

Rules Governing the Vermont Therapeutic Use of Cannabis Program

18 V.S.A. Chapter 86 Subchapter 2. Therapeutic use of cannabis for registered patients and the creation of marijuana dispensaries

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TABLE OF CONTENTS

Purpose.1-1

Section 1. Definitions1-1

Section 2. Scope2-1

Section 3. Debilitating Medical Conditions3-1

Section 4. Registered Patient4-1

Section 5. Registered Caregiver5-1

Section 6. Dispensary Registration Certificates6-1

Section 7. Fees7-1

Section 8. Registry Identification Card8-1

Section 9. Confidentiality9-1

Section 10. Enforcement10-1

Section 11. Oversight Committee11-1

Section 12. Marijuana Review Board12-1

Statutory AuthorityA

Purpose. These rules are intended to implement the provisions of Title 18 Chapter 86 Vermont’s therapeutic use of cannabis as they pertain to the registered patient’s, caregivers and the creation of four marijuana dispensaries. If any of these rules contradict the provisions of Title 18 Chapter 86, then the language in Title 18 Chapter 86 shall prevail. This program shall be referred to as the Vermont Marijuana Program (VMP). The rules include definitions of terms, and identification of debilitating medical conditions for which the use of marijuana is authorized. They also include procedures for issuing a certificate of registration to a dispensary, and registry identification cards to qualified patients, caregivers, staff of hospice providers and nursing facilities, and qualified principal officers, board members and employees of dispensaries. The VMP rules also govern confidentiality, payments of fees, and enforcement of these rules.

SECTION 1. DEFINITIONS. As used in these rules, unless the context otherwise indicates, the following terms have the following meanings.

- 1.1 “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.
- 1.2 “Clone” means a plant section from a female marijuana plant not yet root-bound, growing in a water solution, which is capable of developing into a new plant.
- 1.3 “Criminal history record” means all information documenting an individual’s contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.
- 1.4 “Debilitating medical condition,” provided that, in the context of the specific disease or condition described in subdivision (A) or (B) of this subdivision (2)(4), reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms, means:
 - (A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or
 - (B) a disease, medical condition, or its treatment that is chronic, debilitating, and produces severe, persistent, and one or more of the following intractable symptoms: cachexia or wasting syndrome; severe pain; severe nausea; or seizures.
- 1.5 “Department” means the Department of Public Safety.
- 1.6 “Dispensary” means a nonprofit entity registered under section 4474e of this title which acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses 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

center and to his or her registered caregiver for the registered patient’s use for symptom relief. A dispensary may provide marijuana for symptom relief to registered patients at only one facility or location but may have a second location associated with the dispensary where the marijuana is cultivated. Both locations are considered to be part of the same dispensary.

- 1.7** “Health care professional” means an individual licensed to practice medicine under Chapter 23 or 33 of Title 26, an individual certified as a health care professional’s assistant under Chapter 31 of Title 26, or an individual licensed as an advanced practice registered nurse under Chapter 28 of Title 26. This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.
- 1.8** “Immature marijuana plant” means a female marijuana plant that has not flowered and which does not have buds that may be observed by visual examination.
- 1.9** “Marijuana” shall have the same meaning as provided in subdivision 4201(15) of Title 18. Cannabis shall have the same meaning as marijuana for the purposes of these rules.
- 1.10** “Mature marijuana plant” means a female marijuana plant that has flowered and which has buds that may be observed by visual examination.
- 1.11** “Possession limit” means the amount of marijuana collectively possessed between the registered patient and the patient’s registered caregiver, which is no more than 2 mature marijuana plants, 7 immature plants, and two ounces of usable marijuana.
- 1.12** “Registered caregiver” means a person who is at least 21 years old who has never been convicted of a drug-related crime and who has agreed to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief.
- 1.13** “Registered patient” means a person resident of Vermont who has been issued a registration card by the Department of Public Safety identifying the person as having a debilitating medical condition pursuant to the provisions of this subchapter. “Resident of Vermont” means a person whose domicile is Vermont.
- 1.14** “Secure indoor facility” means a building or room equipped with locks or other security devices that permit access only by a registered caregiver, or registered patient, or a principal officer or employee of a dispensary.
- 1.15** “Transport” means the movement of marijuana or marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, or otherwise provided by law.

- 1.16** “Usable marijuana” means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant.
- 1.17** “Use for symptom relief” means the acquisition, possession, cultivation, use, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a registered patient’s debilitating medical condition which is in compliance with all the limitations and restrictions of this subchapter. For the purposes of this definition, “transfer” is limited to the transfer of marijuana and paraphernalia between a registered caregiver and a registered patient.
- 1.18** “Violent felony” means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of Chapter 64 Title 13.

Section 2: SCOPE

2.1 Protections: therapeutic use cannabis. The protections and requirements of these rules are for conduct that is expressly authorized by these rules for the therapeutic use of cannabis by registered patients, and for those who assist registered patients as registered caregivers, and principal officers, board members and employees of registered dispensaries.

2.1.1 Violation of other laws. These protections do not extend to violations of other laws of the State of Vermont.

2.1.1.1 Federal Law Violation: The provision of Title 18 Chapter 86 provide exceptions to Vermont State law. The possession, and distribution of marijuana remains a violation of Federal law and persons in violation of Federal Law are subject to Federal prosecution. Title 18 Chapter 86 provides no protection against a violation of Federal law.

2.1.2 Authorized conduct by anyone in the presence or vicinity of a registered person using marijuana for symptom relief. A person shall not be subject to arrest or prosecution for constructive possession, conspiracy, or any other offense for simply being in the presence or vicinity of a registered patient or registered caregiver engaged in the use of marijuana for symptom relief.

2.1.5 Other protections.

2.1.5.1 Rights of persons or entities acting pursuant to these rules. A person whose conduct is authorized under these rules may not be denied any right or privilege or be subjected to any penalty or disciplinary action, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for lawfully engaging in conduct involving the medical symptom use of marijuana authorized under these rules.

2.2 Prohibitions. These rules prohibit any person from engaging in the following conduct. A registered patient or registered caregiver may be arrested and/or prosecuted for:

2.2.1 Being under the influence of marijuana while:

2.2.1.1 operating a motor vehicle, boat, or vessel, or any other vehicle propelled or drawn by power other than muscular power;

2.2.1.2 in a workplace or place of employment; or

2.2.1.3 operating heavy machinery or handling a dangerous instrumentality.

2.2.2 The use or possession of marijuana or marijuana-infused products by a registered patient or the possession of marijuana or marijuana- infused products by a registered caregiver:

- (A) for purposes other than symptom relief as permitted by this subchapter; or
- (B) in a manner that endangers the health or well-being of another person.

2.2.3 The smoking of marijuana in any public place, including:

- (A) a school bus, public bus, or other public vehicle;
- (B) a workplace or place of employment;
- (C) any school grounds;
- (D) any correctional facility; or
- (E) any public park, public beach, public recreation center, or youth center.

2.2.4 These rules shall not be construed to require that coverage or reimbursement for the use of marijuana for symptom relief be provided by:

- (A) a health insurer as defined by subdivision 9402(7) of Title 18, or any insurance company regulated under Title 8;
- (B) an employer; or
- (C) for purposes of worker’s compensation, an employer as defined in subdivision 601(3) of Title 21 V.S.A. § 601 (3).

2.2.5 Using marijuana if that person does not have a debilitating medical condition.

2.2.6 A registered patient or caregiver may not transport marijuana in public unless it is secured in a locked container.

2.2.7 A registered patient may not use marijuana while operating or a passenger in a motor vehicle, boat, or vessel, or any other vehicle propelled or drawn by power other than muscular power. Marijuana, while transported in a vehicle, boat, or vessel or any other vehicle propelled or drawn by power, shall be located in a locked container.

2.3 **Construction.** These rules may not be construed to require:

2.3.1 A government medical assistance program or private health insurer to reimburse a person for costs associated with the use of marijuana; or

2.3.2 An employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana.

2.4 Disposal of unused marijuana. Unused marijuana in the possession of the registered patient, registered caregiver, caregiver or a registered dispensary that is no longer needed for the registered patient's use and if the dispensary is over their possession limits may be disposed of by:

2.4.1 transporting the unused portion of marijuana to a state or local law enforcement office. Presentation of a valid registry identification card and a Vermont driver's license or other state-issued photo identification may be required.

2.4.2 returning to the Department of Public Safety by the registered caregiver within 72 hours of the death of a registered patient any marijuana or marijuana plants that may have been in the possession of a registered patient who has deceased. If the patient did not have a registered caregiver then the next of kin shall contact the Department of Public Safety within 72 hours and ask that the department make arrangements to retrieve such marijuana and/or marijuana plants.

2.5 Monthly Reports. The Department of Public Safety shall provide monthly reports to the dispensary identifying the number of registered patients who have designated that dispensary and the registry identification numbers of each patient and each patient's designated caregiver.

Section 3. DEBILITATING MEDICAL CONDITIONS

3.1 List of debilitating medical conditions. Patients with at least one of the following debilitating medical conditions where reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms may submit an application for a registry identification card for the medical use of marijuana:

3.1.1 Disease or medical condition or its treatment.

3.1.1.1 Cancer;

3.1.1.2 Multiple Sclerosis;

3.1.1.3 Positive status for human immunodeficiency virus (HIV);

3.1.1.4 Acquired immune deficiency syndrome;

3.1.2 Intractable symptoms. The above diseases or medical conditions or the treatment of these diseases or medical conditions must result in severe, persistent and intractable symptoms; or

3.1.2.1 A disease or medical condition or its treatment that is chronic, debilitating, and produces severe, persistent and one or more of the following intractable symptoms:

3.1.3.1 Cachexia or wasting syndrome;

3.1.3.2 Severe nausea;

3.1.3.3 Severe pain; or

3.1.3.4 Seizures.

Section 4. REGISTERED PATIENT

4.1 Application for registry identification card. A patient may apply for a registry identification card for the lawful medical use of marijuana by submitting a completed and notarized department-approved application form with the required medical verification form and the application fee. If the applicant is under 18 the application must be signed by both the patient and a parent or guardian in accordance with Section 4.4 of these rules.

4.1.1 Name, address and date of birth and descriptive information such as height and weight of the patient applicant.

4.1.2 Name, address and telephone number of the patient applicant’s physician.

4.1.3 Name, address and date of birth of the caregiver, if any, named by the patient applicant.

4.1.4 Name of the caregiver and dispensary, if any, designated by the patient applicant to cultivate marijuana for the patient’s use. Only the registered patient, and the caregiver, or a dispensary is allowed to cultivate marijuana for a patient’s use. The registered patient and caregiver must collectively stay within the “possession limit”.

4.1.5 If the patient applicant elects to cultivate marijuana for his or her own use, the patient applicant must indicate that choice on the application.

4.1.6 A department-approved release form signed by the patient applicant, the patient’s guardian or the patient’s durable health care power of attorney authorizing the department to obtain further information, if needed, from the physician who submits a written certification on behalf of the patient applicant.

4.1.7 A copy of the patient applicant’s Vermont driver’s license or other state-issued photo identification.

4.1.8 A digital photograph shall be submitted along with an application from a registering patient and caregiver. This photograph may be obtained from any source.

4.2 Medical Verification Form. Patient with a Bona fide health care professional–patient relationship.

4.2.1 The patient who is a resident of Vermont and who has a “Bona fide health care professional–patient relationship” shall submit, on a form provided by the Department of Public Safety:

- 4.2.1.1 a statement from a health care professional verifying the identification of the debilitating medical condition,
- 4.2.1.3 a statement identifying health care professional–patient relationship,
- 4.2.1.4 provide the health care professional licensing number, and the health care professional’s signature.

4.2.2 The patient with a debilitating medical condition shall have the forms *notarized*, through a lawfully authorized notary public, attesting the facts contained on the forms are true.

4.2.3 The completed forms shall be sent to:
Marijuana Registry
Vermont Criminal Information Center
Vermont Department of Public Safety
103 South Main Street
Waterbury, VT 05671-2101

4.3 Medical Verification Form. Patient without a Bona fide health care professional–patient relationship.

4.3.1 A patient who is a resident of Vermont and without a bona fide health care professional–patient relationship whose medical condition is of a recent or sudden onset may also be entitled to become a registered patient.

4.3.2 A patient without a bona fide health care professional–patient relationship shall submit, on a form provided by the Department of Public Safety:

4.3.2.1 a statement attesting to the identification of the debilitating medical condition;

4.3.2.2 a statement attesting that the debilitating medical condition is of recent or sudden onset;

4.3.2.3 a statement that the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms;

4.3.2.4 provide the health care professional licensing number of the current health care professional who is making the diagnosis that the debilitating condition exists and that it is of recent or sudden onset;

4.3.2.5 and the health care professional’s signature.

4.3.3 The completed forms shall be sent to:
Marijuana Registry
Vermont Criminal Information Center
Vermont Department of Public Safety
103 South Main Street
Waterbury, VT 05671-2101

4.4 Minor patient-applicant. In addition to compliance with the application provisions in Section 4.1 of these rules, an application for a patient who is under 18 years of age must be signed by both the patient and a parent or guardian.

HEALTH CARE PROFESSIONAL WRITTEN CERTIFICATION

4.6 Medical Verification form. The patient applicant's health care professional must complete medical verification form. The medical verification of a person's debilitating medical condition must be on a form that has been developed by the Department. The patient must return the form along with the application. The patient's application is not considered complete until the Department receives all required information, including the health care professional's written medical verification form.

4.6.1 The health care professional must demonstrate that a bona fide relationship between the patient and health care professional exists. If no bona fide relationship exists, then the medical verification form must comply with section 4.3 of these rules.

4.6.2 The health care professional must state that reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms.

4.6.3 The health care professional must state that the person has been diagnosed with a debilitating medical condition including the specific disease or conditions and whether the patient meets the criteria under Section 3 of these rules.

4.6.4 The health care professional must provide their contact information, license number, category of his or her health care profession as stipulated in the definitions of these rules under health care professional, and contact information for the out-of-state licensing agency if applicable.

4.7 Out of State health care professional. The department shall verify the professional licensing of the out-of-state health care professional by contacting the states licensing authority. Only health care professionals practicing in New York, New Hampshire and Massachusetts shall be eligible to verify a patient applicants debilitating medical

condition. Health care professionals from any other state shall not be eligible to establish a patients debilitating illness.

- 4.8 Patient decision to change certifying health care professional.** The patient must notify the Department within 10 business days of the date the patient changes health care professional.

PATIENT’S AUTHORIZED CONDUCT

- 4.9 Authorized Conduct: Registered Patient.** Subject to the provisions of Section 2.2 of these rules, a registered patient may:

4.9.1 Comply with possession limits and possess up to 2 ounces of useable marijuana;

4.9.2 Comply with possession limits and cultivate no more than two mature marijuana plants, and seven immature marijuana plants if the registered patient elects to cultivate marijuana;

4.9.2.1 A registered patient and their registered caregiver may collectively posses the amount of marijuana mentioned in Section 4.9.1 and 4.9.2 and no more;

4.9.3 Possess marijuana paraphernalia;

4.9.4 Designate one caregiver.

4.9.5 Be in the presence or vicinity of the medical use of marijuana and assist any registered patient with using or administering marijuana.

4.9.6 A registered patient who designates a marijuana dispensary may only designate one dispensary and neither the patient nor their caregiver may grow marijuana.

4.9.7 A registered patient may only change their designated dispensary once in a 90-day period.

- 4.10 Patient cultivation of marijuana.** A registered patient who elects to cultivate marijuana plants must keep the plants in an single secure indoor facility.

Section 5. REGISTERED CAREGIVER

5.1 Caregiver designated by patient. A patient may designate one caregiver to assist the qualifying patient with the patient’s therapeutic use of marijuana. A registered caregiver may serve only one registered patient at a time and a registered patient may only have one registered caregiver at a time.

5.1.1 Patient’s sole preference. A patient’s caregiver is determined solely by the patient’s preference as named on the patient’s application for a registry identification card.

5.2 Registry identification card required. Registered caregivers required to possess a valid, department-issued registry identification card prior to assisting a registered patient with the therapeutic use of marijuana.

5.3 Application: caregiver registry identification card. A caregiver must submit a completed department-approved caregiver application form with the required documentation and the registration fee, if any, (Section 7) for a registry identification card. The application shall include, at a minimum, the following information:

5.4.1 Name, address and date of birth of the caregiver.

5.4.2 Whether the registered patient, the registered caregiver or a registered dispensary shall cultivate marijuana for the registered patient’s therapeutic use.

5.4.3 A copy of the caregiver’s Vermont driver’s license, or other state-issued photo identification.

5.4.4 A digital photograph shall be submitted along with an application from a registering patient and caregiver. This photograph may be obtained from any source.

5.5 Department-issued registry identification card for caregiver. The department shall approve or deny the application of a person applying to become a registered caregiver in writing within 30 days. If the application is approved, a registration card shall be issued within 30 days.

5.6 Expiration of registry identification card: caregiver. Registry identification cards issued to caregivers expire one year on the anniversary date of issuance at 11:59 p.m. A registered caregiver has an option to renew, provided the patient submits a new application and it is approved by the Department.

5.7 Renewal of registry identification card: caregivers. A registered caregiver must submit a completed department-approved renewal form with all required documentation and the renewal fee (Section 7).

5.7.1 The department shall issue the caregiver's new registry identification card within five business days of the date the department approves the renewal application.

CAREGIVER'S AUTHORIZED CONDUCT

5.8 Authorized conduct: registered caregiver. Subject to the provisions of Section 2.2 of these rules, a designated registered caregiver for the purpose of assisting a registered patient may:

5.8.1 Possess up to 2 ounces of useable marijuana for the registered patient who has named the person to serve as a caregiver. The collective possession amounts between the registered caregiver and registered patient must meet the total possession limit;

5.8.2 Cultivate up to two (2) mature marijuana plants and seven (7) immature marijuana plants for the registered patient caregiver. The collective possession amounts between the registered caregiver and registered patient must meet the total possession limit;

5.8.3 Assist no more than one registered patients at any one time with their therapeutic use of marijuana; and

5.8.6 Be in the presence or vicinity of the use of marijuana and assist any registered patient with the use or administration of marijuana.

5.9 Caregiver cultivation of marijuana. A caregiver who has been designated by a registered patient to cultivate marijuana for the patient's use must keep all plants in a single secure indoor facility.

Section 6. DISPENSARY REGISTRATION CERTIFICATES

6.1 Limitation on number of dispensaries. The department may not issue more than four registration certificates for a dispensary.

6.1.1 Selection process. The department shall publish a notice of open application for dispensary registration certificates that includes the application requirements. The notice will contain the deadline for receipt of applications and the process for obtaining application material.

6.1.2 Award decisions. A panel shall be convened by the department to evaluate and score each application. This panel shall include a registered patient and caregiver. The panel shall solicit input from registered patients and caregivers. The decision to grant a registration certificate shall be based on the overall health needs of qualified patients. The maximum point value is based on the quality of the applicant’s submission. The maximum points for each criterion are indicated in Section 6.1.4 of these rules. To be considered responsive, an application must have at least 70 points. The panel shall set forth through consensus comments the basis of the scoring decision for each criterion. A registration certificate shall be issued in response to the application, as long as the application meets all criteria and the minimum score. In case of a tie, the panel reserves the right to seek supplemental information through written questions of the applicants and to raise or lower the applicants’ scores based upon the supplemental information.

6.1.3 Application fee. Applicants must submit a non-refundable application fee of \$2,500 payable to the department.

6.1.4 Selection criteria. Each application shall address all criteria and measures, even when no point values are assigned. Failure to address all of the criteria and measures will result in the application being considered non-responsive and not accepted for review. Each applicant should know that municipalities have the authority to prohibit the establishment of a dispensary and may regulate the time, place and manner of dispensary operation through zoning and local ordinances. Also applicants should be aware that if a dispensary is in compliance with the state laws governing the creation of marijuana dispensary’s and the rules adopted by the Department they are exempted from certain state laws but **are not exempted from federal law.**

6.1.4.1 Criterion 1: Submission of Required Information Regarding Applicant and Facility (up to 25 points)

Measure 1: The applicant shall provide the legal name of the corporation, a copy of the articles of incorporation and by-laws of the corporation. [no points assigned]

Measure 2: The applicant shall provide the proposed physical address(s) of the dispensary and any second location associated with the dispensary where marijuana is cultivated, if a precise address has been determined. [no points assigned]

- ✓ For each proposed physical address, provide legally binding evidence of site control sufficient to enable the applicant to use and possess the subject property.
- ✓ If the applicant indicated that a precise address has not been determined, the applicant has at least identified the general location(s) where the facilities will be sited, and when.

Measure 3: The applicant shall provide evidence of compliance with local codes and ordinances for each physical address which will be used for dispensing and growing marijuana under the VMP, and that neither location is within one thousand (1,000) feet of a pre-existing public or private school boundary. [no points assigned]

Measure 4: The applicant shall describe the enclosed, locked facility that will be used in the growing and cultivation of marijuana, its security measures, as required in the rules, and whether it is visible from the street or other public areas. [up to 5 points]

Measure 5: The applicant shall provide the name, address and date of birth of each principal officer and board member of the dispensary, along with a photocopy of their Vermont driver's license or other state-issued identification card along with a complete set of fingerprints. [no points assigned]

Measure 6: The applicant shall provide a list of all persons or business entities having direct or indirect authority over the management or policies of the dispensary, and a list of all persons or business entities having 5% or more ownership in the dispensary, whether or not the interest is in the land or buildings, including owners of any business entity which owns all or part of the land or building. [no points assigned]

Measure 7: The applicant shall provide the identity of any creditor holding a security interest in the premises, if any. [no points assigned]

Measure 8: The application shall include the required signed cover letter, and the completed application form supplied by the department. [no points assigned]

Measure 9: The applicant shall describe how the dispensary will operate on a long-term basis as a non-profit organization and a business plan that includes, at a minimum, the following: [up to 20 points]

- ✓ A detailed description about the amount and source of the equity and debt commitment for the proposed dispensary that demonstrates the immediate and long-term financial feasibility of the proposed

financing plan, the relative availability of funds for capital and operating needs; and the financial capability to undertake the project.

✓ A copy of the proposed policy regarding services to registered patients who cannot afford to purchase marijuana for therapeutic purposes.

✓ Projected income statements for the first three (3) years after implementation (forms to be supplied by the department).

6.1.4.2 Criterion 2: Overall Health Needs of Registered Patients and Safety of the Public [up to 75 points]

Measure 1: The applicant demonstrates their proposed location will be convenient for registered patients and caregivers and have attached comments, if any, from registered patients and caregivers about their location. [up to 10 points]

Measure 2: The applicant demonstrates a steady supply of marijuana for therapeutic use will be available to the projected number of registered patients. [up to 10 points]

✓ There is a start-up timetable which provides an estimated time from registration of the dispensary to full operation, and the assumptions used for the basis of those estimates.

✓ The applicant shall demonstrate that steps will be taken to ensure the quality of the marijuana, including purity and consistency of dose.

✓ The applicant discloses the various strains of marijuana the dispensary plans to dispense, and the form(s) in which marijuana will be dispensed. This information can be supplemented any time after registration if the dispensary adds new strains or forms in which marijuana is dispensed.

Measure 3: The applicant demonstrates its board members have experience running a non-profit organization or other business. [up to 10 points]

Measure 4: The applicant demonstrates that its plan for record keeping, inventory, quality control and security and other policies and procedures will discourage unlawful activity. The applicant shall include at least one security alarm system for each location and planned measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana. [up to 20 points]

Measure 5: The applicant fully describes a staffing plan that will provide accessible business hours, safe growing and cultivation, and maintenance of confidential information regarding grow sites and the identity of patient information. [up to 20 points]

Measure 6: The application indicates consent to pay for state and federal background checks for all proposed and future registry card holders who are dispensary principal officers, board members, or employees. [no points assigned]

Measure 7: The application reflects a strong patient education component. [up to 5 points]

- 6.1.5 Final agency action.** The award decision shall be made in writing to the successful applicants. **The department may deny an application for a dispensary if it determines that an applicant’s criminal history record indicates that the person’s association with a dispensary would pose a demonstrable threat to public safety.** Written notice of denial of an application (non-selection) is considered final department action.

 - 6.1.5.1 Application review.** The application review process shall include the applications and any attached supporting documents, any other documents relied upon by members of the scoring panel in its decision.
- 6.2 Certificate of registration required.** No person shall operate a dispensary for marijuana for therapeutic use without a department-issued registration certificate.
- 6.3 Certificate of registration nontransferable.** The registration certificate issued by the department to a dispensary is nontransferable.
- 6.4 Not-for-profit corporation.** The dispensary must operate on a not-for-profit basis for the mutual benefit of registered patients who have designated the dispensary to cultivate marijuana.

 - 6.4.1** The bylaws of the dispensary and its contracts with registered patients must contain such provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its not-for-profit status.

 - 6.4.1.1** A dispensary shall submit the result of an annual financial audit to the Department of Public Safety no later than 60 days after the end of the dispensary’s fiscal year. An independent certified public accountant shall conduct the annual audit, and the costs of any such audit shall be borne by the dispensary. The department may also periodically require, within its discretion, the audit of a dispensary’s financial records by the department.
 - 6.4.2** A dispensary is not required to be a tax-exempt organization under 26 United States Code, Section 501(c)(3).

6.5 Location of dispensary. A dispensary may not be located within 1,000 feet of the property line of a pre-existing public or private school or licensed or regulated childcare facility.

6.6 Local regulation of dispensary. These rules do not prohibit a Vermont municipality from prohibiting the establishment of a dispensary within its boundaries or from regulating the time, place, and manner of dispensary operation through zoning or other local ordinances.

6.7 Opening of a dispensary. A dispensary must be open and dispensing marijuana within six (6) months of receiving a registration certificate. A three (3) month waiver giving an extra three (3) months to open may be received from the department upon a written request showing why the dispensaries opening will be delayed. A dispensary that does not open within these time lines shall forfeit their registration fee.

6.8 Application: dispensary registration certificate. A dispensary must submit a completed department-approved application form, in accordance with Section 6.8, with all required documentation and the required fees (Section 7). The dispensary application must include, at a minimum:

6.8.1 The name of the dispensary or proposed name of the dispensary. The legal name of the dispensary must be provided if different before a dispensary is approved to begin operations;

6.8.2 The physical address of the dispensary if known and the physical address of a maximum of one additional location, if any, where marijuana will be cultivated for registered patients who have designated the dispensary to cultivate marijuana for them. The physical address of the dispensary must be provided if different before a dispensary is approved to begin operations;

6.8.3 The distance to the closest school from the dispensary;

6.8.4 A copy of the dispensary’s articles of incorporation and bylaws, and evidence that the corporation is in good standing with the Secretary of State. *This may be waived until such time as the dispensary is to be awarded a registration certificate.* However, operations shall not begin until such time as this information is received;

6.8.5 The name, address and date of birth of each principal officer and board member of the dispensary along with a complete set of fingerprints for each. *This may be waived until such time as the dispensary is to be awarded a registration certificate.* However, operations shall not begin until such time as this information is received;

- 6.8.6** The name, address and date of birth of any person who is employed by the dispensary;
- 6.8.7** A copy of the dispensary’s policies and procedures;
- 6.8.8** A copy of the dispensary’s liability insurance policy;
- 6.8.9** A business plan demonstrating the on-going viability as a non-profit organization; and
- 6.8.10** Narrative describing how the applicant will meet all the criteria in 6.1.4.1 and 6.1.4.2.

6.9 Department determination. Subject to the limitations on the number and location of dispensaries (Section 6.1), within 30 calendar days of receipt of a completed application form with a score of at least 70 points and with all required documents and required fees, the department shall register a dispensary and issue a registration certificate to any person or entity that complies with the registration certificate requirements set out in these rules and has the highest number of points of the applicants.

6.10 Expiration of dispensary certificate of registration. A dispensary’s certificate of registration expires one year after the date of issuance.

6.11 Renewal of dispensary certificate of registration. The department shall renew a dispensary’s certificate of registration within 10 business days in compliance with the following:

- 6.11.1** A registered dispensary must submit a completed department-approved renewal of registration certificate form with all required documentation and the required fees (Section 7).
- 6.11.2** When requesting a renewal of the registration certificate, registered dispensaries must update as needed all information submitted by the dispensary on its application for a certificate of registration pursuant to Section 6 of these rules.
- 6.11.3** Failure to provide all current up-to-date information is grounds for denial of the renewal.

DISPENSARY’S AUTHORIZED CONDUCT

6.12 Authorized conduct: registered dispensary. A registered dispensary is selected by a patient based solely by the patient’s preference as indicated on the patient’s application for a registry identification card. A registered dispensary may acquire, possess, cultivate, manufacture, transfer, or dispense marijuana only for the purpose of assisting a registered

patient with the use of marijuana for symptom relief directly or through the qualifying patient's designated caregiver. A registered dispensary may:

6.12.1 Cultivate and possess at any one time up to 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of useable 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 (7) immature plants and two ounces of useable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

6.12.1.1 The portion of marijuana used in the production of marijuana-infused products (section 6.16) shall be calculated into the possession limits mentioned above.

6.12.2 Acquire marijuana seeds or parts of the marijuana plant capable of regeneration from or dispense them to registered patients or their caregivers or acquire them from another registered Vermont dispensary, provided records are kept concerning the amount and the recipient.

6.12.3 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.

6.12.3.1 Marijuana-related supplies shall include pipes, vaporizers, and other items classified as drug paraphernalia under Title 18 Section 89.

6.12.4 Receive reasonable monetary compensation for costs associated with assisting or for cultivating marijuana for a patient who designated the dispensary as long as the dispensary has a sliding-scale fee system that takes into account a registered patient's ability to pay.

6.12.5 Operate on a nonprofit basis for the mutual benefit of its patients but need not be recognized as a tax-exempt organization by the Internal Revenue Service.

6.12.6 Communicate only with registered patients and registered caregivers that have designated the dispensary. This communication shall be through electronic means, U.S. mail or voice means as long as the registered patient or caregiver has agreed to such communication. This agreement shall be in writing and may be withdrawn by the registered patient or registered caregiver at any time. A dispensary may communicate with other registered patients or registered caregivers in the same manner as long as they have received written notice that is acceptable to do so. A dispensary shall develop procedures to accept and

retain this “opt in” agreement and shall develop procedures to stop, “opt out”, of communications when told to do so.

6.12.6.1 Nothing in these rules shall prohibit the Department of Public Safety from notifying registered patients and registered caregivers of the procedures dispensaries use to communicate with registered patients or registered caregivers.

6.13 Maximum amount of marijuana dispensed during 30-day period. No more than 2 ounces of prepared marijuana may be dispensed to a registered patient or to a registered caregiver on behalf of a registered patient during a 30-day period.

6.14 Dispensary cultivation of marijuana. All cultivation of marijuana must take place in an enclosed, locked facility unless the plants or paraphernalia are being transported between the location of the registered dispensary and the dispensary’s one permitted additional location for the cultivation of marijuana, if any.

6.14.1 Access to the enclosed, locked facility is limited to a cardholder who is a principal officer, board member, or employee of a registered dispensary when acting in his or her official capacity, except in the following situations;

6.14.1.1 A contractor or vendor who is performing services related to the operation of a dispensary and who needs access to the physical location of either the dispensary or the cultivation area may be allowed access for a limited time under the direct accompaniment of a principal officer, board member or employee of a registered dispensary.

6.14.1.2 A governmental employee, who in the performance of their governmental job and who needs access to the physical location of either the dispensary or the cultivation area may be allowed access for a limited time under the direct accompaniment of a principal officer, board member or employee of a registered dispensary.

6.14.1.3 A governmental employee, such as a firefighter, police officer or other official, who in the performance of their life safety function and who must have access to the physical location of either the dispensary or the cultivation area in an emergency life safety or protection situation may enter the premise(s) without escort in order to perform their job.

6.15 Notice of dispensary designation. The department shall maintain a list of dispensaries and the registered patients who have designated each dispensary to cultivate marijuana for the patient’s use. The department shall issue a monthly written statement to the dispensary identifying the number of registered patients who have designated that dispensary and the registry unique identification number of the each patient and each patient’s caregiver, if any.

- 6.15.1** The department shall notify in writing to each registered dispensary whenever a registered patient designates the registered dispensary to cultivate marijuana for the patient's use.
- 6.15.2** A dispensary shall receive immediately or as soon as possible written department notification update each time a registered patient ceases to designate the dispensary or when the patient loses his or her status as a registered patient.
- 6.15.3** The department's notification to dispensaries may be transmitted electronically.

6.16 Weight of marijuana within marijuana infused products: Marijuana placed within the ingredients used in marijuana infused products shall be calculated by the amount or weight used within the ingredients. The amount of ingredients by weight including the amount marijuana extract used in the ingredients shall be calculated in each batch or container of marijuana infused products.

- 6.16.1** All products will be weighed, labeled, with ingredients including "gram weight equivalent" of marijuana extract used.
- 6.16.2** Only the portion of marijuana extract used within the ingredients shall count towards the possession limits of the dispensary and the patient.

REGISTRY IDENTIFICATION CARDS

6.17 Dispensary registry identification cards required. The department shall issue each qualified principal officer, board member, and employee of a registered dispensary a registry identification card within 30 days of the date the department received the completed department-approved application form with required documents including a copy of a Vermont driver's license or other state-issued photo identification, and the required fees (Section 7) and a photograph. No principal officer, board member or employee may begin working at the registered dispensary before he/she is issued a registry identification card. The registered dispensary must surrender to the department any registry identification card that is no longer eligible for valid use.

- 6.17.1 Notice to department when employment or affiliation ceased.** The registered dispensary must notify the department within 10 business days of the date that a principal officer, board member or employee ceases to work at or be affiliated with the registered dispensary.
- 6.17.2 Card expires after notice to department when employment or affiliation ceased.** The registry identification card of a principal officer, board member or employee expires immediately after the registered dispensary notifies the department that the person ceases to work at or be affiliated with the registered dispensary.

- 6.18 Expiration of dispensary registry identification cards.** Registry identification cards issued to dispensary principal officers, board members and employees expire one year after the date of issuance.
- 6.19 Annual renewal required.** A registered dispensary must submit a completed department-approved renewal application form with all required documentation and the renewal fee (Section 7) for the renewal of each dispensary registry identification card for each principal officer, board member and employee of the registered dispensary.
- 6.19.1** The department shall make a decision and issue renewal cards for approved applicants within 30 days of receipt of the completed renewal application.
- 6.19.2 Denial of renewal.** The department shall notify the registered dispensary in writing of the reason for denying renewal of a registry identification card.
- 6.20 Background checks.** The department shall obtain a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of each principal officer, board member and employee of registered dispensaries. Updated background checks shall be conducted annually at the time of renewal. Each applicant shall consent to the release of criminal history records and information and each applicant shall provide a complete set of fingerprints so that a fingerprint supported record check as described above may be obtained.
- 6.20.1** The department shall provide a copy of the person's criminal history record to the principal officer, board member or employee of registered dispensaries. If the principal officer, board member or employee of registered dispensaries wishes to appeal the accuracy and completeness of the record, they may do so by providing notice of the appeal in writing to the Director of the Vermont Criminal Information Center.
- 6.21 Disqualifying conviction or charge.** The department may not issue or renew a registry identification card to any principal officer, board member, agent or employee of a dispensary who has been convicted of a drug-related offense or a violent felony or who has a pending charge in Vermont or another jurisdiction for such offense except as provided below.
- 6.21.1** If the conviction was for a misdemeanor and the conviction is 10 years or older the conviction shall not be used as a disqualifying offense as long as there has been no other criminal convictions within a 10 year time period. Any other misdemeanor or felony conviction, other than a violent felony, that is 10 years old and there exists no other criminal charges or convictions within this 10-year period shall not be used as a disqualifying event for obtaining a registry identification card. A person denied a registry identification card may appeal the

Department of Public Safety’s determination in superior court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

6.22 Conviction: may not be employed or serve as a board member or principal officer of a dispensary. Any person who has been convicted of a drug-related offense or a violent felony or who has a pending charge in Vermont or another jurisdiction for such offense may not be a principal officer, board member or employee of a registered dispensary.

6.22.1 If the conviction was for a misdemeanor and the conviction is 10 years or older the conviction shall not be used as a disqualifying offense as long as there has been no other criminal convictions within a 10 year time period. Any other misdemeanor or felony conviction, other than a violent felony, that is 10 years old and there exists no other criminal charges or convictions within this 10-year period shall not be used as a disqualifying event for obtaining a registry identification card. A person denied a registry identification card may appeal the department of public safety’s determination in superior court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

INSPECTION, SECURITY AND OPERATION

6.23 Inspections. A registered dispensary, and the one permitted additional location for the cultivation of marijuana, if any, is subject to inspection by the department.

6.23.1 The department may enter without notice to carry out an inspection in accordance with these rules.

6.23.2 Submission of an application for a dispensary certificate of registration constitutes permission for entry and inspection of the dispensary.

6.23.3 Failure to cooperate with required inspections may be grounds to revoke the dispensary’s certificate of registration, as set forth in Section 10 of these rules.

6.23.4 During an inspection, the department may identify violations of these rules. The dispensary shall receive written notice of the nature of the violations. The dispensary shall notify the department in writing with a postmark date within twenty (20) business days of the date of the notice of violations identifying the corrective actions taken and the date of the correction.

6.24 Dispensary security: protections of premises and persons. Registered dispensaries must implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana at the registered dispensary and the one permitted additional location for the cultivation of marijuana, if any. Security measures to protect the premises, registered patients, registered caregivers, and

principal officers, board members and employees of the registered dispensary must include but are not limited to the following:

- 6.24.1** On-site parking must be provided.
 - 6.24.2** Exterior lighting must be sufficient to deter nuisance activity and facilitate surveillance, but must not disturb neighbors.
 - 6.24.3** Trees, bushes and other foliage outside of a dispensary or a cultivation location must not be allowed to grow to such an extent that it would allow for a person or persons to conceal them from sight.
 - 6.24.3** Devices or a series of devices, including, but not limited to, a signal system interconnected with a radio frequency method such as cellular, private radio signals, or other mechanical or electronic device to detect an unauthorized intrusion.
 - 6.24.4** The interior must be equipped with electronic monitoring, video camera(s), and panic button(s). The electronic monitoring system and panic button(s) must be connected to an outside security provider that professional monitors premises and business for intrusion and robbery events.
 - 6.24.5** Registered dispensaries must consistently and systematically prevent loitering.
 - 6.24.6** A registered patient or registered caregiver may only obtain marijuana from the dispensary by appointment. A dispensary must ensure that marijuana is dispensed only by appointment.
- 6.25 Dispensary policies, procedures and records.** The operating documents of a registered dispensary must include procedures for the oversight of the registered dispensary and procedures to ensure accurate record keeping. These procedures must include the verification of registered patients and registered caregiver identity before marijuana is dispensed to them. The records must be available for inspection by the department, upon request. Dispensary records subject to inspection include but are not limited to:
- 6.25.1 Personnel policies and practices.** The registered dispensary must have written policies and practices that are available to the department upon request.
 - 6.25.2 Job description and employment contract policies.** The policy regarding job descriptions and employment contracts shall include duties, authority, responsibilities, qualifications, supervision, training in, and adherence to, confidentiality requirements, periodic performance evaluations and disciplinary actions.

- 6.25.3 Business and financial records.** Registered dispensaries must maintain business records including manual or computerized records of assets and liabilities, monetary transactions, various journals, ledgers, and supporting documents, including agreements, checks, invoices, and vouchers which the dispensary keeps as its books of accounts.
- 6.25.3.1 Sales record.** Business records include the sales record that indicates the unique identification number of the registered patient or registered caregiver to whom marijuana has been distributed, including the quantity and form. The sales record must indicate the cost of the product.
- 6.25.3.2 Financial Audit.** A dispensary shall commission an annual financial audit, which shall be completed no later than 60 days after the end of the dispensary's fiscal year. The audit shall be conducted by an independent certified public accountant, and the costs shall be borne by the dispensary. The department may inspect the audit on site or request a copy of the audit. The department may also periodically require, within its discretion, the audit of a dispensary's records by the department.
- 6.25.4 Patient education.** Dispensary policies must include a provision that requires dispensaries to provide educational materials about marijuana to registered patients and their registered caregivers. Each dispensary must have an adequate supply of up-to-date education material available for distribution. Educational materials must be available for inspection by the department upon request. The educational material must include at least information about the following:
- 6.25.4.1** Strains of marijuana have different effects, as do various forms and route of administration. Dispensaries must have educational materials available to assist in the selection of prepared marijuana. Dispensaries shall provide "tracking sheets" to registered patients and registered caregivers who request them to keep track of the strains used and their effects.
- 6.25.4.2** How to achieve proper dosage for different modes of administration. Emphasis shall be on using the smallest amount possible to achieve the desired effect. The impact of potency must also be explained.
- 6.25.4.3** Information on tolerance, dependence and withdrawal must be provided. Dispensaries are not required to continue to furnish marijuana for therapeutic purposes if it is believed that a registered patient or caregiver is abusing marijuana or other substances.

6.25.4.4 Information regarding substance abuse signs and symptoms must be available, as well as referral information.

6.25.4.5 Information on whether the dispensary's marijuana and associated products meet organic certification standards.

6.25.5 Personnel Files. The registered dispensary must maintain a confidential personnel file on each principal officer, board member and employee. The personnel files shall include at least the following information:

6.25.5.1 Documentation of state residency for each principal officer and board member.

6.25.5.2 Copy of current dispensary registry identification card and copy of a Vermont driver's license or other state-issued photo identification card.

6.25.5.3 Employment application and required documentation.

6.25.5.4 Documented verification of references.

6.25.5.5 Documentation of background checks.

6.25.5.6 Job description or employment contract.

6.25.5.7 Documentation of training, including training regarding confidentiality requirements.

6.25.5.8 Documentation of periodic performance evaluations.

6.25.5.9 Documentation of disciplinary actions.

6.25.5.10 Documented results of drug tests.

6.25.6 Alcohol and drug-free workplace policy. The registered dispensary must have and adhere to a written alcohol and drug-free workplace policy. The policy must be available to the department upon request. The policy must include at least the following provisions:

6.25.4.7 Record of disposal of marijuana. The registered dispensary must create and maintain records of the disposal of marijuana that is not distributed by the dispensary.

6.25.8 Record of current patients. The registered dispensary must keep on file and available for department inspection, upon request, a copy of each current

patient’s registry identification card and a Vermont driver’s license or other state-issued photo identification. Files must be updated upon receipt of department notifications of dispensary designation (See Section 6.15).

6.25.9 Hours of Operation. A dispensary may establish their own hours of operation as long as those hours of operation are by appointment in the best interest of a registered patient. At no time may a dispensary schedule appointments such that more than one patient is at the dispensary at a time.

DISPENSARY PROHIBITIONS

6.25 Dispensary prohibitions. The following prohibitions apply to registered dispensaries:

6.25.1 A registered dispensary may not possess at any one time more than 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of useable marijuana. However, if more than 14 registered patients designate a dispensary, the dispensary may cultivate and possess at any one time two mature marijuana plants, seven (7) immature marijuana plants and two ounces of useable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

6.25.2 A registered dispensary may not dispense, deliver or otherwise transfer marijuana to a person other than a registered patient who has designated the dispensary to cultivate marijuana for the registered patient or to the patient’s registered caregiver.

6.25.3 A registered dispensary may not acquire prepared marijuana or marijuana plants except through the cultivation of marijuana by that dispensary either at the location of the dispensary or at the dispensary’s one permitted additional location for the cultivation of marijuana, if any.

6.25.3.2 Exception. A dispensary may donate marijuana, marijuana-infused products and marijuana related supplies to another dispensary in Vermont provided that no consideration is paid and that the recipient does not exceed the possession limits.

6.25.4 A registered dispensary may not contract for the cultivation of seeds, seedlings or small plants or the cultivation, production or preparation of marijuana or goods containing marijuana for medical use.

6.25.5 A registered dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to assist registered patients who have

designated the dispensary to cultivate marijuana for them with the use of marijuana directly or through the registered patients' caregivers.

- 6.25.6 A registered dispensary is prohibited from dispensing an amount of useable marijuana to a qualifying patient or a designated caregiver that the principal officer, board member, or employee knows would cause the recipient to possess more marijuana than is permitted.
- 6.26.7 A registered dispensary is prohibited from allowing a registered patient to consume marijuana for symptom relief on dispensary property.
- 6.26.8 **A dispensary shall not communicate with a registered patient or registered caregiver unless they have received specific permission in writing to do so. A dispensary shall advertise through any means including electronic means or through social networks their services, any results of customer satisfaction surveys, their location of business or any information that would identify them as a marijuana dispensary.**
- 6.26 **Inventory.** A registered dispensary is authorized to have twenty-eight (28) mature marijuana plants, ninety-eight (98) immature marijuana plants, and twenty-eight (28) ounces of useable marijuana.
 - 6.26.1 If the dispensary is designated by more than fourteen (14) registered patients the dispensary may cultivate and possess at any one time two (2) mature marijuana plants, seven (7) immature plants, and two (2) ounces of useable marijuana for every registered patient for which the dispensary serves as the designated dispensary.
 - 6.26.2 During the first sixty (60) days after start-up, a registered dispensary may have fourteen (14) marijuana live plants and others in various stages of cultivation without having any registered patients in order to build initial inventory.
 - 6.26.3 When there is a decrease in the number of patients who have designated the dispensary to cultivate marijuana, the dispensary shall have 10 business days to adjust the inventory to meet the requirements of Section 6.12.
- 6.27 **Daily inventory.** Prepared marijuana must be kept under double lock and inventoried daily by two cardholders.
- 6.28 **Dispensing inventory.** Quantities of prepared marijuana must be weighed, logged in and signed out by two cardholders when dispensed.
- 6.29 **Trip tickets.** Distributions of marijuana for use by a registered patient or a registered caregiver for use by a registered patient must be labeled with a trip ticket to identify the dispensary, the VMP patient unique identifier number, or the VMP caregiver unique

identifier number, the product, the amount and form, the time and date of origin, and destination of the product. Transportation of marijuana away from a dispensary must be in a locked container.

6.29.1 Registered caregivers shall take reasonable steps to deliver the product directly to the registered patient as a safety precaution and to alleviate concerns about drug diversion.

6.29.2 A dispensary with a growing location in addition to the location of the dispensary must label the marijuana that is being moved between the growing location and the dispensary with a trip ticket that identifies the name and address of the dispensary, the address of the growing location, the time, date, origin and destination of the material being transported, and the amount and form of marijuana and marijuana material that is being transported. Transportation of marijuana between a grow area and a dispensary must be in a locked container.

6.30 Packaging and labeling. A dispensary shall include a label on the packaging of all marijuana that is dispensed.

6.30.1 The label shall identify the particular strain of marijuana that is contained in the package. Cannabis strains shall be either pure breeds or hybrid varieties of cannabis and shall reflect the properties of the plant.

6.30.2 The label shall contain the statement “The State of Vermont does not attest to the medicinal value of cannabis”.

6.31 Quality control. If the department receives a complaint regarding the presence of mold, bacteria or another contaminant in marijuana produced by a registered dispensary, or if the department has reason to believe that the presence of mold, bacteria or another contaminant may jeopardize the health of a registered patient, the department may conduct an unannounced visit to the registered dispensary and may require the registered dispensary owner to provide samples of the marijuana for testing. The registered dispensary shall bear the costs of any tests required by the department.

6.32 No pesticide use. There are no pesticides authorized for use on marijuana, and unauthorized application of pesticides is unlawful.

6.33 Left blank for future use.

6.34 Incident reporting. A registered dispensary must submit a department-approved incident report form on the next business day after it discovers a violation of the requirements set out in these rules regarding the operation of dispensaries. A registered dispensary must contact their local police department when it discovers a violation of these rules represents a criminal law violation. The department shall be notified immediately by

phone there is any violation of the requirements set out in these rules regarding the operation of dispensaries. The report must indicate the nature of the breach and the corrective actions taken by the dispensary.

6.34.1 For the purposes of these rules, an incident includes:

6.34.1.1 Confidential information accessed or disclosed in violation of these rules;

6.34.1.2 Loss of inventory by theft or diversion;

6.34.1.3 Intrusion of the dispensary or the one permitted additional location, if any; and

6.34.1.4 Any other violations of these rules governing operation of the dispensary.

6.35 **Illegal activity reporting.** Any suspected illegal activity involving dispensary operations must be reported to law enforcement by the dispensary.

Section 7. FEES

7.1 Fees. All fees are nonrefundable and payable to the *Treasurer, State of Vermont*.

7.2 Registered patient fees.

7.2.1 Application fee. The patient application fee of \$50 must be submitted with the completed application for a registry identification card.

7.2.2 Renewal fee. The patient renewal fee of \$50 must be submitted annually with the completed renewal form for a registry identification card.

7.3 Registered caregiver fees.

7.3.1 Application fee: The caregiver application fee of \$50 must be submitted with the completed application for a registry identification card.

7.3.2 Renewal fee. The caregiver renewal fee of \$50 must be submitted annually with the completed renewal form for a registry identification card.

7.4 Application to receive a dispensary registration certificate fee.

7.4.1 Application fee: To apply to become a dispensary and hold a registration certificate there is a nonrefundable fee of \$2,500.

7.5 Dispensary Registration Certificate fees.

7.5.1 Registration certificate fee. The \$20,000 registration fee must be submitted with the dispensary's completed certificate of registration application.

7.5.2 Registration renewal fee. The \$30,000 registration renewal fee must be submitted annually with the dispensary's completed registration renewal form.

7.5.3 Identification card fee. The registered dispensary shall be assessed a \$50 fee for each registry identification card issued for each principal officer, board member, and employee of the registered dispensary.

7.5.4 Identification card renewal fee. The registered dispensary shall be assessed a \$50 fee for the annual renewal of each registry identification card issued for each principal officer, board member, and employee of the registered dispensary.

7.5.5 Background check fee. The registered dispensary shall be assessed a fee by the Department of Public Safety, Vermont Criminal Information Center, for the cost

of criminal background checks for each principal officer, board member, and employee of the registered dispensary.

7.5.6 Change of location fee. Reserved for future authority.

7.5.7 Registered Patient Change of Dispensary. A registered patient wishing to change his or her designated dispensary may do so in writing to the department and shall submit a \$25 fee. The department shall issue a new identification card within 30 days.

7.6 Processing fee: reissued card. A processing fee of \$25 shall be charged to registered patients, registered caregivers and registered dispensaries for reissuing a lost card or a card reissued by the department due to changes regarding the information on the registry identification card, such as an address change or change in caregiver.

7.7 Laboratory testing fees. Registered dispensaries are responsible for the cost of laboratory testing of marijuana that may be required by these rules.

Section 8. REGISTRY IDENTIFICATION CARD

- 8.1 Card required.** Registered patients, registered caregivers, principal officers, board members, and employees of registered dispensaries, must possess a valid registry identification card issued by the department. A registry identification card must have a photograph of the person on the card.

- 8.2 Department determination.** The department shall verify the information contained in an application for or renewal of a registry identification card and shall approve or deny an application for or renewal of a registry identification card to those who qualify in accordance with Section 4, Section 5, or Section 6 of these rules. The department determination shall be made within 30 calendar days of the date the department received the completed application for or renewal with all required documents and the registration fee (Section 7).

- 8.3 Issuance of cards.** The department shall issue registry identification cards to registered patients, registered caregivers, and to a dispensary’s principal officers, board members and employees within 5 business days of approving an application for or renewal of a registry identification card.

- 8.4 Information on registry identification card.** Registry identification cards must contain the required information in compliance with the following provisions.
 - 8.4.1 Patient registry identification card.** Each issued patient registry identification card must contain, at a minimum, the following information:
 - 8.4.1.1** The name, address and date of birth of the registered patient;
 - 8.4.1.2** A random VMP identification number that is unique to the cardholder;
 - 8.4.1.3** The date issued and the expiration date of the registry identification card. The registry identification card shall expire at 11:59 p.m. on the expiration date on the card;
 - 8.4.1.4** The name, address and date of birth of each registered caregiver, if any, of the patient.
 - 8.4.1.5** The name of the dispensary they designate.
 - 8.4.1.6** A photograph of the patient in manner prescribed by the VMP.

 - 8.4.2 Caregiver registry identification card.** Each card issued to a registered caregiver and to staff of hospice providers and nursing facilities named as

caregivers who assist patients with the medical use of marijuana must contain, at a minimum, the following information:

- 8.4.2.1 The name, address and date of birth of each registered caregiver, if any, of the patient;
- 8.4.2.2 The random VMP identification number that is unique to the cardholder;
- 8.4.2.3 The date issued and the expiration date of the registry identification card. The registry identification card shall expire at 11:59 p.m. on the expiration date on the card;
- 8.4.2.4 A clear designation showing whether the cardholder is designated pursuant to these rules to cultivate marijuana plants for the registered patient's medical use;
- 8.4.2.5 The name, address and date of birth of the registered patient; and
- 8.4.2.6 A photograph of the caregiver in a manner prescribed by the VMP.

8.4.3 Dispensary registry identification cards. Each registry identification card issued to a dispensary principal officer, board member or employee must contain, at a minimum, the following information:

- 8.4.3.1 The card must specify that the cardholder is a principal officer, board member or employee of a registered dispensary;
- 8.4.3.2 The name, address, and date of birth of the principal officer, board member or employee;
- 8.4.3.3 The legal name of the registered dispensary with which the principal officer, board member or employee is affiliated;
- 8.4.3.4 The random VMP identification number that is unique to the cardholder; and
- 8.4.3.5 The date issued and the expiration date of the registry identification card. The registry identification card shall expire at 11:59 p.m. on the expiration date on the card.

8.5 Expired card. Registry identification cards expire no more than one year after the date of issuance.

8.6 Annual renewal of card. At least thirty (30) calendar days before a card expires, the cardholder must submit a completed department-approved renewal form with all required documentation and the renewal fee (Section 7).

8.7 Loss of card or change in status of cardholder: department notification. Cardholders must notify the department within 10 business days of the following occurrences.

8.7.1 Loss of card.

8.7.2 Change in cardholder's status. The department must be notified when the following status changes occur:

8.7.2.1 Registered patient's status change:

8.7.2.1.1 Name change;

8.7.2.1.2 Address change;

8.7.2.1.3 Caregiver change;

8.7.2.1.4 Change caregiver designated to cultivate marijuana for the registered patient; or

8.7.2.1.5 Patient ceases to have a debilitating medical condition.

8.7.2.2 Registered caregiver status change:

8.7.2.2.1 Name change;

8.7.2.2.2 Address change;

8.7.2.2.3 a registered patient no longer designates the caregiver; or

8.7.2.2.4 a new patient designated the caregiver.

8.7.2.3 Dispensary's principal officer, board member or employee status change:

8.7.2.3.1 Registered dispensaries must notify the department each time a principal officer, board member or employee ceases to work or be affiliated with the registered dispensary.

8.8 New card issued: change in status. The department shall issue the registered patient, registered caregiver, or dispensary principal officer, board member or employee a new

registry identification card with a new random identification number within 5 business days of receiving the changed status information and the reissuing fee (Section 7).

8.8.1 The registry identification card with outdated information must be surrendered by returning it to the department. It must be received by the department within ten (10) business days of the person's receipt of the new registry identification card. Failure to timely surrender the superseded card to the department may result in the department voiding the newly issued card.

8.9 New principal officers, board members and employees: new card issued. Registered dispensaries must notify the department each time it has a new principal officer, board member or employee and must submit the person's name, address and date of birth and fingerprints along with the required fee for a new registry identification card before the new principal officer, board member, agent or employee begins to work at or affiliate with the registered dispensary.

8.10 De-designated caregiver: department notification. The department shall notify the de-designated caregiver within ten (10) business days of receipt of the updated information.

8.10.1 The de-designated caregiver must surrender the registry identification card by returning it to the department. The card must be received by the department within ten (10) business days of the date of notice.

8.11 Card void: debilitating condition ceases. When the registered patient's certifying health care professional notifies the department in writing that the registered patient has ceased to suffer from a debilitating medical condition, the patient's registry identification card becomes void 10 days after the date shown on the department's written notice to the patient at his or her last known address.

Section 9. CONFIDENTIALITY

- 9.1 Patients: applications and supporting information.** Applications and supporting information submitted by qualifying and registered patients under these rules, including information regarding their caregivers and health care professionals are confidential.
- 9.2 Caregivers and health care professionals: applications and supporting information.** Applications and supporting information submitted by caregivers and health care professionals operating in compliance with these rules are confidential.
- 9.3 List of cardholders.** The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards.
- 9.4 Verification of authenticity of card to law enforcement.** The department shall verify to law enforcement personnel whether a registry identification card is valid without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.
- 9.5 Dispensaries: applications and other information.** Applications, supporting information and other information regarding a registered dispensary are *not* confidential except that information that is contained within dispensary information that identifies a registered patient, the registered patient’s health care professional and the registered patient’s caregivers is confidential.
- 9.6 Department records.** Records of all persons registered may be stored in a secure electronic database and accessible by authorized Department of Public Safety personnel. Records maintained by the department pursuant to these rules that identify applicants for a registry identification card, registered patients, registered caregivers, and registered patient’s health care professionals are confidential and may not be disclosed except:
 - 9.6.1** To department employees who are responsible for carrying out these rules;
 - 9.6.2** Pursuant to a court order;
 - 9.6.3** With the written permission of the patient or the patient’s legal guardian, or a parent or person with legal custody if the patient has not attained 18 years of age;
 - 9.6.4** For prosecution for false swearing under 13 V.S.A. § 2904;
 - 9.6.5** To a law enforcement official in response to person-specific or property-specific inquiry by a law enforcement officer or agency made in the course of a bona fide investigation or prosecution. The department may verify the identities and registered property addresses of the registered patient and patient’s registered caregiver, a dispensary, or the principal officer, a board member, or an employee of a dispensary. The department shall maintain a separate secure electronic

database accessible to law enforcement personnel 24 hours a day that uses a unique identifier system to allow law enforcement to verify that person or entity is a registered patient, a registered caregiver, a dispensary, or the principal officer, a board member, or an employee of a dispensary.

- 9.6.6** To a patient's treating health care professional and to a patient's caregiver for the purpose of carrying out these rules.
- 9.7 Not prohibited: health care professional notification of department.** These rules do not prohibit a health care professional from notifying the department if the health care professional acquires information indicating that a registered or qualifying patient is no longer eligible to use marijuana for medical purposes or that a registered or qualifying patient falsified information that was the basis of the health care professional's certification of eligibility for the medical use of marijuana.
- 9.8 Not prohibited: disclosure to state agencies.** The department may disclose to an agency of State Government designated by the commissioner and employees of that agency any information necessary to produce registry identification cards or manage the identification card program and may disclose data for statistical or research purposes in such a manner that individuals cannot be identified.

Section 10: ENFORCEMENT

DENIAL OF APPLICATION OR RENEWAL OF CARD

10.1 Denial of application. The effective date of denial of an application for a registry identification card is the date shown on the department’s written notice to the applicant’s last known address. The department may deny an application for a registry identification card based on the following:

10.1.1 The applicant’s failure to comply with the application requirements set out in these rules, including the applicant’s failure to provide the required information.

10.1.2 The department’s determination that the information provided was materially inaccurate or incomplete.

10.2 Denial of renewal. The effective date of denial of a request for renewal of a registry identification card is the date shown on the department’s written notice to the cardholder’s last known address. The department may deny a cardholder’s request for renewal of his or her registry identification card based on the following:

10.2.1 The cardholder’s failure to comply with the renewal requirements set out in these rules, including the cardholder’s failure to provide the required information.

10.2.2 The department’s determination that the information provided was materially inaccurate or incomplete.

10.3 Reapplication. When an application or renewal has been denied, the person may reapply for a registry identification card. The person must demonstrate compliance with these rules, including those provisions that were the basis for the denial, and submit a completed department-approved form, all required documentation and required fees.

REVOCAION OF CARD

10.4 Revocation of registry identification card. The department may revoke a registry identification card.

10.4.1 Effective date of revocation. The effective date of revocation of a registry identification card is three (3) days after the date shown on the department’s written notice to the cardholder’s last known address.

10.4.1.1 A registered dispensary cardholder found to have violated section 10.5 shall have their registry identification card revoked by the Department of Public Safety.

10.4.2 Revoked card: no dispensary employment or affiliation. A principal officer, board member, or employee of a registered dispensary whose card has been revoked by the department is disqualified from serving as a principal officer, board member, or employee of a registered dispensary.

10.5 Grounds for revocation of registry identification card. Grounds for revocation of a registry identification card include the following:

10.5.1 The cardholder is convicted of selling, furnishing, or giving marijuana to a person who is not allowed to possess marijuana for medical purposes in accordance with these rules.

10.5.2 A registered caregiver or a registered dispensary cardholder is convicted of a disqualifying drug offense.

10.5.3 A caregiver, or a dispensary cardholder knowingly violates the confidentiality of information protected by these rules.

10.5.4 A registered dispensary cardholder is found to have dispensed, delivered, or otherwise transferred marijuana to a person other than a registered patient who has designated the dispensary to cultivate marijuana; or a registered dispensary cardholder is convicted of dispensing, delivering, or otherwise transferring marijuana to a person other than a patient’s registered caregiver.

10.5.5 A registered dispensary cardholder is found to have knowingly dispensed more than two (2) ounces of useable marijuana to a registered patient directly or through the qualifying patient’s registered caregiver during a 30-day period.

REVOCAION OF DISPENSARY REGISTRATION CERTIFICATE

10.6 Revocation of dispensary registration certificate. The department may revoke a dispensary registration certificate in accordance with the Title 3 V.S.A. Chapter 25, Administrative Procedure. No actions shall be taken without a hearing as outlined in Title 3 V.S.A. Chapter 25. A dispensary who has exhausted all administrative remedies within the department and who is aggrieved by the final decision may appeal the decision to the supreme court in accordance with Title 3 V.S.A. Section 815.

10.7 Grounds for revocation of dispensary certificate. Grounds for revocation of a dispensary’s certificate of registration include the following:

10.7.1 Failure to cooperate with required inspections.

10.7.2 Violations of any of these rules that govern the operation of a dispensary.

- 10.7.3 Committing, permitting, aiding or abetting any illegal practices in the operation of the dispensary.
- 10.7.4 Conduct or practices that are detrimental to the safety and welfare of registered patients or registered caregivers.
- 10.7.5 Providing information that is materially inaccurate or incomplete.

EMERGENCY SUSPENSION OF DISPENSARY CERTIFICATE

10.8 Emergency suspension of dispensary certificate. The department may suspend a dispensary’s certificate of registration on an emergency basis for up to 30 days based upon a threat to the health or physical safety of a person. The department may also suspend a dispensary’s certificate for up to 30 days upon the finding of probable cause by a judicial officer that a dispensary’s principal owner, board member or employee committed a misdemeanor or felony drug offense. A suspension beyond 30 days requires a hearing as outlined in Section 10.6.

10.8.1 Department notice. The department notice of an emergency suspension of the dispensary’s certificate shall include the following information:

- 10.8.1.1 The grounds for the emergency suspension;
- 10.8.1.2 The length of the emergency suspension;
- 10.8.1.3 Whether the department intends to seek a district court order revoking the dispensary’s certificate of registration; and
- 10.8.1.4 Any other relevant information.

VOIDING REGISTRY IDENTIFICATION CARD

10.9 Void card is inactive and invalid. A void registry identification card is inactive and no longer valid.

10.10 Grounds. The registry identification card is voided by the department when any of the following occurs:

- 10.10.1 A new card is issued to a dispensary cardholder based on a change in status, and the superseded card is not surrendered to the department.
- 10.10.2 A registered caregiver is de-designated by the registered patient and the invalid card is not surrendered to the department.

10.10.3 A person is no longer employed by or affiliated with a dispensary and the card is not surrendered to the department.

10.10.4 A patient's certifying health care professional notifies the department in writing that the registered patient has ceased to suffer from a debilitating medical condition, and the card is not surrendered to the department.

10.11 Date card is void. The registry identification card is void 10 days after the date shown on the department's written notice to the cardholder and the dispensary, if applicable.

NOTICE OF DEPARTMENT ACTION

10.12 Notice of department action; card holders. Prior to taking action against cardholders, the department shall issue a written notice that includes the following information:

10.12.1 Nature of violation. The nature of the violation and the rules violated.

10.12.2 Effective date. The date the department's action takes effect.

10.12.3 Right to appeal. The right to appeal the department's action.

10.13 Final department action. The department's action is considered final agency action, subject to review board review.

10.13.1 Record. The record for review is the department's file for that cardholder for the period in question, any other documents relied upon by the department in taking the action, the department's notice of the action, and other communications between the department and the cardholder regarding the action.

10.14 Notice of department action; dispensary. Prior to taking action against a dispensary in accordance with section 10.8, the department shall issue a written notice that includes the following information:

10.12.1 Nature of violation. The nature of the violation and the rules violated.

10.12.2 Effective date. The date the department's action takes effect.

10.12.3 Right to appeal. The right to appeal the department's action.

10.15 Final department action; dispensary. The department's action pursuant to section 10.8 is considered final. There is no appeal.

10.16 Criminal prosecution for false information. A person who knowingly gives false information to any law enforcement officer to avoid arrest or prosecution, or to assist

another in avoiding arrest or prosecution, shall be imprisoned for not more than one year or fined not more than \$1,000 or both. This penalty shall be in addition to any other penalties that may apply for possession or use of marijuana.

Section 11 The Marijuana for Symptom Relief Oversight Committee.

- 11.1** This committee is established and shall meet at least two times per year and shall be composed of the following members:
- 11.1.1** One registered patient appointed by each dispensary;
 - 11.1.2** One registered nurse appointed by the Governor;
 - 11.1.3** One registered patient appointed by the Governor;
 - 11.1.4** One health care professional appointed by the Vermont Medical Society;
 - 11.1.5** One member of a local zoning board appointed by the Vermont League of Cities and Towns;
 - 11.1.6** One representative appointed jointly by the Vermont Sheriffs' Association and the Vermont Association of Chiefs of Police; and
 - 11.1.7** The Commissioner of Public Safety or his or her designee.
- 11.2** The marijuana program administrator within the department shall be responsible for organizing the meetings of the Marijuana for Symptom Relief Oversight Committee and shall provide administrative support for the committee.
- 11.3** The Marijuana for Symptom Relief Oversight Committee shall elect a chair to conduct their meetings.
- 11.4 Annual Report.** The Marijuana for Symptom Relief Oversight Committee shall submit to the Department, the House Committee on Human Services, the Senate Committee on Health and Welfare, the House and Senate Committees on Judiciary, and the House and Senate Committees on Government Operations an annual report by January 1st each year beginning in 2013 on its evaluations and recommendations regarding the following:
- 11.4.1** The ability of qualifying patients and registered caregivers in all areas of the state to obtain timely access to marijuana for symptom relief;
 - 11.4.2** The effectiveness of the registered dispensaries individually and together in serving the needs of qualifying patients and registered caregivers, including the provisions of educational and support services;
 - 11.4.3** The sufficiency of the regulatory and security safeguards contained in 18 V.S.A. Chapter 86, Subchapter 2 and adopted by the Department to ensure that access to and use of cultivated marijuana is provided only to cardholders authorized for such purposes.

SECTION 12. MARIJUANA REVIEW BOARD

- 12.1** Three health care professionals licensed in Vermont will constitute the review board and they are to be appointed by the Vermont Medical Practice Board. The Vermont Medical Practice Board shall provide administrative and financial support to the Medical Marijuana Review Board.
- 12.2** Members of the board shall serve for three-year terms, beginning February 1 of the year in which the appointment is made, except that the first members appointed shall serve as follows: one for a term of two years, one for a term of three years, and one for a term of four years. Members shall be entitled to per diem compensation authorized under section 1010 of Title 32.
- 12.3** The Department of Public Safety shall provide administrative support for the Marijuana Review Board and the appeal process. They shall:
- 12.3.1** convene the Marijuana Review Board;
 - 12.3.2** handle all the administrative and legal requirements for the hearing; and
 - 12.3.3** prepare or cause to be prepared the findings and notify interested parties and the patient of the review board's findings.
- 12.4** The expense for the Marijuana Review Board's per diem shall be paid from registry fees collected by the Department of Public Safety.

12.5 MARIJUANA REVIEW BOARD DUTIES AND RESPONSIBILITIES

12.5.1 Appeal Process

- 12.5.1.1** If a patient's application is denied, the review board shall hear the appeal as long as the appeal is received within seven (7) days.
- 12.5.1.2** Review shall be limited to the information submitted by the patient with their application, and consultation with the patient's treating health care professional.
- 12.5.1.3** All records relating to the appeal shall be kept confidential.
- 12.5.1.4** An appeal shall be decided by majority vote of the members of the board.
- 12.5.1.5** A notice of the outcome of the appeal shall be sent to the patient and the Department of Public Safety.

- 12.5.2** The board shall meet periodically to review studies, data, and any other information relevant to the use of marijuana for symptom relief. The board may make recommendations to the general assembly for adjustments and changes to this chapter.
- 12.5.3** Members shall be entitled to per diem compensation authorized under section 1010 of Title 32. Members shall submit their request directly through the Department of Public Safety.
- 12.5.4** In the event of a vacancy on the board, the Vermont Medical Practice Board shall seek a name of another health care professional licensed in Vermont to fill the unexpired vacated term.

Statutory Authority

18 V.S.A. Chapter 86, subchapter 2. Marijuana for Medical Symptom Use by Persons with Severe Illness

ADOPTED

EFFECTIVE DATE: