

1 S.17

2 Introduced by Senators Sears, Miller and White

3 Referred to Committee on

4 Date:

5 Subject: Health; therapeutic use of cannabis; dispensaries

6 Statement of purpose: This bill proposes to permit the establishment of two  
7 nonprofit medical marijuana dispensaries in the state for the purpose of  
8 providing medical marijuana for symptom relief to registered patients who  
9 have a debilitating medical condition. The dispensaries will be licensed and  
10 regulated by the department of public safety.

11 An act relating to medical marijuana dispensaries

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

13 Sec. 1. 18 V.S.A. chapter 86, subchapter 2 is amended to read:

14 Subchapter 2. Marijuana for Medical Symptom Use by Persons

15 with Severe Illness

16 § 4472. DEFINITIONS

17 For the purposes of this subchapter:

18 (1) "Bona fide physician-patient relationship" means a treating or  
19 consulting relationship of not less than six months duration, in the course of  
20 which a physician has completed a full assessment of the registered patient's

1 medical history and current medical condition, including a personal physical  
2 examination.

3 (2) “Clone” means a plant section from a female marijuana plant not yet  
4 root-bound, growing in a water solution, which is capable of developing into a  
5 new plant.

6 (3) “Criminal history record” means all information documenting an  
7 individual’s contact with the criminal justice system, including data regarding  
8 identification, arrest or citation, arraignment, judicial disposition, custody, and  
9 supervision.

10 (4) “Debilitating medical condition,” provided that, in the context of the  
11 specific disease or condition described in subdivision (A) or (B) of this  
12 subdivision ~~(2)~~(4), reasonable medical efforts have been made over a  
13 reasonable amount of time without success to relieve the symptoms, means:

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

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

1           (5) “Dispensary” means a nonprofit entity registered under section  
2 4474e of this title which acquires, possesses, cultivates, manufactures, delivers,  
3 transfers, transports, supplies, sells, or dispenses marijuana, and  
4 marijuana-related supplies and educational materials for or to a registered  
5 patient who has designated it as his or her center, and to his or her registered  
6 caregiver, for the registered patient’s medical use.

7           (6) “Health care professional” means an individual licensed to practice  
8 medicine under chapter 23 or 33 of Title 26, an individual certified as a  
9 physician’s assistant under chapter 31 of Title 26, or an individual licensed to  
10 practice nursing under chapter 28 of this title, and who is authorized to  
11 prescribe and dispense prescription drugs. This definition includes individuals  
12 who are professionally licensed and authorized to prescribe and dispense  
13 prescription drugs under comparable provisions in New Hampshire,  
14 Massachusetts, or New York.

15           (7) “Immature marijuana plant” means a female marijuana plant that has  
16 not flowered, and which does not have buds that may be observed by visual  
17 examination.

18           ~~(3)~~(8) “Marijuana” shall have the same meaning as provided in  
19 subdivision 4201(15) of this title.

20           ~~(4) “Physician” means a person who is:~~

1           ~~(A) licensed under chapter 23 or chapter 33 of Title 26, and is~~  
2           ~~licensed with authority to prescribe drugs under Title 26; or~~

3           ~~(B) a physician, surgeon, or osteopathic physician licensed to~~  
4           ~~practice medicine and prescribe drugs under comparable provisions in New~~  
5           ~~Hampshire, Massachusetts, or New York.~~

6           (9) “Mature marijuana plant” means a female marijuana plant that has  
7           flowered and which has buds that may be observed by visual examination.

8           ~~(5)~~(10) “Possession limit” means the amount of marijuana collectively  
9           possessed between the registered patient and the patient’s registered caregiver  
10          which is no more than two mature marijuana plants, seven immature plants,  
11          and two ounces of usable marijuana.

12          ~~(6)~~(11) “Registered caregiver” means a person who is at least 21 years  
13          old who has never been convicted of a drug-related crime and who has agreed  
14          to undertake responsibility for managing the well-being of a registered patient  
15          with respect to the use of marijuana for symptom relief.

16          ~~(7)~~(12) “Registered patient” means a person who has been issued a  
17          registration card by the department of public safety identifying the person as  
18          having a debilitating medical condition pursuant to the provisions of this  
19          subchapter.

1           ~~(8)~~(13) “Secure indoor facility” means a building or room equipped with  
2 locks or other security devices that permit access only by a registered caregiver  
3 ~~or~~, registered patient, or a principal officer or employee of a dispensary.

4           ~~(9)~~(14) “Usable marijuana” means the dried leaves and flowers of  
5 marijuana, and any mixture or preparation thereof, and does not include the  
6 seeds, stalks, and roots of the plant.

7           ~~(10)~~(15) “Use for symptom relief” means the acquisition, possession,  
8 cultivation, use, transfer, or transportation of marijuana or paraphernalia  
9 relating to the administration of marijuana to alleviate the symptoms or effects  
10 of a registered patient’s debilitating medical condition which is in compliance  
11 with all the limitations and restrictions of this subchapter. For the purposes of  
12 this definition, “transfer” is limited to the transfer of marijuana and  
13 paraphernalia between a registered caregiver and a registered patient.

14           § 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND  
15           PROCEDURES

16           (a) To become a registered patient, a person must be diagnosed with a  
17 debilitating medical condition by a ~~physician~~ health care professional in the  
18 course of a bona fide ~~physician-patient~~ health care professional-patient  
19 relationship.

20           (b) The department of public safety shall review applications to become a  
21 registered patient using the following procedures:

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

10           (2) The department of public safety shall develop a medical verification  
11           form to be completed by a ~~physician~~ health care professional and submitted by  
12           a patient applying for registration in the program. The form shall include:

13                   (A) A cover sheet which includes the following:

14                           (i) A statement of the penalties for providing false information.

15                           (ii) Definitions of the following statutory terms:

16                                   (I) "Bona fide physician-patient relationship" as defined in  
17                   subdivision 4472(1) of this title.

18                                   (II) "Debilitating medical condition" as defined in subdivision  
19                   ~~4472(2)~~ 4472(4) of this title.

20                                   (III) "~~Physician~~ Health care professional" as defined in  
21                   subdivision ~~4472(4)~~ 4472(6) of this title.

1 (B) A verification sheet which includes the following:

2 (i) A statement that a bona fide ~~physician-patient~~ health care  
3 professional-patient relationship exists under subdivision 4472(1) of this title,  
4 or that under subdivision (3)(A) of this subsection (b), the debilitating medical  
5 condition is of recent or sudden onset, and the patient has not had a previous  
6 physician who is able to verify the nature of the disease and its symptoms.

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

9 (iii) A statement that the patient has a debilitating medical  
10 condition as defined in subdivision ~~4472(2)~~ 4472(4) of this title, including the  
11 specific disease or condition which the patient has and whether the patient  
12 meets the criteria under subdivision ~~4472(2)(A) or (B)~~ 4472(4).

13 (iv) A signature line which provides in substantial part: "I certify  
14 that I meet the definition of "~~physician~~ under 18 V.S.A. § 4472(4)(A) or  
15 ~~4472(4)(B)~~ 'health care professional' under 18 V.S.A. § 4472(6), that I am a  
16 ~~physician~~ health care professional in good standing in the state of  
17 ....., and that the facts stated above are accurate to the best of my  
18 knowledge and belief."

19 (v) The ~~physician's~~ health care professional's contact information.

20 (3)(A) The department of public safety shall transmit the completed  
21 medical verification form to the ~~physician~~ health care professional and contact

1 him or her for purposes of confirming the accuracy of the information  
2 contained in the form. The department may approve an application,  
3 notwithstanding the six-month requirement in subdivision 4472(1) of this title,  
4 if the department is satisfied that the medical verification form confirms that  
5 the debilitating medical condition is of recent or sudden onset, and that the  
6 patient has not had a previous ~~physician~~ health care professional who is able to  
7 verify the nature of the disease and its symptoms.

8 (B) If the ~~physician~~ health care professional is licensed in another  
9 state as provided by subdivision ~~4472(4)(B)~~ 4472(6) of this title, the  
10 department shall ~~contact the state's medical practice board and~~ verify that the  
11 ~~physician~~ health care professional is in good standing in that state.

12 (4) The department shall approve or deny the application for registration  
13 in writing within 30 days from receipt of a completed registration application.  
14 If the application is approved, the department shall issue the applicant a  
15 registration card which shall include the registered patient's name and  
16 photograph, ~~as well as~~ the registered patient's designated dispensary, if any,  
17 and a unique identifier for law enforcement verification purposes under section  
18 4474d of this title.

19 (5)(A) A review board is established. The medical practice board shall  
20 appoint three physicians licensed in Vermont to constitute the review board. If  
21 an application under subdivision (1) of this subsection is denied, within seven



1 days the patient may appeal the denial to the board. Review shall be limited to  
2 information submitted by the patient under subdivision (1) of this subsection,  
3 and consultation with the patient's treating ~~physician~~ health care professional.

4 All records relating to the appeal shall be kept confidential. An appeal shall be  
5 decided by majority vote of the members of the board.

6 (B) The board shall meet periodically to review studies, data, and any  
7 other information relevant to the use of marijuana for symptom relief. The  
8 board may make recommendations to the general assembly for adjustments  
9 and changes to this chapter.

10 (C) Members of the board shall serve for three-year terms, beginning  
11 February 1 of the year in which the appointment is made, except that the first  
12 members appointed shall serve as follows: one for a term of two years, one for  
13 a term of three years, and one for a term of four years. Members shall be  
14 entitled to per diem compensation authorized under ~~section 1010 of Title 32~~  
15 32 V.S.A. § 1010. Vacancies shall be filled in the same manner as the original  
16 appointment for the unexpired portion of the term vacated.

17 § 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS  
18 AND PROCEDURES

19 (a) A person may submit a signed application to the department of public  
20 safety to become a registered patient's registered caregiver. The department  
21 shall approve or deny the application in writing within 30 days. The

1 department shall approve a registered caregiver's application and issue the  
2 person an authorization card, including the caregiver's name, photograph, and  
3 a unique identifier, after verifying:

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

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

7 (b) Prior to acting on an application, the department shall obtain from the  
8 Vermont criminal information center a Vermont criminal record, an  
9 out-of-state criminal record, and a criminal record from the Federal Bureau of  
10 Investigation for the applicant. For purposes of 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 on forms substantially similar to the release forms developed  
14 by the center pursuant to ~~section 2056e of Title 20~~ 20 V.S.A. § 2056c. The  
15 department shall comply with all laws regulating the release of criminal history  
16 records and the protection of individual privacy. The Vermont criminal  
17 information center shall send to the requester any record received pursuant to  
18 this section or inform the department of public safety that no record exists. If  
19 the department disapproves an application, the department shall promptly  
20 provide a copy of any record of convictions and pending criminal charges to  
21 the applicant and shall inform the applicant of the right to appeal the accuracy

1 and completeness of the record pursuant to rules adopted by the Vermont  
2 criminal information center. No person shall confirm the existence or  
3 nonexistence of criminal record information to any person who would not be  
4 eligible to receive the information pursuant to this subchapter.

5 (c) A registered caregiver may serve only one registered patient at a time,  
6 and a registered patient may have only one registered caregiver at a time.

7 § 4474a. REGISTRATION; FEES

8 (a) The department shall collect a fee of \$50.00 for the application  
9 authorized by sections 4473 and 4474 of this title. The fees received by the  
10 department shall be deposited into a registration fee fund and used to offset the  
11 costs of processing applications under this subchapter.

12 (b) A registration card shall expire one year after the date of issue, with the  
13 option of renewal, provided the patient submits a new application which is  
14 approved by the department of public safety, pursuant to section 4473 or 4474  
15 of this title, and pays the fee required under subsection (a) of this section.

16 § 4474b. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES;

17 SEIZURE OF PROPERTY

18 (a) A person who has in his or her possession a valid registration card  
19 issued pursuant to this subchapter and who is in compliance with the  
20 requirements of this subchapter, including the possession limits in subdivision

1       ~~4472(4)~~ 4472(9) of this title, shall be exempt from arrest or prosecution under  
2       subsection 4230(a) of this title.

3           (b) A physician who has participated in a patient's application process  
4       under subdivision 4473(b)(2) of this title shall not be subject to arrest,  
5       prosecution, or disciplinary action under chapter 23 of Title 26, penalized in  
6       any manner, or denied any right or privilege under state law, except for giving  
7       false information, pursuant to subsection 4474c(f) of this title.

8           (c) No person shall be subject to arrest or prosecution for constructive  
9       possession, conspiracy, or any other offense for simply being in the presence  
10      or vicinity of a registered patient or registered caregiver engaged in use of  
11      marijuana for symptom relief.

12          (d) A law enforcement officer shall not be required to return marijuana or  
13      paraphernalia relating to its use seized from a registered patient or registered  
14      caregiver.

15          (e) A dispensary may donate marijuana to another dispensary provided that  
16      no consideration is paid for the marijuana and that the recipient does not  
17      exceed the possession limits specified in this chapter.

1 § 4474c. PROHIBITIONS, RESTRICTIONS, AND LIMITATIONS  
2 REGARDING THE USE OF MARIJUANA FOR SYMPTOM  
3 RELIEF

4 (a) This subchapter shall not exempt any person from arrest or prosecution  
5 for:

6 (1) Being under the influence of marijuana while:

7 (A) operating a motor vehicle, boat, or vessel, or any other vehicle  
8 propelled or drawn by power other than muscular power;

9 (B) in a workplace or place of employment; or

10 (C) operating heavy machinery or handling a dangerous  
11 instrumentality.

12 (2) The use or possession of marijuana by a registered patient or a  
13 registered caregiver:

14 (A) for purposes other than symptom relief as permitted by this  
15 subchapter; or

16 (B) in a manner that endangers the health or well-being of another  
17 person.

18 (3) The smoking of marijuana in any public place, including:

19 (A) a school bus, public bus, or other public vehicle;

20 (B) a workplace or place of employment;

21 (C) any school grounds;

1 (D) any correctional facility; or

2 (E) any public park, public beach, public recreation center, or youth  
3 center.

4 (b) This chapter shall not be construed to require that coverage or  
5 reimbursement for the use of marijuana for symptom relief be provided by:

6 (1) a health insurer as defined by ~~section 9402~~ subdivision 9402(7) of  
7 this title, or any insurance company regulated under Title 8;

8 (2) Medicaid, Vermont health access plan, and any other public health  
9 care assistance program;

10 (3) an employer; or

11 (4) for purposes of workers' compensation, an employer as defined in  
12 21 V.S.A. § 601(3).

13 (c) A registered patient or registered caregiver who elects to grow  
14 marijuana to be used for symptom relief by the patient may do so only if the  
15 marijuana is cultivated in a single, secure indoor facility.

16 (d) A registered patient or registered caregiver may not transport marijuana  
17 in public unless it is secured in a locked container.

18 (e) Within 72 hours after the death of a registered patient, the patient's  
19 registered caregiver shall ~~return to the department of public safety for disposal~~  
20 donate to a dispensary any marijuana or marijuana plants in the possession of  
21 the patient or registered caregiver at the time of the patient's death. If the

1 patient did not have a registered caregiver, the patient's next of kin shall  
2 contact ~~the department of public safety~~ a dispensary within 72 hours after the  
3 patient's death and shall ask the ~~department~~ dispensary to retrieve such  
4 marijuana and marijuana plants for ~~disposal~~ donation.

5 (f) Notwithstanding any law to the contrary, a person who knowingly gives  
6 to any law enforcement officer false information to avoid arrest or prosecution,  
7 or to assist another in avoiding arrest or prosecution, shall be imprisoned for  
8 not more than one year or fined not more than \$1,000.00 or both. This penalty  
9 shall be in addition to any other penalties that may apply for the possession or  
10 use of marijuana.

11 § 4474d. LAW ENFORCEMENT VERIFICATION OF INFORMATION;  
12 RULEMAKING

13 (a) The department of public safety shall maintain and keep confidential,  
14 except as provided in subsection (b) of this section and except for purposes of  
15 a prosecution for false swearing under 13 V.S.A. § 2904, the records of all  
16 persons registered under this subchapter or registered caregivers in a secure  
17 database accessible by authorized department of public safety ~~employee's~~  
18 employees only.

19 (b) In response to a person-specific or property-specific inquiry by a law  
20 enforcement officer or agency made in the course of a bona fide investigation  
21 or prosecution, the department may verify the identities and registered property

1 addresses of the registered patient and the patient's registered caregiver, a  
2 dispensary, and the principal officer, board members, or employees of a  
3 dispensary.

4 (c) The department shall maintain a separate secure electronic database  
5 accessible to law enforcement personnel 24 hours a day that uses a unique  
6 identifier system to allow law enforcement to verify that a person or entity is a  
7 registered patient, ~~or a~~ registered caregiver, a dispensary, or the principal  
8 officer, board members, or employees of a dispensary.

9 (d) The department of public safety shall implement the requirements of  
10 this act within 120 days of its effective date. The department may adopt rules  
11 under chapter 25 of Title 3 and shall develop forms to implement this act.

12 § 4474e. MEDICAL MARIJUANA DISPENSARIES; CONDITIONS OF  
13 OPERATION

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

15 (1) Acquire, possess, cultivate, manufacture, deliver, transfer, transport,  
16 supply, sell, and dispense marijuana and marijuana-related supplies and  
17 educational materials for or to a registered patient who has designated it as his  
18 or her dispensary and, to his or her registered caregiver, for the registered  
19 patient's medical use.



1           (2) Acquire marijuana seeds or parts of the marijuana plant capable of  
2           regeneration from registered patients or their caregivers or from the other  
3           registered Vermont dispensary.

4           (3) Cultivate and possess up to 55 immature marijuana plants, 35 mature  
5           marijuana plants, and 80 ounces of useable marijuana at any one time.

6           (b)(1) A dispensary shall be operated on a nonprofit basis for the mutual  
7           benefit of its patients, but need not be recognized as a tax-exempt organization  
8           by the Internal Revenue Service.

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

11          (c) A dispensary may not be located within 1,000 feet of the property line  
12          of a preexisting public or private school.

13          (d)(1) A dispensary shall implement appropriate security measures to deter  
14          and prevent the unauthorized entrance into areas containing marijuana and the  
15          theft of marijuana, and shall ensure that each location has an operational  
16          security alarm system. All cultivation of marijuana shall take place in an  
17          enclosed, locked facility, which can only be accessed by principal officers and  
18          employees of the dispensary who are have valid registry identification cards.  
19          A dispensary is subject to reasonable inspection by the department public  
20          safety. During an inspection, the department may review the dispensary's  
21          confidential records, including its dispensing records, which shall track

1 transactions according to registered patients' registry identification numbers to  
2 protect their confidentiality.

3 (2) A dispensary may deliver medical marijuana to a registered patient  
4 or a registered caregiver. The dispensary shall take appropriate security  
5 measures to deter and prevent theft during a delivery. In addition to the  
6 recordkeeping requirements of subdivision (1) of this subsection, records shall  
7 clearly track any medical marijuana that leaves the premises of a dispensary  
8 for delivery to a registered patient or a registered caregiver.

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

12 (e) No person who has been convicted of a drug-related offense shall be a  
13 principal officer, board member, or employee of a dispensary unless the  
14 department of public safety has determined that the person's conviction was  
15 for the medical use of marijuana or for assisting a registered patient with the  
16 medical use of marijuana.

17 (f)(1) A dispensary shall notify the department of public safety within 10  
18 days of when a principal officer, board member, or employee ceases to be  
19 associated with or work at the dispensary. His or her registry identification  
20 card shall be deemed null and void, and the person shall be liable for any other  
21 penalties that may apply to the person's nonmedical use of marijuana.

1           (2) A dispensary shall notify the department of public safety in writing  
2           of the name, address, and date of birth of any proposed new principal officer,  
3           board member, or employee and shall submit a fee in an amount established by  
4           the department for a new registry identification card before a new or employee  
5           begins working at the dispensary, and shall submit a complete set of  
6           fingerprints for the prospective principal officer, board member, or employee.

7           (g) A dispensary shall include labels on all marijuana that is dispensed.  
8           The labels shall identify the particular strain of marijuana contained therein.  
9           Cannabis strains shall be either pure breeds or hybrid varieties of cannabis and  
10           shall reflect properties of the plant.

11           (h) Each dispensary shall develop, implement, and maintain on the  
12           premises employee policies and procedures to address the following  
13           requirements:

14           (1) A job description or employment contract developed for all  
15           employees which includes duties, authority, responsibilities, qualification, and  
16           supervision; and

17           (2) Training in and adherence to confidentiality laws.

18           (i) Each dispensary shall maintain a personnel record for each employee  
19           that includes an application for employment and a record of any disciplinary  
20           action taken. Each dispensary shall provide each employee, at the time of his  
21           or her initial appointment, training in the following:

1           (1) The proper use of security measures and controls that have been  
2           adopted; and

3           (2) Specific procedural instructions on how to respond to an emergency,  
4           including robbery or violent accident.

5           (j)(1) A dispensary or principal officer, board member, or employee of a  
6           dispensary shall not:

7                   (A) Acquire, possess, cultivate, manufacture, deliver, transfer,  
8                   transport, supply, sell, or dispense marijuana for any purpose except to assist  
9                   registered patients with the medical use of marijuana directly or through the  
10                   qualifying patients' designated caregiver.

11                   (B) Acquire usable marijuana or marijuana plants from any source  
12                   other than registered dispensary principal officers, board members, or  
13                   employees who cultivate marijuana in accordance with this subchapter.

14                   (C) Dispense more than two ounces of usable marijuana to a  
15                   registered patient directly or through the qualifying patient's registered  
16                   caregiver during a 30-day period. A dispensary or principal officer, board  
17                   member, or employee of a dispensary may dispense seeds or clones to a  
18                   registered patient.

19                   (D) Dispense an amount of usable marijuana to a qualifying patient  
20                   or a designated caregiver that the dispenser center, principal officer, board

1 member, or employee knows would cause the recipient to possess more  
2 marijuana than is permitted under this subchapter.

3 (E) Dispense marijuana to a person other than a registered patient  
4 who has designated it or such patient's registered caregiver.

5 (2) A person found to have violated subdivision (g)(1) of this section  
6 may no longer serve as a principal officer, board member, or employee of any  
7 dispensary, and such person's registry identification card shall be immediately  
8 revoked by the department of public safety.

9 (k)(1) A registered dispensary shall not be subject to the following:

10 (A) Prosecution for the acquisition, possession, cultivation,  
11 manufacture, delivery, transfer, transport, supply, sale, or dispensing of  
12 marijuana, paraphernalia, or related supplies for medical purposes in  
13 accordance with the provisions of this subchapter and any rule adopted by the  
14 department of public safety pursuant to this subchapter.

15 (B) Inspection and search, except pursuant to this subchapter or upon  
16 a search warrant issued by a court or judicial officer.

17 (C) Seizure of marijuana, except upon valid order issued by a court  
18 or judicial officer.

19 (D) Imposition of any penalty or denied any right or privilege,  
20 including imposition of a civil penalty or disciplinary action by an  
21 occupational or professional licensing board or entity, solely for acting in

1 accordance with this subchapter to assist registered patients or registered  
2 caregivers with the medical use of marijuana.

3 (2) No principal officer, board member, or employee of a dispensary  
4 shall be subject to arrest, prosecution, search, seizure, or penalty in any  
5 manner, or denied any right or privilege, including civil penalty or disciplinary  
6 action by a business, occupational, or professional licensing board or entity,  
7 solely for working for or with a dispensary to engage in acts permitted by this  
8 subchapter.

9 § 4474f. DISPENSARY APPLICATION, APPROVAL AND

10 REGISTRATION

11 (a)(1) The department of public safety shall adopt rules on the following:

12 (A) The form and content of dispensary registration and renewal  
13 applications.

14 (B) Minimum oversight requirements for a dispensary.

15 (C) Minimum record-keeping requirements for a dispensary.

16 (D) Minimum security requirements for a dispensary, which shall  
17 include a fully operational security alarm system. This provision shall apply to  
18 each location where medical marijuana will be grown, cultivated, harvested, or  
19 otherwise prepared for distribution by the dispensary.

20 (E) Procedures for suspending or terminating the registration of  
21 dispensary that violate the provisions of this subchapter or the rules adopted

1 pursuant to this subchapter.

2 (F) The ability of a dispensary to advertise in any appropriate  
3 medium or manner.

4 (G) Procedures to guide reasonable determinations as to whether an  
5 applicant would pose a demonstrable threat to public safety if he or she were to  
6 be associated with a dispensary.

7 (2) The department of public safety shall adopt such rules with the goal  
8 of protecting against diversion and theft, without imposing an undue burden on  
9 a registered dispensary or compromising the confidentiality of registered  
10 patients and their registered caregivers. Any dispensing records that a  
11 registered dispensary is required to keep shall track transactions according to  
12 registered patients' and registered caregivers' registry identification numbers,  
13 rather than the names, to protect confidentiality.

14 (b) Within 30 days of the adoption of rules, the department shall begin  
15 accepting applications for the operation of dispensaries. Within 180 days of  
16 the effective date of this section, the department shall grant registration  
17 certificates to two dispensaries, provided at least two applicants apply and  
18 meet the requirements of this section. Any time a dispensary registration  
19 certificate is revoked, is relinquished, or expires, the department shall accept  
20 applications for a new dispensary. If at any time after one year after the  
21 effective date of this section fewer than two dispensaries hold valid registration

1 certificates in Vermont, the department of public safety shall accept  
2 applications for a new dispensary. No more than two dispensaries may hold  
3 valid registration certificates at one time.

4 (c) Each application for a dispensary registration certificate shall include all  
5 of the following:

6 (1) A nonrefundable application fee in the amount of \$250.00 paid to the  
7 department of health.

8 (2) The legal name, articles of incorporation, and bylaws of the  
9 compassion center.

10 (3) The proposed physical address of the dispensary, if a precise address  
11 has been determined or, if not, the general location where it would be located.  
12 This may include a second secured location where medical marijuana will be  
13 grown, cultivated, harvested, or otherwise prepared for distribution by the  
14 dispensary.

15 (4) A description of the enclosed, locked facility where medical  
16 marijuana will be grown, cultivated, harvested, or otherwise prepared for  
17 distribution by the dispensary.

18 (5) The name, address, and date of birth of each principal officer and  
19 board member of the dispensary, and a complete set of fingerprints for each of  
20 them.

21 (6) Proposed security and safety measures, which shall include at least



1 one security alarm system for each location and planned measures to deter and  
2 prevent the unauthorized entrance into areas containing marijuana and the theft  
3 of marijuana.

4 (7) Proposed procedures to ensure accurate record keeping.

5 (d) Any time one or more dispensary registration applications are being  
6 considered, the department of public safety shall solicit input from registered  
7 patients and registered caregivers.

8 (e) Each time a dispensary certificate is granted, the decision shall be based  
9 on the overall health needs of qualified patients. The following factors shall  
10 weigh heavily in the consideration of an application:

11 (1) Geographic convenience to patients from throughout the state of  
12 Vermont to a dispensary if the applicant were approved.

13 (2) The entity's ability to provide an adequate supply to the registered  
14 patients in the state.

15 (3) The entity's ability to demonstrate its board members' experience  
16 running a nonprofit organization or business.

17 (4) The comments, if any, of registered patients and registered  
18 caregivers regarding which applicant should be granted a registration  
19 certificate.

20 (5) The sufficiency of the applicant's plans for record keeping, which  
21 records shall be considered confidential health care information under Vermont

1 law and are intended to be deemed protected health care information for  
2 purposes of the federal Health Insurance Portability and Accountability Act of  
3 1996, as amended.

4 (6) The sufficiency of the applicant's plans for safety and security,  
5 including the proposed location and security devices employed.

6 (f) The department of public safety may deny an application for a  
7 dispensary if it determines that an applicant's criminal history record indicates  
8 that the person's association with a dispensary would pose a demonstrable  
9 threat to public safety.

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

12 (1) The legal name and articles of incorporation of the dispensary.

13 (2) The physical address of the dispensary.

14 (3) The name, address, and date of birth of each principal officer and  
15 board member of the dispensary, along with a complete set of fingerprints for  
16 each.

17 § 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD;

18 CRIMINAL BACKGROUND CHECK

19 (a) Except as provided in subsection (b) of this section, the department of  
20 public safety shall issue each principal officer, board member, and employee of  
21 a dispensary a registry identification card or renewal card within 10 days of

1 receipt of the person's name, address, and date of birth and a fee of \$25.00. A  
2 person may not serve as principal officer, board member, or employee of a  
3 dispensary until that person has received a registry identification card issued  
4 under this section. Each card shall specify that the cardholder is a principal  
5 officer, board member, or employee of a compassion center, and shall contain  
6 the following:

7 (1) The name, address, and date of birth of the person.

8 (2) The legal name of the dispensary with which the person is affiliated.

9 (3) A random identification number that is unique to the person.

10 (4) The date of issuance and the expiration date of the registry  
11 identification card.

12 (5) A photograph of the person.

13 (b) Prior to acting on an application for a registry identification card, the  
14 department of public safety shall obtain a Vermont criminal history record, an  
15 out-of-state criminal history record, and a criminal history record from the  
16 Federal Bureau of Investigation on the applicant. Each applicant shall consent  
17 to the release of criminal history records to the department on forms  
18 substantially similar to the release forms developed in accordance with  
19 20 V.S.A. § 2056c.

20 (c) When the department of public safety obtains a criminal history record,  
21 the department shall promptly provide a copy of the record to the applicant.

1 and to the principal officer and board of the dispensary, if the applicant is to be  
2 an employee. The department shall inform the applicant of the right to appeal  
3 the accuracy and completeness of the record pursuant to rules adopted by the  
4 department.

5 (d) The department of public safety shall comply with all laws regulating  
6 the release of criminal history records and the protection of individual privacy.  
7 No person shall confirm the existence or nonexistence of criminal history  
8 record information to any person who would not be eligible to receive the  
9 information pursuant to this subchapter.

10 (e) The department of public safety shall not issue a registry identification  
11 card to any applicant who has been convicted of a drug-related offense or a  
12 violent felony. For purposes of this subchapter, "violent felony" means a listed  
13 crime as defined in 13 V.S.A. § 5301(7), or an offense involving sexual  
14 exploitation of children in violation of chapter 64 of Title 13.

15 (f) The department of public safety shall adopt rules for the issuance of a  
16 registry identification card and set forth standards for determining whether an  
17 applicant should be denied a registry identification card because his or her  
18 criminal history record indicates that the person's association with a  
19 compassion center would pose a demonstrable threat to public safety. The  
20 rules shall consider whether a person who has a conviction for an offense not  
21 listed in subsection (d) of this section has been rehabilitated. A conviction for

1 an offense not listed in subsection (d) of this section shall not automatically  
2 disqualify a person for a registry identification card. A dispensary may deny a  
3 person the opportunity to serve as a board member, or employee based on his  
4 or her criminal history record. An applicant who is denied a registry  
5 identification card may appeal the department of public safety's determination  
6 in superior court in accordance with Rule 75 of the Vermont Rules of Civil  
7 Procedure.

8 (g) A registration identification card of a principal officer, board member,  
9 or employee shall expire one year after its issuance or upon the expiration of  
10 the registered organization's registration certificate, whichever occurs first.

11 § 4474h. PATIENT DESIGNATION OF DISPENSARY

12 (a) The department of public safety shall track the number of registered  
13 patients who have designated each dispensary. The department shall issue a  
14 monthly written statement to the dispensary identifying the number of  
15 registered patients who have designated that dispensary, and the registry  
16 identification numbers of each patient and each patient's designated caregivers,  
17 if any.

18 (b) In addition to the monthly reports, the department of public safety shall  
19 provide written notice to a dispensary whenever any of the following events  
20 occur:

1           (1) A qualifying patient designates the dispensary to serve his or her  
2 needs under this subchapter.

3           (2) An existing registered patient revokes the designation of the  
4 dispensary because he or she has designated a different dispensary.

5           (3) A registered patient who has designated the dispensary loses his or  
6 her status as a registered patient under this subchapter.

7           § 4474i. CONFIDENTIALITY OF INFORMATION REGARDING  
8                           DISPENSARIES AND REGISTERED PATIENTS

9           Notwithstanding any other provision of law, information required to be  
10 submitted to the department of public safety identifying the locations where  
11 marijuana is proposed to be grown, cultivated, harvested, and otherwise  
12 prepared for distribution, and any other department records identifying such  
13 location shall be considered to be confidential information and not subject to  
14 disclosure, provided that such information may be disclosed to a law  
15 enforcement agency upon request for purposes of enforcement under this  
16 subchapter.

17           § 4474j. ANNUAL REPORT

18           (a)(1) The legislature shall appoint a seven-member oversight committee  
19 comprising one member of the house of representatives; one member of the  
20 senate; one physician; one nurse; and three registered patients.

1           (2) The oversight committee shall meet at least two times per year for  
2 the purpose of evaluating and making recommendations to the general  
3 assembly regarding:

4           (A) The ability of qualifying patients and registered caregivers in all  
5 areas of the state to obtain timely access to medical marijuana.

6           (B) The effectiveness of the registered dispensaries individually and  
7 together in serving the needs of qualifying patients and registered caregivers,  
8 including the provision of educational and support services.

9           (C) Sufficiency of the regulatory and security safeguards contained in  
10 this chapter and adopted by the department of health to ensure that access to  
11 and use of cultivated marijuana is provided only to cardholders authorized for  
12 such purposes.

13           (D) The definition of “qualifying medical condition.”

14           (E) Research studies regarding health effects of medical marijuana  
15 for patients.

16           (b) On or before January 1 of each year, beginning in 2012, the oversight  
17 committee shall provide a report to the department of public safety, the house  
18 committee on health care, the senate committee on health and welfare, the  
19 house and senate committees on judiciary, and the house and senate  
20 committees on government operations on its findings.

21       Sec. 2. SURVEY

1       (a) By July 1, 2011, the department of public safety shall develop a survey  
2       of registered medical marijuana patients and send the survey to such patients.

3       The department shall request that patients return the survey by August 1, 2011.

4       (b) The survey shall make the following inquiries:

5           (1) Please describe your medical diagnosis and the “debilitating medical  
6           condition” that qualifies you to be a registered medical marijuana patient under  
7           Vermont law. Please describe the symptoms that are aided by your use of  
8           medical marijuana.

9           (2) Please describe how much medical marijuana you typically use in  
10          one month, and the strain or strains of medical marijuana that you use, or that  
11          are particularly helpful in alleviating symptoms of your medical condition.

12          (3) Would you purchase medical grade marijuana from a state-regulated  
13          medical marijuana dispensary if it was available to you at an affordable price?  
14          How much do you typically spend in one month on medical marijuana?

15       (c) The department of public safety shall clearly state on the survey that the  
16       information is being gathered solely for the purpose of assessing the needs of  
17       registered medical marijuana patients in order to facilitate a safer, more  
18       reliable means for patients to obtain medical marijuana. The completed  
19       surveys will remain confidential and will not be subject to public inspection;  
20       however, summary information will be available as provided in subsection (d)  
21       of this section.



1       (d) The department of public safety shall summarize the survey responses  
2       in a manner that protects the identity of patients, providing information that  
3       will assist state decision-makers, the department of public safety, and potential  
4       dispensary applicants to better understand the needs of medical marijuana  
5       patients. This summary shall not be confidential, and shall be provided with  
6       other information about the medical marijuana registry on the Vermont  
7       criminal information website. The department of public safety shall ensure  
8       that any patient identifiers are not included in the summary.

9       Sec. 3. EFFECTIVE DATE

10       This act shall take effect on passage.