

**MARIJUANA FOR SYMPTOM RELIEF
OVERSIGHT COMMITTEE**



**TITLE 18 CHAPTER 86
THERAPEUTIC USE OF CANNABIS**

ANNUAL REPORT

SUBMITTED DATE: JANUARY 8, 2016

2015 Annual Report on the Therapeutic Use of Cannabis

INTRODUCTION

During the 2011 Session the Legislature requested the Marijuana for Symptom Relief Oversight Committee generate a report for the purpose of evaluating and making recommendations to the General Assembly. Act 65 (S.17) specified that the report should include:

- (A) The ability of qualifying patients and registered caregivers in all areas of the state to obtain timely access to marijuana for symptom relief.
- (B) The effectiveness of the registered dispensaries individually and together in serving the needs of qualifying patients and registered caregivers, including the provision of educational and support services.
- (C) Sufficiency of the regulatory and security safeguards contained in this subchapter and adopted by the Department of Public Safety to ensure that access to and use of cultivated marijuana is provided only to cardholders authorized for such purposes.

ANALYSIS

Pursuant to the report specifications contained in Title 18 Chapter 86 the following analysis is respectfully submitted on behalf of the Marijuana for Symptom Relief Oversight Committee.

The Marijuana for Symptom Relief Oversight Committee requests an adjustment to the composition of the Marijuana for Symptom Relief Oversight Committee to include two registered caregivers: one registered caregiver assisting a registered patient 18 years of age or older, and one registered caregiver assisting a registered patient under 18 years of age. The addition of these members will provide an important perspective not represented on the Committee currently.

(A) The ability of qualifying patients and registered caregivers in all areas of the state to obtain timely access to marijuana for symptom relief.

Registered patients and caregivers who have designated a dispensary can typically schedule an appointment to occur within 48 hours from when a patient calls. Based upon patient feedback, increased flexibility for registered patients to change their designated dispensary would assist in accessing specific products for symptom relief that may only be available at another dispensary. The following recommendations are intended to improve access to cannabis products for symptom relief by registered patients for their specific debilitating medical condition.

- 1) The Committee has identified the 90-day period in which a registered patient cannot change his or her designated dispensary as an obstruction to timely access marijuana for symptom relief. In the instance that a registered patient relocates or is unsatisfied with his or her designated dispensary, a registered patient is unable to change his or her designated dispensary for 90 days. Secondly, the \$25.00 fee to change designated dispensaries can be a financial burden to registered patients on a fixed income. The Committee recommends reducing the 90-day period to a 30-day period and decreasing the \$25.00 fee to a \$15.00 fee. The Committee recommends language contained in 18 V.S.A. §4474h(a) to be updated to read: “A registered patient who wishes to change his or her dispensary shall notify the Department of Public Safety in writing on a form issued by the Department and shall submit with the form a fee of ~~\$25.00~~ \$15.00. The Department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any ~~90~~ 30-day period.”

- 2) The Committee recommends the language contained in §4474d(g) be expanded to allow the Department to grant a waiver of the dispensary possession limits for the purpose of developing and providing a product for symptom relief to all registered patients. Currently, the Department is restricted to only granting a waiver of the dispensary possession limits for the purpose of developing and providing a product for symptom relief to registered patients under 18 years of age who suffer from seizures.
- 3) The Marijuana Registry is expected to expand their information storing capabilities by securing a contemporary information mechanism. One of the desired outcomes is to provide access to essential but limited information to the dispensaries with a goal of improving the ability of registered patients to timely access marijuana for symptom relief.
- 4) Lastly, registered patients have expressed a concern about the inability to cultivate and obtain cannabis from a registered dispensary. The restriction prohibiting registered patients to cultivate and obtain cannabis from a registered dispensary hinders a patient's ability to timely access cannabis for symptom relief. Initial patients applying for a registry identification card who elect to cultivate currently must wait for a harvest to access cannabis to alleviate their symptoms. This may result in the inability of a registered patient to access cannabis for symptom relief for months. This restriction also impacts renewing registered patients if they suffer a crop loss and need to restart the cultivation process.

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

The Department of Public Safety has issued four registration certificates to dispensaries operating throughout the state. They are located in Burlington, Brandon, Brattleboro, and Montpelier. Currently the dispensaries offer a variety of Indica, Sativa and Hybrid strains of marijuana and products for symptom relief. Besides offering dried flower dispensaries are offering patients smokeless options such as tinctures, edibles, CO2 oil extracts, teas, salves and lozenges.

The Committee recommends an additional new subsection under section 4474e containing language that would require each dispensary to provide a registered patient or his or her caregiver with educational material at the time of his or her initial appointment. The required educational material should include the following topics to effectively serve the need of registered patients and caregiver:

- a) Safe storage
- b) Dosing information (tolerance)
- c) Routes of administration
- d) Edibles consumption (start low and go slow).

This recommendation is proposed due to the inadequacy of the educational and safety information developed by the Vermont Department of Health. The current document does not provide practical information suitable for the needs of registered patients and caregivers. The Committee is appreciates the Vermont Legislature requested the Vermont Department of Health to revise the initial document that was provided to registered patients and caregiver. Given that the revised document developed by the Vermont Department of Health continues to lack the practical and beneficial as intended by the legislation, despite input from the Vermont Legislature, the Committee considers the registered dispensaries are suited to provide the practical information registered patients and caregivers require currently.

(C) Sufficiency of the regulatory and security safeguards contained in this subchapter and adopted by the Department of Public Safety to ensure that access to and use of cultivated marijuana is provided only to cardholders authorized for such purposes.

The current regulatory and security safeguards contained in statute and rules adopted by the Department of

Public Safety have been demonstrated to be largely effective in protecting against diversion and theft without imposing an undue burden on the registered dispensaries or compromising the confidentiality of registered patients and caregivers.

The Department transmits weekly secure statements to the registered dispensaries identifying the number of registered patients who have designated that dispensary and correlating registry identification numbers to obtain marijuana or marijuana infused products for symptom relief. A graph depicting the growth of the number of registered patients and caregivers has been attached (Attachment A). Each dispensary also undertakes several additional administrative steps to ensure that only card-holding patients or caregivers are provided access to purchase product. While the administrative process may vary from dispensary to dispensary, all dispensaries must ensure cannabis is only dispensed to active cardholders who have designated that dispensary. Procedures the registered dispensaries have implemented include: verifying patient and caregiver status before scheduling an appointment, remote video verification of cardholder status to allow access to dispensary, automated patient purchase history review and requiring secondary identity verification before transaction completion.

However, the Committee is proposing the following recommendations and modifications in order to further improve the sufficiency of the regulatory and security safeguards contained in 18 V.S.A. Chapter 86 to ensure access to and use of cultivated marijuana to registered patients:

- 1) § 4474b(d) to read “A law enforcement officer shall not be required to return marijuana, marijuana-infused products, and marijuana-related supplies seized from a registered patient or registered caregiver. However, if marijuana or marijuana-infused products shall not be seized from a registered patient or caregiver if law enforcement determines that the patient or caregiver is in compliance with this subchapter. However, if marijuana or marijuana-infused products are seized by a law enforcement officer and if there is a subsequent determination that the patient or caregiver was in compliance with this subchapter, the seized marijuana and marijuana-infused products shall not count toward the possession limits or dispensary allocation set forth in this subchapter for the patient or caregiver.”
- 2) § 4473(b)(2)(B)(i) and (3)(A) “...the debilitating medical condition is of recent or sudden onset, ~~and the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms.~~”
- 3) Removal of the notarization requirement contained in § 4473(b)(1) due to confidentiality concerns. Notaries are not bound by any confidentiality requirements. An alternative to the current penalty, false swearing that potentially no longer would apply, for intentionally submitting inaccurate information to the Department conceivably could be incorporated under §4474c(f) for false information or penalties under 13 V.S.A. § 1801 may well apply.
- 4) Added exemption from criminal and civil penalties; seizure of property for hospitals and school administering cannabis oil.
- 5) Add provisions to this chapter, restricting the possession and control of regulated drugs, shall not apply to public officers or their employees in the performance of their official duties requiring possession or control of cannabis, nor to temporary incidental possession by employees or agents of persons lawfully entitled to possession, including a health care professional, medical assistant, nurse, intern, and resident dispensing or administering cannabis to a registered patient, nor by authorized persons whose possession is for the purpose of aiding public officers in performing their official duties.
- 6) Inclusion of a six-month exception for military veterans in §4472(1) under the definition of a "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. The six-month requirement shall not apply if a patient is a military veteran or has been

diagnosed with:

- (A) a terminal illness;
- (B) multiple sclerosis;
- ~~(B) cancer with distant metastases; or~~
- (C) acquired immune deficiency syndrome; or
- (D) human immunodeficiency virus.

- 7) Allow for a waiver of the permissible limit of usable marijuana dispensed to a registered patient during a 30-day period with authorization from the registered patient’s treating or consulting health care professional. Currently, the statute states:

“No dispensary, principal officer, board member, or employee of a dispensary shall:

(C) dispense more than two ounces of usable marijuana to a registered patient directly or through the qualifying patient's registered caregiver during a 30-day period.”

The Committee recommends § 4474e(k)(1)(C) be adjusted to allow for this waiver. The following proposed language adjoined to the current language would provide a process for a registered patient pursue to request additional usable marijuana to provide adequate symptom relief for his or her symptoms; “...unless the registered patient’s treating or consulting health care professional has verified that within the last six months the requisite amount of usable marijuana exceeds two ounces during a 30-day period in accordance with rules adopted by the Department.”

- 8) Require a registered dispensary to implement appropriate inventory control measures that include an electronic tracking system for all cannabis with unique identification numbers. This inventory control measure would be integral tool for recalling a product and identifying any diversion and/or theft.

Vermont Marijuana Registry

Active Registered Patients and Caregivers Evolution Diagram

2398 Registered Patients and 286 Registered Caregivers as of December 17, 2015

