclerosis, positive
4 status for human immunodeficiency virus, acquired immune deficiency
5 syndrome, post-traumatic stress disorder, or the treatment of these conditions,
6 if the disease or the treatment results in severe, persistent, ~~and~~ or intractable
7 symptoms; or

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

12 * * *

13 (6) "Health care professional" means an individual licensed to practice
14 medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a
15 naturopathic physician under 26 V.S.A. chapter 81, an individual certified as a
16 physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an
17 advanced practice registered nurse under 26 V.S.A. chapter 28. This definition
18 includes individuals who are professionally licensed under substantially
19 equivalent provisions in New Hampshire, Massachusetts, or New York.

20 * * *

1 Sec. 2. 18 V.S.A. § 4473 is amended to read:

2 § 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND
3 PROCEDURES

4 (a) To become a registered patient, a person must be diagnosed with a
5 debilitating medical condition by a health care professional in the course of a
6 bona fide health care professional-patient relationship.

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

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

20 (2) The ~~department of public safety~~ Department of Public Safety shall
21 develop a medical verification form to be completed by a health care

1 professional and submitted by a patient applying for registration in the
2 program. The form shall include:

3 (A) A cover sheet ~~which~~ that includes the following:

4 (i) ~~A~~ a statement of the penalties for providing false information.

5 (ii) ~~Definitions~~ definitions of the following statutory terms:

6 (I) “Bona fide health care professional-patient relationship” as
7 defined in section 4472 of this title.

8 (II) “Debilitating medical condition” as defined in section 4472
9 of this title.

10 (III) “Health care professional” as defined in section 4472 of
11 this title.

12 (B) A verification sheet ~~which~~ that includes the following:

13 (i) A statement that a bona fide health care professional-patient
14 relationship exists under section 4472 of this title, or that under subdivision
15 (3)(A) of this subsection (b), the debilitating medical condition is of recent or
16 sudden onset, and the patient has not had a previous health care professional
17 who is able to verify the nature of the disease and its symptoms.

18 (ii) A statement that reasonable medical efforts have been made
19 over a reasonable amount of time without success to relieve the symptoms.

20 (iii) A statement that the patient has a debilitating medical
21 condition as defined in section 4472 of this title, including the specific disease

1 or condition which the patient has and whether the patient meets the criteria
2 under section 4472.

3 (iv) A signature line which provides in substantial part: “I certify
4 that I meet the definition of ‘health care professional’ under 18 V.S.A. § 4472,
5 that I am a health care professional in good standing in the state of, and
6 that the facts stated above are accurate to the best of my knowledge and
7 belief.”

8 (v) The health care professional’s contact information, license
9 number, category of his or her health care profession as defined in subdivision
10 4472(6) of this title, and contact information for the out-of-state licensing
11 agency, if applicable. The ~~department of public safety~~ Department of Public
12 Safety shall adopt rules for verifying the good standing of out-of-state health
13 care professionals.

14 (3)(A) The ~~department of public safety~~ Department of Public Safety
15 shall transmit the completed medical verification form to the health care
16 professional and contact him or her for purposes of confirming the accuracy of
17 the information contained in the form. The ~~department~~ Department may
18 approve an application, notwithstanding the six-month requirement in section
19 4472 of this title, if the ~~department~~ Department is satisfied that the medical
20 verification form confirms that the debilitating medical condition is of recent

1 or sudden onset, and that the patient has not had a previous health care
2 professional who is able to verify the nature of the disease and its symptoms.

3 (B) If the health care professional is licensed in another state as
4 provided section 4472 of this title, the ~~department~~ Department shall verify that
5 the health care professional is in good standing in that state.

6 (4) The ~~department~~ Department shall approve or deny the application
7 for registration in writing within 30 days from receipt of a completed
8 registration application. If the application is approved, the ~~department~~
9 Department shall issue the applicant a registration card which shall include the
10 registered patient's name and photograph, the registered patient's designated
11 dispensary, if any, and a unique identifier for law enforcement verification
12 purposes under section 4474d of this title.

13 (5)(A) A review board is established. The ~~medical practice board~~
14 Medical Practice Board shall appoint three physicians licensed in Vermont to
15 constitute the ~~review board~~ Review Board. If an application under
16 subdivision (1) of this subsection is denied, within seven days the patient may
17 appeal the denial to the ~~board~~ Board. Review shall be limited to information
18 submitted by the patient under subdivision (1) of this subsection, and
19 consultation with the patient's treating health care professional. All records
20 relating to the appeal shall be kept confidential. An appeal shall be decided by
21 majority vote of the members of the ~~board~~ Board.

1 (B) The ~~board~~ Board shall meet periodically to review studies, data,
2 and any other information relevant to the use of marijuana for symptom relief.
3 The ~~board~~ Board may make recommendations to the ~~general assembly~~ General
4 Assembly for adjustments and changes to this chapter.

5 (C) Members of the ~~board~~ Board shall serve for three-year terms,
6 beginning February 1 of the year in which the appointment is made, except that
7 the first members appointed shall serve as follows: one for a term of two
8 years, one for a term of three years, and one for a term of four years. Members
9 shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010.
10 Vacancies shall be filled in the same manner as the original appointment for
11 the unexpired portion of the term vacated.

12 (c) Documents submitted by applicants and patients shall not be required
13 to be notarized and applicants shall not be required to be photographed.

14 Sec. 3. 18 V.S.A. § 4474 is amended to read:

15 § 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS
16 AND PROCEDURES

17 (a) A person may submit a signed application to the ~~department of public~~
18 ~~safety~~ Department of Public Safety to become a registered patient's registered
19 caregiver. The ~~department~~ Department shall approve or deny the application
20 in writing within 30 days. The ~~department~~ Department shall approve a
21 registered caregiver's application and issue the person an authorization card,

1 including the caregiver's name, photograph, and a unique identifier,
2 after verifying:

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

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

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

1 charges to the applicant and shall inform the applicant of the right to appeal the
2 accuracy and completeness of the record pursuant to rules adopted by the
3 Vermont ~~criminal information center~~ Criminal Information Center. No person
4 shall confirm the existence or nonexistence of criminal record information to
5 any person who would not be eligible to receive the information pursuant to
6 this subchapter.

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

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

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

13 § 4474e. DISPENSARIES; CONDITIONS OF OPERATION

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

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

1 their associated dispensaries, between dispensaries, to registered patients and
2 registered caregivers in accordance with delivery protocols, or as otherwise
3 allowed under this subchapter.

4 * * *

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

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

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

19 * * *

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

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

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

19 (B) A dispensary may deliver marijuana to a registered patient or
20 registered caregiver. The marijuana shall be transported in a locked container.

1 The Department of Public Safety shall adopt rules establishing protocols for
2 the safe delivery of marijuana to patients and caregivers.

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

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

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

18 * * *

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

20 (b) Within 30 days of the adoption of rules, the ~~department~~ Department
21 shall begin accepting applications for the operation of dispensaries. Within

1 365 days of the effective date of this section, the ~~department~~ Department shall
2 grant registration certificates to four dispensaries, provided at least four
3 applicants apply and meet the requirements of this section. ~~No more than four~~
4 ~~dispensaries shall hold valid registration certificates at one time. The total~~
5 ~~statewide number of registered patients who have designated a dispensary shall~~
6 ~~not exceed 1,000 at any one time.~~ Any time a dispensary registration
7 certificate is revoked, is relinquished, or expires, the ~~department~~ Department
8 shall accept applications for a new dispensary. ~~If at any time after one year~~
9 ~~after the effective date of this section fewer than four dispensaries hold valid~~
10 ~~registration certificates in Vermont, the department of public safety shall~~
11 ~~accept applications for a new dispensary~~ The Department may grant
12 registration certificates to additional dispensaries on an as-needed basis as
13 determined by the Department.

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

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

1 issue a new identification card to the registered patient within 30 days of
2 receiving the notification of change in dispensary. The registered patient's
3 previous identification card shall expire at the time the new identification card
4 takes effect. A registered patient shall submit his or her expired identification
5 card to the ~~department~~ Department within 30 days of expiration. A registered
6 patient shall not change his or her designated dispensary more than once in any
7 90-day period.

8 Sec. 7. REPEAL

9 2011 Acts and Resolves No. 65, Sec. 1a (patient designation of dispensary)
10 is repealed.

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

12 Sec. 4. EFFECTIVE DATE

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

15 Sec. 9. EFFECTIVE DATES

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

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