

COMMITTEE ON HEALTH, HOSPITAL AND
HUMAN SERVICES

BILL NO. 31-0348

Thirty-first Legislature of the Virgin Islands

April 21, 2016

An Act amending title 19 of the Virgin Islands Code part III adding chapter 34 providing for the medical use and regulation of cannabis, the regulation of medical Cannabis Provisioning Centers, making a \$500,000 appropriation, and for other related purposes

PROPOSED BY: Senator Terrence “Positive” Nelson

WHEREAS, the following question was submitted to the voters by referendum on November 4, 2014: "Should the Legislature consider legislation that allows for the licensing and regulation of medical marijuana patients, care-givers, cultivators and distribution centers?", and the referendum passed by 56.5% of the voters; and

WHEREAS, the recorded use of cannabis as a medicine dates back nearly 5,000 years. Modern medical research has confirmed the beneficial uses for cannabis, also called marijuana or marihuana, in treating or alleviating pain, glaucoma, severe nausea, seizures, seizures caused by epilepsy, muscle spasms caused by multiple sclerosis or Crohn’s disease and other symptoms associated with a variety of debilitating medical conditions, including cancer, wasting syndrome, severe or chronic pain, HIV/AIDS, nausea, and other symptoms

1 associated with a variety of debilitating medical conditions, including cancer, multiple
2 sclerosis, and HIV/AIDS, as found by the National Academy of Sciences' Institute of
3 Medicine in March 1999; and

4 **WHEREAS**, studies published since the 1999 Institute of Medicine Report
5 continue to show the therapeutic value of cannabis in treating a wide array of debilitating
6 medical conditions. These include relief of the neuropathic pain caused by multiple
7 sclerosis, HIV/AIDS, and other illnesses and injuries that often fail to respond to
8 conventional treatments, and relief of nausea, vomiting, and other side effects of drugs used
9 to treat HIV/AIDS, Post-Traumatic Stress Disorder, Alzheimer's Disease, Parkinson's
10 Disease, hepatitis C, thereby increasing the chances of patients continuing on life-saving
11 treatment regimens; and

12 **WHEREAS**, Cannabis has many accepted medical uses in the United States,
13 having been recommended by thousands of licensed physicians to more than one million
14 patients in states with medical cannabis laws. A wide range of medical and public health
15 organizations, including the American Academy of HIV Medicine, the American College
16 of Physicians, the American Nurses Association, the American Public Health Association,
17 the Leukemia & Lymphoma Society, the Epilepsy Foundation, and many others, have
18 recognized cannabis's medical utility; and

19 **WHEREAS**, Data from the Federal Bureau of Investigation's Uniform Crime
20 Reports and the Compendium of Federal Justice Statistics show that approximately 99 out
21 of every 100 cannabis arrests in the U.S. are made under state law, rather than under federal
22 law. Consequently, changing state law will have the practical effect of protecting from

1 arrest the vast majority of seriously ill patients who have a medical need to use cannabis;
2 and

3 **WHEREAS**, twenty-three states and the District of Columbia have removed state-
4 level criminal penalties from the medical use and cultivation of cannabis. The US Territory
5 of Guam has enacted a regulated medical marijuana program, and the Governor of the
6 Commonwealth of Puerto Rico has signed an Executive Order to implement a medical
7 marijuana program. Four states have approved “adult use” of marijuana. Fourteen other
8 states have decriminalized the use of medical marijuana for children with seizure disorders
9 (“Charlotte’s Web” laws). Accordingly, a majority of states, 37 and more than 70% of the
10 US population now live in a jurisdiction that has some form of legal medical cannabis
11 program. The Virgin Islands joins in this effort for the health and welfare of its citizens;
12 and

13 **WHEREAS**, States are not required to enforce federal law or prosecute people for
14 engaging in activities prohibited by federal law. Therefore, compliance with this act does
15 not put the Virgin Islands in violation of federal law; and

16 **WHEREAS**, Indigenous peoples have the right to their traditional medicines and
17 to maintain their health practices, including the conservation of their vital medicinal plants,
18 animals, and minerals. Indigenous individuals also have the right to access, without
19 discrimination, to all social and health services; and

20 **WHEREAS**, there currently exists numerous methods of benefiting from the
21 medical use of the cannabis plant to include but not limited to ingesting (teas and edibles),
22 oils, topicals (creams/ lotions), tinctures, edibles, vaporizing, smoking, infusing,
23 suppository, transdermal patches, and balms; and

1 **WHEREAS**, our laws should make a distinction between the medical and non-
2 medical use of cannabis; and

3 **WHEREAS**, the purpose of enacting legislation to legalize the medical use of
4 cannabis is to protect patients with medical conditions, their physicians and primary
5 caregivers from local arrest and prosecution, and criminal and other penalties if the patient,
6 or caregiver engages in the medical use of cannabis and to protect supporting industries
7 involved in the medical cannabis growth, packaging and distribution process; and

8 **WHEREAS**, legalizing cannabis for medical purposes would regulate and provide
9 a safer means for individuals to obtain their choice of prescription without the criminal
10 element and provide for a known, tested and certified accurately measured dosage of
11 medication; and

12 **WHEREAS**, it would be beneficial to conduct extensive, joint and individual,
13 research, nationally and internationally through the University of the Virgin Islands on the
14 various medical benefits, uses, correct dosage/measurement, and strains of the marijuana
15 plant in the Virgin Islands; and

16 **WHEREAS**, the availability of medical cannabis would create a viable medical
17 tourism economy in this territory and place the Virgin Islands at the forefront of the
18 Caribbean Wellness tourism industry; and

19 **WHEREAS**, hundreds of thousands of Americans are willing to travel to Central
20 and South America and Asia for knee replacement, cosmetic surgery, bariatric bypass
21 surgeries, etc., and the Virgin Islands can be a destination for those who have the resources
22 and want to leave the cold and take up temporary residence in the Virgin Islands for
23 cannabis therapy treatment and to avail themselves of the Virgin Islands' new accredited

1 medical school and the Agriculture Experiment Station within the University of the Virgin
2 Islands; and

3 **WHEREAS**, this industry would create business opportunities and jobs for the
4 people of the Virgin Islands, and such businesses and jobs cannot be exported to other
5 countries; and

6 **WHEREAS**, the Federal Government has acknowledged the medical benefits
7 derived from the cannabis plant with patent No: US 6,630,507 B1 since October 7, 2003,
8 as follows: “Cannabinoids have been found to have antioxidant properties, unrelated to
9 NMDA receptor antagonism. This new found property makes cannabinoids useful in the
10 treatment and prophylaxis of a wide variety of oxidation associated diseases, such as
11 ischemic, age-related, inflammatory and autoimmune diseases. The cannabinoids are
12 found to have particular application as neuroprotectants, for example in limiting
13 neurological damage following ischemic insults, such as stroke and trauma, or in the
14 treatment of neurodegenerative diseases, such as Alzheimer’s disease, Parkinson’s disease
15 and HIV dementia.” Now, Therefore,

16 ***Be it enacted by the Legislature of the Virgin Islands:***

17 **SECTION 1.** Title 19 Virgin Islands Code part III is amended by adding chapter
18 34 to read as follows as follows:

19 **“CHAPTER 34. Medical Cannabis**

20 **§775. (a)** This Act may be cited as “The Virgin Islands Medical Cannabis Patient
21 Care Act’.

1 **(b)** The purpose of this chapter is to allow in a regulated system the beneficial
2 use of medical cannabis for alleviating symptoms caused by debilitating medical conditions
3 and their medical treatments.

4 **§776. Definitions.** In this chapter, unless the context otherwise requires, the
5 following words, words and phrases have the following meaning:

6 (a) “*Allowable amount of cannabis*” means:

7 (1) 8.0 ounces of cannabis;

8 (2) The quantity of cannabis products as established by OCR regulations;

9 (3) If the cardholder has a registry identification card allowing cultivation, any
10 combination of 16 plants, mature or immature; and

11 (4) If the cardholder has a registry identification card allowing cultivation, the
12 amount of cannabis and cannabis products that were produced from the cardholder’s
13 allowable plants, if the cannabis and cannabis products are possessed at the same property
14 where the plants were cultivated.

15 (b) “*Bona fide practitioner-patient relationship*” means:

16 (1) The practitioner and patient have a treatment or consulting relationship,
17 during the course of which the practitioner has completed an assessment of the patient’s
18 medical history and current medical condition, including an appropriate in-person physical
19 examination;

20 (2) The practitioner has consulted with the patient with respect to the patient’s
21 debilitating medical condition; and

22 (3) The practitioner is available to or offers to provide follow-up care and
23 treatment to the patient, including, patient examinations.

1 (c) “Board” means the Virgin Islands Medical Cannabis Policymaking Board
2 established in section 777.

3 (c) “*Cannabis*” means all parts of the Cannabis plant, growing or not; the seeds
4 of the plants; the resin extracted from any part of the plant; and every compound,
5 manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The
6 term does not include the mature stalks of the plant, fiber produced from the stalks, oil or
7 cake made from the seeds of the plant, any other compound, manufacture, salt, derivative,
8 mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil
9 or cake, or the sterilized seed of the plant which is incapable of germination. The term
10 includes “marijuana”, a colloquial term associated with the cannabis plant.

11 (d) “*Cannabis products*” means concentrated cannabis, cannabis extracts, and
12 products that are infused with cannabis or an extract thereof, and are intended for use or
13 consumption by humans. The term includes, without limitation, edible cannabis products,
14 beverages, topical products, ointments, oils, and tinctures.

15 (e) “*Cannabis product manufacturing facility*” means an entity registered with
16 the OCR pursuant to this act that acquires, possesses, manufactures, delivers, transfers,
17 transports, supplies, or sells cannabis products to medical cannabis dispensaries.

18 (f) “*Cannabis testing facility*” or “*testing facility*” means the official the Virgin
19 Islands laboratory established for the purpose of analyzing and approving the safety and
20 potency of cannabis distributed to any person or entity pursuant to this act. Nothing in this
21 definition precludes a patient, caregiver, or medical cannabis establishment from testing its
22 cannabis or cannabis products; however, such testing may not take the place of official

1 testing for the purpose of selling, transferring or otherwise distributing to the medical
2 cannabis market.

3 (g) "*Cardholder*" means a qualifying patient or a designated caregiver who has been
4 issued and possesses a valid registry identification card.

5 (h) "*Cultivation facility*" means an entity registered with the OCR pursuant to this act
6 that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells
7 cannabis and related supplies to medical cannabis establishments.

8 (i) "Debilitating medical condition" means:

9 (1) cancer, glaucoma, positive status for human immunodeficiency virus, acquired
10 immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,
11 ulcerative colitis, agitation of Alzheimer's disease, post-traumatic stress disorder, traumatic
12 brain injury, hospice care, Parkinson's disease, Huntington's disease, Arthritis, Diabetes,
13 Chronic Pain, Neuropathic Pain, or the treatment of these conditions;

14 (2) A chronic or debilitating disease or medical condition or its treatment that produces
15 one or more of the following: cachexia or wasting syndrome; severe, debilitating pain;
16 severe nausea; seizures; or severe and persistent muscle spasms, including, but not limited
17 to, those characteristic of multiple sclerosis;

18 (3) Any chronic or debilitating disease or medical condition or its treatment or the
19 symptoms related to any medical condition for which a healthcare practitioner believes the
20 use of medical cannabis will provide a therapeutic or palliative benefit to the patient; or

21 (4) Any other medical condition or its treatment added by the OCR pursuant to this
22 Chapter.

1 (j) "OCR" means the Virgin Islands Office of Cannabis Regulation within the
2 Department of Licensing and Consumer Affairs or its successor agency.

3 (k) "Designated caregiver" means a person who:

4 (1) is at least 21 years of age;

5 (2) Has agreed to assist with a qualifying patient's medical use of cannabis;

6 (3) Has not been convicted of a disqualifying felony offense; and

7 (4) Assists no more than five qualifying patients, including himself, with their medical
8 use of cannabis, unless the designated caregiver's qualifying patients each reside in or are
9 admitted to a health care facility or residential care facility where the designated caregiver
10 is employed.

11 (l) "Disqualifying felony offense" means:

12 (1) A violent crime that was classified as a felony in the jurisdiction where the person
13 was convicted; or

14 (2) A violation of a state, territorial or federal controlled substances law which was
15 classified as a felony in the jurisdiction where the person was convicted, but does not
16 include:

17 (A) An offense for which the sentence, including any term of probation,
18 incarceration, or supervised release was completed; or

19 (B) An offense that consisted of conduct for which this chapter would likely
20 have prevented a conviction, but the conduct either occurred prior to the
21 enactment of this chapter or was prosecuted by an authority other than the
22 Virgin Islands.

23 (m) "Edible cannabis products" means products that:

- 1 (1) Contain or are infused with cannabis or an extract of cannabis;
- 2 (2) Are intended for human consumption by oral ingestion; and
- 3 (3) Are presented in the form of foodstuffs, beverages, extracts, oils,
- 4 tinctures, and other similar products.
- 5 (n) "Enclosed, locked facility" means a closet, room, greenhouse, building,
- 6 or other enclosed area that is equipped with locks or other security devices that
- 7 permit access only by the cardholder or cardholders allowed to cultivate the
- 8 plants. Two or more cardholders who reside in the same dwelling may share one
- 9 enclosed, locked facility for cultivation.
- 10 (o) "Medical cannabis" or "cannabis" has the meaning given to the term
- 11 "marijuana" in any other law in the Virgin Islands.
- 12 (p) "Medical cannabis dispensary" or "dispensary" means an entity registered
- 13 with the OCR pursuant to this chapter which acquires, possesses, stores, delivers,
- 14 transfers, transports, sells, supplies, or dispenses cannabis, cannabis products,
- 15 paraphernalia, or related supplies and educational materials to cardholders.
- 16 (q) "Medical cannabis establishment" means a cultivation facility, a cannabis
- 17 testing facility, a cannabis product manufacturing facility, or a dispensary.
- 18 (r) "Medical cannabis establishment agent" means an owner, officer, board
- 19 member, employee, or volunteer at a medical cannabis establishment.
- 20 (s) "Medical use" includes the acquisition, administration, cultivation,
- 21 manufacture, delivery, harvest, possession, preparation, transfer, transportation,
- 22 or use of cannabis or paraphernalia relating to the administration of cannabis to
- 23 treat or alleviate a registered qualifying patient's debilitating medical condition or

1 symptoms associated with the patient's debilitating medical condition. The term
2 does not include:

- 3 (1) The cultivation of cannabis by a nonresident cardholder;
- 4 (2) The cultivation of cannabis by a cardholder who is not designated as being
5 allowed to cultivate on the cardholder's registry identification card; or
- 6 (3) The extraction of resin from cannabis by solvent extraction unless the
7 extraction is done by a cannabis product manufacturing facility.

8 (t) "Nonresident cardholder" means a person who:

- 9 (1) Has been diagnosed with a debilitating medical condition, or is the parent,
10 guardian, conservator, or other person with authority to consent to the medical
11 treatment of a person who has been diagnosed with a debilitating medical
12 condition;
- 13 (2) Is not a resident of the Virgin Islands or who has been a resident of the
14 Virgin Islands for less 45 days;
- 15 (3) was issued a valid registry identification card or its equivalent by another
16 state, district, territory, commonwealth, insular possession of the United States,
17 or country recognized by the United States which allows the person to use
18 cannabis for medical purposes in the jurisdiction of issuance; and
- 19 (4) Has submitted any documentation required by the OCR, and has received
20 confirmation of registration.

21 (u) "Nonresident In-Patient cardholder" means a person who:

- 22 (1) Has been diagnosed with a debilitating medical condition, or is the parent,
23 guardian, conservator, or other person with authority to consent to the medical

1 treatment of a person who has been diagnosed with a debilitating medical
2 condition;

3 (2) Is not a resident of the Virgin Islands or who has been a resident of the
4 Virgin Islands for less than 45 days;

5 (3) Is attending or participating in medical cannabis treatment in the Virgin
6 Islands under the supervision of a practitioner in the Virgin Islands, and has been
7 issued a temporary non-resident valid registry identification card by the Virgin
8 Islands for the duration of the non-resident in-patient's treatment or 30 days,
9 whichever is less, and which may be extended by the OCR for good cause shown;

10 and

11 (4) Has submitted any documentation required by the OCR, and has received
12 confirmation of registration as an in-patient.

13 “(v) “OCR” means the Office of Cannabis Regulation

14 (w) "Practitioner" means a person who is licensed and in good standing in the
15 Virgin Islands as a medical doctor, osteopath, naturopath, homeopath,
16 chiropractic physician, physician's assistant, nurse practitioner or registered
17 nurse, who has received a certificate of completion in a Virgin Islands -approved
18 medical cannabis education program,

19 (y) "*Qualifying patient*" means a person who has been diagnosed by a
20 practitioner as having a debilitating medical condition.

21 (z) "Registry identification card" means a document issued by the OCR
22 which identifies a person as a registered qualifying patient or registered

1 designated caregiver, or documentation that is deemed a registry identification
2 card pursuant to section 780.

3 (aa) "UVI" means the University of the Virgin Islands.

4 (bb) "Written certification" means a document —

5 (1) dated and signed by a practitioner,

6 (2) stating that in the practitioner's professional opinion the patient is likely
7 to receive therapeutic or palliative benefit from the medical use of cannabis to
8 treat or alleviate the patient's debilitating medical condition or symptoms
9 associated with the debilitating medical condition ;

10 (3) affirming that it is made in the course of a bona fide practitioner-patient
11 relationship; and

12 (4) specifying the qualifying patient's debilitating medical condition.

13 **§ 777. *The OCR; Virgin Islands Medical Cannabis Policymaking Board,***
14 ***establishment***

15 **(a)** The OCR is established within the Department of Licensing and
16 Consumer Affairs for **administrative purposes**. The OCR is vested with all
17 executive authority to implement and administer this chapter including,
18 rulemaking authority, The OCR is administered by a director appointed by the
19 Commissioner of the Department of Licensing and Consumer Affairs for a three-
20 year term that may be extended.

21 **(b)** A nine-member Virgin Islands Cannabis Advisory Board is established
22 as an independent board within the Department of Licensing and Consumer
23 Affairs for budgetary purposes and is comprised of:

- 1 (1) two representatives of the Department of **Health appointed by the**
2 Commissioner of Health;
- 3 (2) one representative of the Department of Agriculture **appointed by the**
4 **Commissioner of Agriculture ;**
- 5 (3) one representative of the Department of Licensing and Consumer Affairs
6 appointed by the Commissioner of Licensing and Consumer Affairs;
- 7 (4) the President of U.V.I. or President's designee;
- 8 (5) one representative U.V.I.'s Agricultural Experiment Station appointed
9 by the President of U.V.I.;
- 10 (6) one healthcare practitioner knowledgeable in cannabis medicine
11 appointed by the Board of Medical Examiners;
- 12 (7) one farmer appointed by the Commissioner of Agriculture; and
- 13 (8) the director of the OCR who serves as an ex officio voting member.
- 14 (c) The Board shall meet at least four times each year for the purpose of
15 providing oversight and establishing policies to be carried out by the OCR.
- 16 (d) The director of the OCR is responsible for ensuring:
 - 17 (1) The ability of qualifying patients in all areas of the Territory to obtain
18 timely access to high-quality medical cannabis;
 - 19 (2) The effectiveness of the dispensaries and cultivation facilities,
20 individually and together, in serving the needs of qualifying patients, including
21 the provision of educational and support services by dispensaries, the
22 reasonableness of their prices, whether they are generating any complaints or

1 security problems, and the sufficiency of the number operating to serve the Virgin
2 Islands” registered qualifying patients;

3 (3) The effectiveness of the cannabis testing facilities;

4 (4) The sufficiency of the regulatory and security safeguards contained in this
5 chapter and adopted by the OCR to ensure that access to and use of cannabis
6 cultivated is provided only to cardholders;

7 (5) Any additions or revisions to the OCR regulations or this chapter,
8 including relating to security, safe handling, labeling, nomenclature, and whether
9 to propose to the Senate an expansion of the program that may include an adult
10 legal program in addition to the medical cannabis program; and

11 (6) Any research studies regarding health effects of medical cannabis for
12 patients.

13 (e) The **Board** shall :

14 (1) promulgate regulations to protect the cultivation of medical cannabis
15 from the cultivation and distribution of hemp in locations that would substantially
16 interfere with the cultivation of medical cannabis;

17 (2) develop in conjunction with the Department of Tourism Virgin Islands-
18 sponsored non-resident medical cannabis tourism program;

19 (3) establish a Virgin Islands medical cannabis testing lab in conjunction
20 with the University of the Virgin Islands which provides the testing of all
21 cannabis, hemp, cannabis products and hemp products at fees established by the
22 Board through regulations;

1 (4) establish through regulations education and Certification requirements
2 for medical cannabis establishment applicants and licensees, their agents and
3 employees; medical practitioners; and medical cannabis related businesses
4 including, vendors, transporters, security companies;

5 (5) maintain a list of approved medical cannabis establishment vendors;

6 (6) develop a research and development program allowing licensees to have
7 access to cannabis to perform research and development on medical cannabis
8 and/or hemp in conjunction with UVI. Such licenses may be conditioned on the
9 licensee paying a royalty to UVI for new strains developed. UVI is exempt from
10 the payment of licensing fees for research and development.

11 (7) Working in conjunction with UVI, Appropriate educational opportunities
12 including certificated courses, undergraduate and graduate curriculum to further
13 develop educating and training a qualified workforce for the cannabis and hemp
14 industries.

15 (8) adopt regulations providing for additional licensing for private facilities
16 that allow medical cannabis patients to meet and use their medical cannabis or
17 medical cannabis products together in a location open only for private members,
18 each of whom must possess a valid medical card, and be over the age of 21.

19 (9) develop such other programs that provide a benefit to patients and
20 promote the economic welfare of the Virgin Islands without exceeding the
21 authority granted herein

22 (f) The Board shall promulgate regulations governing the program not later
23 than 60 days after the effective date of this chapter. In addition to publication as

1 required by title 3, chapter 35 of this Code, the regulations must be published on
2 the Board's official website. The Board shall provide up to 30 days for public
3 comment, and shall publish the final regulations not later than 30 days after the
4 comment period and proceed with implementation of the program in accordance
5 with the regulations.

6 (g) The Director shall hire such additional staff as may be required to
7 implement the program, including consultants, but the program must become
8 self-sufficient from the taxes or fees generated through the program not later than
9 two years from commencement of the program.

10 **§778. The Board's issuance regulations for the OCR.**

11 Not later than 120 days after the effective date of this chapter, the Board shall
12 promulgate regulations:

13 (1) governing the manner in which the OCR considers petitions from the
14 public to add debilitating medical conditions or treatments to the list of
15 debilitating medical conditions set forth in section 776 (i) (4)) of this chapter,
16 including public notice of and an opportunity to comment in public hearings on
17 the petitions;

18 (2) Establishing the form and content of registration and renewal applications
19 submitted under this chapter;

20 (3) Establishing a system to evaluate competing medical cannabis
21 establishment applicants which includes an analysis of:

22 (A) The preference of the OCR;

1 (B) In the case of dispensaries, the suitability of the proposed location and its
2 accessibility for patients;

3 (C) The character, veracity, background, qualifications, and relevant
4 experience of principal officers and board members;

5 (D) The economic benefits that will inure to the residents of the Virgin Islands
6 by local ownership, jobs and other opportunities;

7 (E) The business plan proposed by the applicant, which in the case of
8 cultivation facilities and dispensaries must include the ability to maintain an
9 adequate supply of cannabis, plans to ensure safety and security of patrons and
10 the community, procedures to be used to prevent diversion, and any plan for
11 making cannabis available to low-income registered qualifying patients.

12 (4) governing the manner in which it shall consider applications for and
13 renewals of registry identification cards, which may include creating a
14 standardized written certification form;

15 (5) Governing medical cannabis establishments with the goals of ensuring the
16 health and safety of qualifying patients and preventing diversion and theft without
17 imposing an undue burden or compromising the confidentiality of cardholders,
18 including:

19 (A) Oversight requirements;

20 (B) Recordkeeping requirements;

21 (C) Security requirements, including lighting, physical security, and alarm
22 requirements;

- 1 (D) Health and safety regulations, including restrictions on the use of
- 2 pesticides that are injurious to human health;
- 3 (E) Standards for the manufacture of cannabis products and both the indoor
- 4 and outdoor cultivation of cannabis by cultivation facilities;
- 5 (F) Requirements for the transportation and storage of cannabis by medical
- 6 cannabis establishments;
- 7 (G) Employment and training requirements, including requiring that each
- 8 medical cannabis establishment create an identification badge for each agent;
- 9 (H) Standards for the safe manufacture of cannabis products, including
- 10 extracts and concentrates;
- 11 (I) restrictions on the advertising, signage, and display of medical cannabis,
- 12 provided that the restrictions may not prevent appropriate signs on the property
- 13 of a dispensary, listings in business directories including phone books, listings in
- 14 cannabis-related or medical publications, or the sponsorship of health or not-for-
- 15 profit charity or advocacy events;
- 16 (J) Requirements and procedures for the safe and accurate packaging and
- 17 labeling of medical cannabis; and
- 18 (K) Certification standards for testing facilities, including requirements for
- 19 equipment and qualifications for personnel.
- 20 (6) Establishing procedures for suspending or terminating the registration
- 21 certificates or registry identification cards of cardholders and medical cannabis
- 22 establishments that commit multiple or serious violations of the provisions of this
- 23 chapter or the regulations promulgated pursuant to this section;

- 1 (7) Establishing labeling requirements for cannabis and cannabis products,
2 including requiring cannabis products' labels to include the following:
 - 3 (A) The length of time it typically takes for a product to take effect;
 - 4 (B) Disclosing ingredients and possible allergens;
 - 5 (C) A nutritional fact panel; and
 - 6 (D) Requiring that edible cannabis products be clearly identifiable, when
7 practicable, with a standard symbol indicating that it contains cannabis.
- 8 (8) Procedures for the registration of nonresident cardholders including the
9 submission of:
 - 10 (A) A practitioner's statement confirming that the patient has a debilitating
11 medical condition; and
 - 12 (B) Documentation demonstrating that the nonresident cardholder is allowed
13 to possess cannabis or cannabis preparations in the jurisdiction where the
14 nonresident cardholder resides; or
 - 15 (C) Documentation demonstrating that the nonresident is visiting the Virgin
16 Islands in order to undergo cannabis treatment as an in-patient at a Virgin Islands
17 approved facility.
- 18 (9) Establishing the amount of cannabis products, including the amount of
19 concentrated cannabis, each cardholder and nonresident cardholder can possess.
- 20 (10) Establishing reasonable application and renewal fees for registry
21 identification cards and registration certificates, according to the following
22 medical establishment classifications:

1 (A) Application fees for medical cannabis establishments may not exceed the
2 following during the first two years from the inception of the Medical Cannabis
3 Program:

4 (i) For a Cultivation License:

5 (a) Level I-Not to exceed 100 plants: \$1,000; \$500 for existing farmers

6 (b) Level II -Not to exceed 500 plants: \$2,500

7 (c) Level III -Not to exceed 1,000 plants: \$5,000

8 (ii) For a Dispensary License: \$5,000

9 (iii) For Cannabis Product Manufacturer License: \$5,000

10 (iv) For Research and Development License: \$1,000

11 (v) For Approved Vendor Certificate: \$1,000.00

12 (B) Unsuccessful Applicants shall receive a reimbursement in an amount equal
13 to 50% of the application fee.

14 (C) All application fees, certificate to operate fees and renewal fees may be
15 adjusted annually for inflation.

16 (D) Approval to Operate Certificate Fees:

17 In addition to the Application fees, medical cannabis establishments that are
18 approved shall pay a Certificate to Operate (“CO”) fee before commencing any
19 business operations. The OCR shall by regulations adopted by the Board set the
20 fee, but the fee may not exceed the application fee for the particular license
21 approved.

1 (E) Renewal fees are charged annually in an amount equal to the application fees
2 or as otherwise determined by the Board's regulations. All license fees may be
3 adjusted annually for inflation.

4 (F) The OCR by regulations adopted by the Board may establish a sliding scale
5 of patient application and renewal fees based upon a qualifying patient's
6 household income; and

7 (G) The fees charged to qualifying patients, nonresident cardholders, and
8 caregivers may not exceed: \$50 for residents for a one year card; \$50 for non-
9 residents for a five-day card, \$75 for a ten-day card, and \$100 for a 30 day card;
10 with these upper limits adjusted annually for inflation; such fees may be changed
11 after the program has been in place for two years.

12

13 **§779. *Protections for the Medical Use of Cannabis.***

14 (a) A cardholder who possesses a valid registry identification card is not
15 subject to arrest, prosecution, or penalty in any manner, or denial of any right or
16 privilege, including any civil penalty or disciplinary action by a court or
17 occupational or professional licensing board or bureau for:

18 (1) the medical use of cannabis pursuant to this chapter, if the cardholder does
19 not possess more than the allowable amount of cannabis, and if any cannabis
20 plants are either cultivated in an enclosed, locked facility or are being transported;

21 (2) reimbursement by a registered qualifying patient to the patient's
22 registered designated caregiver for direct costs incurred by the registered

1 designated caregiver for assisting with the registered qualifying patient's medical
2 use of cannabis;

3 (3) transferring cannabis to a testing facility for testing;

4 (4) Compensating a dispensary or a testing facility for goods or services
5 provided;

6 (5) selling, transferring, or delivering cannabis seeds produced by the
7 cardholder to a cultivation facility or dispensary; or

8 (6) offering or providing cannabis to a cardholder for a registered qualifying
9 patient's medical use or to a nonresident cardholder if nothing of value is
10 transferred in return and the person giving the cannabis does not knowingly cause
11 the recipient to possess more than the allowable amount of cannabis.

12 (7) reimbursement by a dispensary or producer to a registered qualifying
13 patient with cultivation privileges, only, or the registered qualifying patient's
14 caregiver, for direct and reasonable costs incurred by the registered cultivating
15 patient or caregiver for excess cannabis grown by same up to 64 ounces per year.

16 (b) A nonresident cardholder is not subject to arrest, prosecution, or penalty
17 in any manner, or denied any right or privilege, including, , civil penalty or
18 disciplinary action by a business or occupational or professional licensing board
19 or entity, for the transporting, purchasing, possessing, or using medical cannabis
20 pursuant to this chapter if the nonresident cardholder does not possess more than
21 3.0 ounces of cannabis and the quantity of cannabis products established by OCR
22 regulation.

1 (c) There is a presumption that a qualifying patient or designated caregiver is
2 engaged in the medical use of cannabis pursuant to this chapter if the cardholder
3 is in possession of a registry identification card and an amount of cannabis that
4 does not exceed the allowable amount of cannabis. The presumption may be
5 rebutted by evidence that conduct related to cannabis was not for the purpose of
6 treating or alleviating a qualifying patient's debilitating medical condition or
7 symptoms associated with the qualifying patient's debilitating medical condition
8 pursuant to this chapter.

9 (d) A practitioner is not subject to arrest, prosecution, or penalty in any
10 manner, or denied any right or privilege, including, but not limited to, civil
11 penalty or disciplinary action by the Virgin Islands Medical Board or by any other
12 occupational or professional licensing board or bureau, solely for providing
13 written certifications or for otherwise stating that, in the practitioner's
14 professional opinion, a patient is likely to receive therapeutic or palliative benefit
15 from the medical use of cannabis to treat or alleviate the patient's serious or
16 debilitating medical condition or symptoms associated with the serious or
17 debilitating medical condition, provided that nothing in this chapter shall prevent
18 a practitioner from being sanctioned for:

19 (1) issuing a written certification to a patient with whom the practitioner does
20 not have a bona fide practitioner-patient relationship; or

21 (2) failing to properly evaluate a patient's medical condition.

22 (e) An attorney may not be subject to disciplinary action by the Virgin
23 Islands Bar Association bar association or other professional licensing association

1 for providing legal assistance to prospective or registered medical cannabis
2 establishments or others related to activity that is no longer subject to criminal
3 penalties under state law pursuant to this chapter.

4 (f) No person may be subject to arrest, prosecution, or penalty in any manner,
5 or denied any right or privilege, including any civil penalty or disciplinary action
6 by a court or occupational or professional licensing board or bureau, for:

7 (1) providing or selling cannabis paraphernalia to a cardholder, nonresident
8 cardholder, or to a medical cannabis establishment;

9 (2) being in the presence or vicinity of the medical use of cannabis
10 that is exempt from criminal penalties by this chapter;

11 (3) allowing the person's property to be used for activities that are exempt from
12 criminal penalties by this chapter; or

13 (4) assisting a registered qualifying patient with the act of using or
14 administering cannabis.

15 (g) A dispensary or a dispensary agent is not subject to prosecution,,
16 search, or inspection, except by the OCR pursuant to section 789 seizure, or
17 penalty in any manner, and may not be denied any right or privilege, including
18 civil penalty or disciplinary action by a court or business licensing board or entity,
19 for acting pursuant to this chapter and regulations adopted under this chapter to:

20 (1) possess, transport, and store cannabis and cannabis products;

21 (2) deliver, transfer, and transport cannabis to testing facilities and
22 compensate testing facilities for services provided;

1 (3) accept cannabis offered by a cardholder or nonresident cardholder if
2 nothing of value is exchanged in return; except, a resident cardholder cultivator
3 may transfer up to 64 oz. of medical cannabis every 12 months, and accept
4 reimbursement for direct and reasonable costs.

5 (4) purchase or otherwise acquire cannabis from cultivation facilities or
6 dispensaries, and cannabis products from cannabis product manufacturing
7 facilities or dispensaries; and

8 (5) deliver, sell, supply, transfer, or transport cannabis, cannabis products,
9 and cannabis paraphernalia, and related supplies and educational materials to
10 cardholders, nonresident cardholders, and dispensaries.

11 (h) A cultivation facility or a cultivation facility agent is not subject to
12 prosecution, search, or inspection, except by the OCR pursuant to section 789
13 seizure, or penalty in any manner, and may not be denied any right or privilege,
14 including civil penalty or disciplinary action by a court or business licensing
15 board or entity, for acting pursuant to this chapter and rules authorized by this
16 chapter to:

17 (1) possess, plant, propagate, cultivate, grow, harvest, produce, process,
18 manufacture, compound, convert, prepare, pack, repack, or store cannabis;

19 (2) deliver, transfer, or transport cannabis to testing facilities and compensate
20 testing facilities for services provided;

21 (3) accept cannabis offered by a cardholder or nonresident cardholder if nothing
22 of value is exchanged in return;

23 (4) purchase or otherwise acquire cannabis from cultivation facilities;

1 (5) purchase cannabis seeds from cardholders, nonresident cardholders, and the
2 equivalent of a medical cannabis establishment that is registered in another
3 jurisdiction; and

4 (6) deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia,
5 and related supplies and educational materials to cultivation facilities and
6 dispensaries.

7 (i) A cannabis product manufacturing facility or a cannabis product
8 manufacturing facility agent is not subject to prosecution, search, or inspection,
9 except by the OCR pursuant to section 789, seizure, or penalty in any manner,
10 and may not be denied any right or privilege, including civil penalty or
11 disciplinary action by a court or business licensing board or entity, for acting
12 pursuant to this chapter and rules authorized by this chapter to:

13 (1) purchase or otherwise acquire cannabis from cultivation facilities, and
14 cannabis products or cannabis from cannabis product manufacturing facilities
15 and, to a limited extent, from an authorized patient or caregiver;

16 (2) possess, produce, process, manufacture, compound, convert, prepare, pack,
17 repack, and store cannabis and cannabis products;

18 (3) deliver, transfer, or transport cannabis, cannabis products, cannabis
19 paraphernalia, and related supplies and educational materials to dispensaries and
20 cannabis product manufacturing facilities;

21 (4) deliver, transfer, or transport cannabis to testing facilities and compensate
22 testing facilities for services provided;

1 (5) deliver, sell, supply, transfer, or transport cannabis, cannabis products,
2 cannabis paraphernalia, and related supplies and educational materials to
3 cannabis product manufacturing facilities or dispensaries.

4 (j) A testing facility or testing facility agent is not subject to prosecution, search,
5 or inspection, except by the OCR pursuant to section 789, seizure, or penalty in
6 any manner, and may not be denied any right or privilege, including civil penalty
7 or disciplinary action by a court or business licensing board or entity, for acting
8 pursuant to this chapter and regulations adopted under this chapter to:

9 (1) acquire, possess, transport, and store cannabis and cannabis products
10 obtained from cardholders, nonresident cardholders, and medical cannabis
11 establishments;

12 (2) return the cannabis and cannabis products to the cardholders, nonresident
13 cardholders, and medical cannabis establishment from whom it was obtained;

14 (3) test cannabis, including for potency, pesticides, mold, or contaminants; and

15 (4) receive compensation for those services.

16 (k) A cardholder, nonresident cardholder, or the equivalent of a medical
17 cannabis establishment that is registered in another jurisdiction may sell or donate
18 cannabis seeds to cultivation facilities.

19 (l) Any cannabis, cannabis product, cannabis paraphernalia, or other interest in
20 or right to property that is possessed, owned, or used in connection with the
21 medical use of cannabis as allowed under this chapter, or acts incidental to such
22 use, may not be seized or forfeited. This chapter does not prevent the seizure or
23 forfeiture of cannabis exceeding the amounts allowed under this chapter, nor does

1 it prevent seizure or forfeiture if the basis for the action is unrelated to the
2 cannabis that is possessed, manufactured, transferred, or used pursuant to this
3 chapter.

4 (m) Possession of, or application for, a registry identification card does not
5 constitute probable cause or reasonable suspicion, nor shall it be used to support
6 a search of the person or property of the person possessing or applying for the
7 registry identification card, or otherwise subject the person or property of the
8 person to inspection by any governmental agency.

9 (n) For the purposes of the Virgin Islands law, activities related to medical
10 cannabis are considered lawful as long as they are in accordance with this chapter.

11 (o) No law enforcement officer employed by an agency that receives territorial
12 funds may expend any territorial resources, including the officer's time, to effect
13 any arrest or seizure of cannabis, or conduct any investigation, on the sole basis
14 of activity the officer believes to constitute a violation of the federal Controlled
15 Substances Act if the officer has reason to believe that such activity is in
16 compliance with the Virgin Islands medical cannabis laws, nor may any such
17 officer expend any territorial resources, including the officer's time, to provide
18 any information or logistical support related to such activity to any federal law
19 enforcement authority or prosecuting entity.

20 (p) It is the public policy of the Virgin Islands that contracts related to medical
21 cannabis that are entered into by cardholders, medical cannabis establishments,
22 or medical cannabis establishment agents, and those who allow property to be
23 used by those persons, should be enforceable. It is the public policy of the Virgin

1 Islands that no contract entered into by a cardholder, a medical cannabis
2 establishment, or medical cannabis establishment agent, or by a person who
3 allows property to be used for activities that are exempt from criminal penalties
4 by this chapter, is unenforceable on the basis that activities related to cannabis are
5 prohibited by federal law.

6 **§ 780. *Acts not required; acts not prohibited***

7 (a) Nothing in this chapter requires:

8 (1) A government medical assistance program or private insurer to reimburse a
9 person for costs associated with the medical use of cannabis;

10 (2) Any person or establishment in lawful possession of property to allow a
11 guest, client, customer, or other visitor to smoke cannabis on or in that property;
12 or

13 (3) A landlord to allow the cultivation of cannabis on the rental property.

14 (b) Nothing in this chapter prohibits an employer from disciplining an employee
15 for ingesting cannabis in the workplace or for working while under the influence
16 of cannabis.

17 (c) Nothing in this chapter prevents a Dispensary from providing appropriate space within the dispensary facility where
18 patients may consume medical cannabis or medical cannabis products, if that it complies with any regulations adopted
19 by the Board in reference to such consumption.

20 **§ 781. *Limitations***

21 (a) This chapter does not authorize any person to engage in, and does not prevent
22 the imposition of any civil, criminal, or other penalties for engaging in, the
23 following conduct:

1 (1) Undertaking any task under the influence of cannabis, when doing so would
2 constitute negligence or professional malpractice.

3 (2) Possessing cannabis or otherwise engaging in the medical use of cannabis in
4 any correctional facility.

5 (3) Smoking cannabis:

6 (A) On any form of public transportation; or

7 (B) In any public place or any place that is open to public use.

8 (4) operating, navigating, or being in actual physical control of any motor
9 vehicle, aircraft, train, or motorboat while under the influence of cannabis, except
10 that a registered qualifying patient or nonresident cardholder shall not be
11 considered to be under the influence of cannabis solely because of the presence
12 of metabolites or components of cannabis that appear in insufficient
13 concentration to cause impairment.

14 **§ 782. *Discrimination Prohibited***

15 (a) No school or landlord may refuse to enroll or lease to and may not otherwise
16 penalize a person solely for the person's status as a cardholder, unless failing to
17 do so would violate federal law or regulations or cause the school or landlord to
18 lose a monetary or licensing-related benefit under federal law or regulations.

19 (b) For the purposes of medical care, including organ and tissue transplants, a
20 registered qualifying patient's use of cannabis according to this chapter is
21 considered the equivalent of the authorized use of any other medication used at
22 the discretion of a practitioner and does not constitute the use of an illicit
23 substance or otherwise disqualify a qualifying patient from needed medical care.

1 (c) A person may not be denied custody of, or visitation rights, or parenting time
2 with a minor solely for the person's status as a cardholder, and there may be no
3 presumption of neglect or child endangerment for conduct allowed under this
4 chapter, unless the person's behavior is such that it creates an unreasonable danger
5 to the safety of the minor as established by clear and convincing evidence.

6 (d) Except as provided in this chapter, a registered qualifying patient who uses
7 cannabis for medical purposes must be afforded all the same rights under Virgin
8 Islands law, including those guaranteed under the territory's disability rights law,
9 as the individual would be afforded if individual were solely prescribed
10 pharmaceutical medications, as it pertains to:

- 11 (1) any interaction with a person's employer;
12 (2) drug testing by a person's employer; or
13 (3) drug testing required by any territorial agency or government official.

14 (e) The rights provided by this section do not apply to the extent that they
15 conflict with an employer's obligations under federal law or regulations or to the
16 extent that they would disqualify an employer from a monetary or licensing-
17 related benefit under federal law or regulations.

18 (f) No employer is required to allow the ingestion of cannabis in any workplace
19 or to allow any employee to work while under the influence of cannabis. A
20 registered qualifying patient must not be considered to be under the influence of
21 cannabis solely because of the presence of metabolites or components of cannabis
22 that appear in insufficient concentration to cause impairment. A registered
23 qualifying patient is presumed to have worked under the influence of cannabis if,

1 prior to the conclusion of the work day, such patient has a THC concentration of
2 150 nano grams/ml. or higher as shown by analysis of the person's blood or urine.

3 (g) No school, landlord, or employer may be penalized or denied any benefit
4 under territorial law for enrolling, leasing to, or employing a cardholder.

5 **§ 783. *Addition of Debilitating Medical Conditions***

6 Any resident of the Virgin Islands may petition the OCR to add serious
7 medical conditions or resident's treatments to the list of debilitating medical
8 conditions listed in section 776 (i). The OCR shall consider petitions in the
9 manner required by OCR regulations, including public notice and hearing. The
10 OCR shall approve or deny a petition not later than 180 days after its submission.
11 If the Petition is denied, the Petitioner may file an Administrative Appeal, as more
12 fully described herein, if a Notice of Appeal has been filed with the OCR not later
13 than 30 days after the denial. The approval or denial of any timely filed appeal
14 is a final decision of the OCR, subject to judicial review. Jurisdiction and venue
15 are vested in the Superior Court.

16 **§ 784. *Issuance and Denial of Registry Identification Cards***

17 (a) No later than 120 days after the effective date of this chapter, the OCR shall
18 begin issuing Registry Identification Cards to qualifying patients who submit the
19 following, in accordance with the OCR's regulations:

- 20 (1) A written certification issued by a practitioner within 90 days immediately
21 preceding the date of an application;
22 (2) The application or renewal fee;

1 (3) The name, address, and date of birth of the qualifying patient, except that if
2 the applicant is homeless, no address is required;

3 (4) The name, address, and telephone number of the qualifying patient's
4 practitioner;

5 (5) The name, address, and date of birth of the designated caregiver, or
6 designated caregivers, chosen by the qualifying patient;

7 (6) If more than one designated caregiver is designated at any given time,
8 documentation demonstrating that a greater number of designated caregivers are
9 needed due to the patient's age or medical condition;

10 (7) If the qualifying patient designates a designated caregiver, a designation as
11 to whether the qualifying patient or designated caregiver will be allowed to
12 possess and cultivate cannabis plants for the qualifying patient's medical use.

13 (b) If the qualifying patient is unable to submit the information required by
14 subsection (a) due to the persons' age or medical condition, the person
15 responsible for making medical decisions for the qualifying patient may do so on
16 behalf of the qualifying patient.

17 (c) Except as provided in subsection (d), the OCR shall:

18 (1) Verify the information contained in an application or renewal submitted
19 pursuant to this chapter and approve or deny an application or renewal within five
20 (5) days of receiving a completed application or renewal application;

21 (2) Issue registry identification cards to a qualifying patient and the designated
22 caregivers, if any, within five days after approving the application or renewal. A

1 designated caregiver must have a registry identification card for each of his
2 qualifying patients; and

3 (d) The OCR may conduct a background check of the prospective designated
4 caregiver in order to carry out this provision.

5 (e) The OCR may not issue a registry identification card to a qualifying patient
6 who is younger than 18 years of age unless:

7 (1) The qualifying patient's practitioner has explained the potential risks and
8 benefits of the medical use of cannabis to the custodial parent or legal guardian
9 with responsibility for health care decisions for the qualifying patient; and

10 (2) The custodial parent or legal guardian with responsibility for health care
11 decisions for the qualifying patient consents in writing to:

12 (A) allow the qualifying patient's medical use of cannabis;

13 (B) serve as the qualifying patient's designated caregiver; and

14 (C) control the acquisition of the cannabis, the dosage, and the frequency of the
15 medical use of cannabis by the qualifying patient.

16 (f) The OCR may deny an application or renewal of a qualifying patient's
17 registry identification card only if the applicant:

18 (1) did not provide the required information, fee, or materials;

19 (2) previously had a registry identification card revoked; or

20 (3) provided false information.

21 (g) The OCR may deny an application or renewal for a designated caregiver
22 chosen by a qualifying patient whose registry identification card was granted only
23 if:

- 1 (1) The designated caregiver does not meet the requirements of section 776 (k);
- 2 (2) The applicant did not provide the information required;
- 3 (3) The designated caregiver previously had a registry identification card
- 4 revoked; or
- 5 (4) The applicant or the designated caregiver provided false information.
- 6 (h) The OCR shall give written notice to the qualifying patient of the reason for
- 7 denying a registry identification card to the qualifying patient or to the qualifying
- 8 patient's designated caregiver.
- 9 (i) Denial of an application or renewal is considered a final OCR action, subject
- 10 to Administrative Appeal, as more fully described herein. Denial of the
- 11 Administrative Appeal is subject to judicial review. Jurisdiction and venue for
- 12 judicial review are vested in the Superior Court.
- 13 (j) Until a qualifying patient who has submitted an application and the required
- 14 fee to the OCR receives a registry identification card or a rejection, a copy of the
- 15 individual's application, written certification, and proof that the application was
- 16 submitted to the OCR is deemed a registry identification card.
- 17 (k) Until a designated caregiver whose qualifying patient has submitted an
- 18 application and the required fee receives a registry identification card or a
- 19 rejection, a copy of the a qualifying patient's application, written certification,
- 20 and proof that the application was submitted to the OCR is deemed a registry
- 21 identification card.

1 (l) Until 25 days after the OCR makes applications available, a valid, written
2 certification issued within the previous year is deemed a registry identification
3 card for a qualifying patient.

4 (m) Until 25 days after the OCR makes applications available, the following is
5 deemed a designated caregiver registry identification card:

6 (1) A copy of a qualifying patient's valid written certification issued within the
7 previous year; and

8 (2) A signed affidavit attesting that the person has significant responsibility for
9 managing the well-being of the patient and that the person has been chosen to
10 assist the qualifying patient.

11 **§ 785. *Contents of Registry Identification Cards***

12 (a) Registry identification cards must contain all of the following:

13 (1) The name of the cardholder;

14 (2) A designation of whether the cardholder is a qualifying patient or a
15 designated caregiver;

16 (3) The date of issuance and expiration date of the registry identification card;

17 (4) A random 10-digit alphanumeric identification number, containing at least
18 four numbers and at least four letters, that is unique to the cardholder;

19 (5) If the cardholder is a designated caregiver, the random identification number
20 of the qualifying patient the designated caregiver will assist;

21 (6) A clear indication of whether the cardholder has been designated to cultivate
22 cannabis plants for the qualifying patient's medical use;

23 (7) A photograph of the cardholder, if the OCR's regulations require one; and

1 (8) The phone number or web address where the card can be verified.

2 (b) Except as provided in this subsection, the expiration date is one year after
3 the date of issuance.

4 (c) If the practitioner stated in the written certification that the qualifying patient
5 would benefit from cannabis until a specified earlier date, then the registry
6 identification card shall expire on that date.

7 **§786. Verification system**

8 (a) The OCR shall maintain a confidential list of the persons to whom the OCR
9 has issued registry identification cards and their addresses, phone numbers, and
10 registry identification numbers. This confidential list must not be combined or
11 linked in any manner with any other list or database, nor shall it be used for any
12 purpose not provided for in this chapter.

13 (b) No later than 120 days after the effective date of this chapter, the OCR shall
14 establish a secure phone or web-based verification system. The verification
15 system must allow law enforcement personnel and medical cannabis
16 establishments to enter a registry identification number and determine whether or
17 not the number corresponds with a current, valid registry identification card. The
18 system may disclose only:

19 (1) Whether the identification card is valid;

20 (2) The name of the cardholder;

21 (3) Whether the cardholder is a qualifying patient or a designated caregiver;

22 (4) Whether the cardholder is permitted to cultivate cannabis plants;

1 (5) The registry identification number of any affiliated registered qualifying
2 patient; and

3 (6) The registry identification of the qualifying patient's dispensary or
4 dispensaries, if any.

5 **§ 787. Notifications to OCR and Responses; Civil Penalty.**

6 (a) The following notifications and OCR responses are required:

7 (1) A registered qualifying patient shall notify the OCR of any change in h
8 name or address, or if the registered qualifying patient ceases to have the
9 debilitating medical condition, within 10 days of the change.

10 (2) A registered designated caregiver shall notify the OCR of any change in
11 name or address, or if the designated caregiver becomes aware the qualifying
12 patient passed away, within 10 days of the change.

13 (3) Before a registered qualifying patient changes the designated caregiver, the
14 qualifying patient must notify the OCR.

15 (4) When a registered qualifying patient changes the preference as to who may
16 cultivate cannabis for the qualifying patient, the qualifying patient must notify the
17 OCR.

18 (5) If a cardholder's registry identification card is lost, the cardholder shall
19 notify the OCR within 10 days of becoming aware the card has been lost.

20 (b) Each notification a registered qualifying patient is required to make instead
21 may be made by the patient's designated caregiver if the qualifying patient is
22 unable to make the notification due to age or medical condition.

1 (c) When a cardholder notifies the OCR of items listed in subsection (a), but
2 remains eligible under this chapter, the OCR shall issue the cardholder a new
3 registry identification card with a new random 10-digit alphanumeric
4 identification number within 10 days after receiving the updated information and
5 a fee in accordance with OCR Rule. If the person notifying the OCR is a
6 registered qualifying patient, the OCR shall also issue the registered designated
7 caregiver, if any, a new registry identification card within 10 days of receiving
8 the updated information.

9 (d) If the registered qualifying patient's certifying practitioner notifies the OCR
10 in writing that either the registered qualifying patient has ceased to suffer from a
11 debilitating medical condition or that the practitioner no longer believes the
12 patient would receive therapeutic or palliative benefit from the medical use of
13 cannabis, the card becomes void. However, the registered qualifying patient shall
14 have 10 days to dispose of or give away the cannabis.

15 (e) A medical cannabis establishment shall notify the OCR not later than one
16 business day after any theft or significant loss of cannabis.

17 **§788. Affirmative Defense and Dismissal for Medical Cannabis.**

18 (a) Except as provided in section 779 and this section, a person may assert the
19 medical purpose for using cannabis as a defense to any prosecution involving
20 cannabis, and such defense must be presumed valid where the evidence shows
21 that:

22 (1) A practitioner has stated that, in the practitioner's professional opinion, after
23 having completed a full assessment of the person's medical history and current

1 medical condition made in the course of a bona fide practitioner-patient
2 relationship, the patient has a debilitating medical condition and the potential
3 benefits of using cannabis for medical purposes would likely outweigh the health
4 risks for the person;

5 (2) The person was in possession of no more than 8.0 ounces of cannabis, the
6 amount of cannabis products allowed by OCR regulation, 16 cannabis plants, and
7 the cannabis produced by those plants;

8 (3) The person was engaged in the acquisition, possession, use, manufacture,
9 cultivation, or transportation of cannabis, paraphernalia, or both, relating to the
10 administration of cannabis to treat or alleviate the individual's debilitating
11 medical condition or symptoms associated with the individual's debilitating
12 medical condition; and

13 (4) Any cultivation of cannabis and storage of more than 3.0 ounces of cannabis
14 occurred in a secure location that only the person asserting the defense could
15 access.

16 (b) The defense and motion to dismiss may not prevail if the prosecution proves
17 that:

18 (1) The person had a registry identification card revoked for misconduct; or

19 (2) The purposes for the possession or cultivation of cannabis were not solely
20 for palliative or therapeutic use by the individual with a debilitating medical
21 condition who raised the defense.

22 (c) An individual is not required to possess a registry identification card on his
23 person to raise the affirmative defense set forth in this section.

1 (d) If an individual demonstrates the individual's medical purpose for using
2 cannabis pursuant to this section, except as provided in section 779, the individual
3 is not subject to the following for the individual's use of cannabis for medical
4 purposes:

5 (1) Disciplinary action by an occupational or professional licensing board or
6 bureau; or

7 (2) Forfeiture of any interest in or right to any property other than cannabis.

8 **§ 789. *Registration of Medical Cannabis Establishments.***

9 (a) Not later than 90 days after receiving an application for a medical cannabis
10 establishment, the OCR shall register the prospective medical cannabis
11 establishment and issue a registration certificate and a random 10-digit
12 alphanumeric identification number if all of the following conditions are
13 satisfied:

14 (1) The prospective medical cannabis establishment has submitted all of the
15 following:

16 (A) The application fee in an amount not to exceed \$5,000 as established by OCR
17 Rule.

18 (B) An application, including:

19 (i) The legal name of the prospective medical cannabis establishment;

20 (ii) The physical address of the prospective medical cannabis establishment that
21 is not within 500 feet of a public or private school existing before the date of the
22 medical cannabis establishment application;

(iii) The name and date of birth of each principal officer and board member of the proposed medical cannabis establishment; and

(iv) Any additional information requested by the OCR.

(C) Operating procedures consistent with rules for oversight of the proposed medical cannabis establishment, including procedures to ensure accurate recordkeeping and adequate security measures.

(2) None of the principal officers or board members has served as a principal officer or board member for a medical cannabis establishment that has had its registration certificate revoked.

(3) None of the principal officers or board members is under 21 years of age.

(4) The majority of principal officers and a majority of members of the board of directors and a majority of shareholders or owners , as measured by the total number of shares issued, or percentage of total ownership interests, are residents of the Virgin Islands, and have maintained such residence for 24 months prior to submitting the application.

(f) The OCR shall issue a renewal registration certificate within 10 days after receipt of the prescribed renewal application and renewal fee from a medical cannabis establishment if its registration certificate is not under suspension and has not been revoked.

(g) For any approved applicant, a Certificate to Operate fee in an amount subject to OCR Rule but, in no event during the first year of the Program, an amount in excess of \$5,000.

§ 790. Requirements, prohibitions, penalties

- 1 (a) Medical cannabis establishments shall conduct a background check into the
2 criminal history of every person seeking to become a principal officer, board
3 member, agent, volunteer, or employee before the person begins working at the
4 medical cannabis establishment.
- 5 (b) A medical cannabis establishment may not employ any person who:
 - 6 (1) Was convicted of a disqualifying felony offense; or
 - 7 (2) Is under the age of 21.
- 8 (c) The operating documents of a medical cannabis establishment must include
9 procedures for the oversight of the medical cannabis establishment and
10 procedures to ensure accurate recordkeeping.
- 11 (d) A medical cannabis establishment shall implement appropriate security
12 measures designed to deter and prevent the theft of cannabis and unauthorized
13 entrance into areas containing cannabis.
- 14 (e) All cultivation, harvesting, manufacture, and packaging of cannabis must
15 take place in a secure facility at a physical address provided to the OCR during
16 the registration process. The secure facility may only be accessed by agents of
17 the medical cannabis establishment, emergency personnel, and adults who are 21
18 years and older and who are accompanied by medical cannabis establishment
19 agents. Nothing in this subsection prevents an outdoor cultivation, if the outdoor
20 cultivation is secure and is completely surrounded by a 10' or greater fence which
21 must be constructed in such manner as to reasonably block any view from ground
22 level of the grow from outside the facility.

1 (f) No medical cannabis establishment other than a cannabis product
2 manufacturer may produce cannabis concentrates, cannabis extractions, or other
3 cannabis products.

4 (g) A medical cannabis establishment may not share office space with or refer
5 patients to a practitioner.

6 (h) A medical cannabis establishment may not permit any person to consume
7 cannabis on the property of a medical cannabis establishment, except as may be
8 provided under OCR regulations.

9 (i) Medical cannabis establishments are subject to inspection by the OCR during
10 business hours.

11 (j) Before cannabis may be dispensed to a cardholder or nonresident cardholder,
12 a dispensary agent must:

13 (1) Make a diligent effort to verify that the registry identification card or
14 registration presented to the dispensary is valid;

15 (2) Make a diligent effort to verify that the person presenting the documentation
16 is the person identified on the document presented to the dispensary agent;

17 (3) Not believe that the amount dispensed would cause the person to possess
18 more than the allowable amount of cannabis; and

19 (4) Make a diligent effort to verify that the dispensary is the current dispensary
20 that was designated by the cardholder or nonresident cardholder.

21 (k) A dispensary may not dispense more than 3.0 ounces of cannabis to a
22 nonresident cardholder or a registered qualifying patient, directly or via a
23 designated caregiver, in any 14-day period. Dispensaries shall ensure compliance

1 with this limitation by maintaining internal, confidential records that include
2 records specifying how much cannabis is being dispensed to the nonresident
3 cardholder or registered qualifying patient and whether it was dispensed directly
4 to a registered qualifying patient or to the designated caregiver. A dispensary
5 shall log the sale on an OCR approved, confidential website.

6 **§ 791. *Violations***

7 (a) A cardholder or medical cannabis establishment who willfully fails to
8 provide a notice required by section 786 is guilty of a civil infraction, punishable
9 by a fine of no more than \$150.

10 (b) In addition to any other penalty applicable in law, a medical cannabis
11 establishment or an agent of a medical cannabis establishment who intentionally
12 sells or otherwise transfers cannabis in exchange for anything of value to a person
13 other than a cardholder, a nonresident cardholder, or to a medical cannabis
14 establishment or its agent is guilty of a felony punishable by imprisonment for
15 not more than two years or by payment of a fine of not more than \$3,000, or both
16 such imprisonment and fine. A person convicted under this subsection may not
17 continue to be affiliated with the medical cannabis establishment and is
18 disqualified from further participation under this chapter.

19 (c) In addition to any other penalty applicable in law, a cardholder or
20 nonresident cardholder who intentionally sells or otherwise transfers cannabis in
21 exchange for anything of value to a person other than a cardholder, a nonresident
22 cardholder, or to a medical cannabis establishment or its agent is guilty of a

1 misdemeanor punishable by imprisonment for not more than one year or by
2 payment of a fine of not more than \$1,000, or both such imprisonment and fine.

3 (d) A person who intentionally makes a false statement to a law enforcement
4 official about any fact or circumstance relating to the medical use of cannabis to
5 avoid arrest or prosecution is guilty of a misdemeanor punishable by
6 imprisonment for not more than 90 days or by payment of a fine of not more than
7 \$1,000, or both such imprisonment and fine. This penalty is in addition to any
8 other penalties that may apply for making a false statement or for the possession,
9 cultivation, or sale of cannabis not protected by this chapter.

10 (e) A person who knowingly submits false records or documentation required
11 by the OCR to certify a medical cannabis establishment under this chapter is
12 guilty of a felony and may be sentenced to imprisonment for not more than two
13 years or by payment of a fine of not more than \$3,000, or both such imprisonment
14 and fine.

15 (f) A practitioner who knowingly refers patients to a medical cannabis
16 establishment or to a designated caregiver, who advertises in a medical cannabis
17 establishment, or who issues written certifications while holding a financial
18 interest in a medical cannabis establishment shall be fined up to \$1,000.

19 (g) It is a misdemeanor punishable by up to 180 days in prison and a \$1,000 fine
20 for any person, including an employee or official of the OCR or another territorial
21 agency, to breach the confidentiality of information obtained pursuant to this
22 chapter.

1 (h) A medical cannabis establishment shall be fined up to \$1,000 for any
2 violation of this chapter, or the regulations where no penalty has been specified.
3 This penalty is in addition to any other penalties in other applicable law.

4 **§ 792. *Suspension and revocation***

5 (a) The OCR may on its own motion or on complaint, after investigation and
6 opportunity for a public hearing at which the medical cannabis establishment has
7 been afforded an opportunity to be heard, suspend or revoke a registration
8 certificate for multiple negligent or knowing violations or for a serious and
9 knowing violation by the registrant or any of its agents of this chapter or any rules
10 promulgated pursuant to section 778.

11 (b) The OCR shall provide notice of suspension, revocation, fine, or other
12 sanction, as well as the required notice of the hearing, by mailing the notice in
13 writing to the medical cannabis establishment at the address on the registration
14 certificate. A suspension may not be for a longer period than six months.

15 (c) A medical cannabis establishment may continue to possess cannabis during
16 a suspension, but it may not dispense, transfer, or sell cannabis. A cultivation
17 facility may continue to cultivate and possess cannabis plants during a
18 suspension, but it may not dispense, transfer, or sell cannabis.

19 (d) The OCR shall immediately revoke the registry identification card of any
20 cardholder who sells cannabis to a person who is not allowed to possess cannabis
21 for medical purposes under this chapter, and the cardholder is disqualified from
22 further participation under this chapter.

1 (e) The OCR may revoke the registry identification card of any cardholder who
2 knowingly commits multiple unintentional violations or a serious knowing
3 violation of this chapter.

4 (f) Revocation is a final decision of the OCR, subject to administrative appeal,
5 as provided in this chapter. A final decision of the administrative appeal is subject
6 to judicial review in Superior Court in which the standard of review is that the
7 decision was arbitrary or capricious.

8 **§ 793. Confidentiality**

9 (a) Data in registration applications and supporting data submitted by qualifying
10 patients, designated caregivers, nonresident cardholders, and medical cannabis
11 establishments, including data on designated caregivers and practitioners, are
12 private data on individuals that is confidential and exempt from the Virgin Islands
13 public records law in title 3 chapter 33 of this Code.

14 (b) Data kept or maintained by the OCR may not be used for any purpose not
15 provided for in this chapter and may not be combined or linked in any manner
16 with any other list or database.

17 (c) Data kept or maintained by the OCR may be disclosed as necessary for:

18 (1) The verification of registration certificates and registry identification
19 cards pursuant to section 786;

20 (2) Submission of the annual report required by section 777;

21 (3) Notification of territorial law enforcement of apparent criminal violations
22 of this chapter;

1 (4) Notification of territorial law enforcement about falsified or fraudulent
2 information submitted for purposes of obtaining or renewing a registry
3 identification card; or

4 (5) notification of the Virgin Islands Medical Board if there is reason to
5 believe that a practitioner provided a written certification, if the OCR has reason
6 to believe the practitioner otherwise violated the standard of care for evaluating
7 medical conditions.

8 (d) Any information kept or maintained by medical cannabis establishments
9 must identify cardholders by their registry identification numbers and must not
10 contain names or other personally identifying information.

11 (e) At the cardholder's request, the OCR may confirm the cardholder's status as
12 a registered qualifying patient or a registered designated caregiver to a third party,
13 such as a landlord, school, medical professional, or court.

14 (f) Any OCR hard drives or other data-recording media that are no longer in use
15 and that contain cardholder information must be destroyed.

16 **§ 794. *Business Expenses Deductions***

17 Unless otherwise prohibited by law, in computing net income for medical
18 cannabis establishments pursuant to Virgin Islands law, there must be allowed as
19 a deduction from all the ordinary and necessary expenses paid or incurred during
20 the taxable year in carrying on a trade or business as a medical cannabis
21 establishment, including reasonable allowance for salaries or other compensation
22 for personal services actually rendered.

23 **§ 795. *Excise and consumption fees***

1 Excise Fees on the cultivation of medical cannabis and consumption fees on
2 the sale of medical cannabis must be levied, as follows:

3 (a) For each pound of medical cannabis sold or transferred to a medical
4 cannabis dispensary or manufacturing facility, an excise tax equal to ten percent
5 of the price charged per pound.

6 (b) For medical cannabis flower or medical cannabis products sold to qualified
7 patients, an amount equal to five percent of the sales transaction.

8 The medical cannabis cultivation establishment shall collect the excise fees
9 and pay the full proceeds thereof to the Virgin Islands Bureau of Internal
10 Revenue, not later than 10 days after the close of the previous month. The
11 medical dispensary shall collect the consumption fees and pay the full proceeds
12 thereof to the Virgin Islands Bureau of Internal Revenue not later 10 days after
13 the close of the previous month.

14 Fifty percent of the proceeds must be returned to the General Fund of the
15 Government of the Virgin Islands, which must also be to re-pay the \$500,000
16 loaned to the OCR to commence the Program. The remaining funds must be
17 maintained in a segregated account to be used for the following purposes:

18 (1) 12.5% for drug education and rehabilitation programs
19 jointly administered by the OCR and Department of Health;

20 (2) 12.5% to promote medical tourism to be jointly
21 administered by the OCR and Department of Tourism;

22 (3) 12.5% to promote medical cannabis research in
23 conjunction with the UVI, and

1 (4) 12.5% for Virgin Islands law enforcement agencies for
2 education and training on medical cannabis.

3 **§ 796. *Annual report***

4 (a) The Board shall report annually to the legislature on the findings and
5 recommendations of the Board, the number of applications for registry
6 identification cards received, the number of qualifying patients and designated
7 caregivers approved, the number of registry identification cards revoked, the
8 number of each type of medical cannabis establishment that are registered, and
9 the expenses incurred and revenues generated from the medical cannabis
10 program.

11 (b) The Board must not include identifying information on qualifying patients,
12 designated caregivers, or practitioners in the report.

13 **§ 797. *Severability***

14 Any section of this chapter being held invalid as to any person or
15 circumstance shall not affect the application of any other section of this chapter
16 that can be given full effect without the invalid section or application.

17 **SECTION** (a) The sum of \$500,000 is appropriated in fiscal year ending
18 September 30, 2016, from the General Fund as a loan to the Office of Cannabis
19 Regulation of the Department of Licensing and Consumer Affairs to pay the start-
20 up costs of the program .

21 (b) The loan authorized in subsection (a) must be repaid not later than
22 two years after the date of commencement of the medical cannabis program.

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BILL SUMMARY

This Bill amends Title 19 of the Virgin Islands Code by adding a new chapter 34 entitled The Virgin Islands Medical Cannabis Patient Care Act (MCPCA) allowing for the medical use and regulation of cannabis, Medical Cannabis Provisioning Centers and the regulation thereof. In essence:

- The MCPCA protects patients, caregivers, cultivators, producers, dispensaries, and others, from criminal prosecution provided that they are validly enrolled in MCPCA.

- The MCPCA provides for criminal sanctions against participants who intentionally violate the Act.

- The MCPCA provides that patients and their caregivers can grow a small quantity of medical cannabis plants for their own use.

- The MCPCA provides licenses for cultivators from a family farm (100 plants) to the larger commercial grows allowing up to 1,000 plants.

- The MCPCA provides licenses for medical cannabis product manufacturing facilities to process the plant through extract and infusing the same into products that may be safely consumed as a smokeless alternative (salves, tinctures, edibles, etc.).

- The MCPCA requires a healthcare professional to provide patients with medical cannabis recommendations, but only after the patient has been properly evaluated and determined to be suffering from a serious and debilitating condition for which medical cannabis provides a therapeutic or palliative benefit.

- The MCPCA allows a patient to sell a small quantity of their “excess” grow to cultivators ensuring that there is an appropriate supply of medical cannabis available through dispensaries, expanding the number and diversity of plants in the Virgin Islands for research purposes, and allowing ordinary Virgin Islands residents who have been hit hard by the recession to make a small monetary return for their efforts.

- The MCPCA encourages the participation of Virgin Islands residents by:

1. A two-year residency requirement for licensees;
2. Regulations that will require that Virgin Islands license-holders comprise the majority percentage in equity ownership;
3. Diverse production and distribution licenses limiting a consolidation of the industry (“horizontal market”);
4. Relatively low entry barriers with regard to licensing fees;
5. Access to market for patient-growers to ensure no excess medicine becomes part of the black market.

- The MCPCA will provide hundreds of new, good paying jobs, and will generate tens of millions of dollars in economic activity and new tax revenues and fees within five years of full implementation. The jobs created cannot be exported outside the Virgin Islands, and the industry is environmentally clean.

1 • The MPCPA will provide educational opportunities for patients and
2 stakeholders; all stakeholders will be required to be certified and meet the highest
3 industry standards.

4 • An Office of Cannabis Regulation (“OCR”) will be established within the
5 Department of Licensing and Consumer Affairs. The OCR will publish rules
6 within 4 months of legislative approval, and expect licenses to be issued within 3
7 months thereafter. The OCR will be supervised by a board comprised
8 representatives of the Virgin Islands Legislature, Department of Health,
9 Department of Agriculture, Department of Licensing and Consumer Affairs,
10 University of the Virgin Islands, the tourism industry, a patient and a medical
11 cannabis health practitioner, will meet quarterly, and issue an annual report.

12 • The MPCPA will provide a new medical cannabis tourism industry by
13 allowing medical cannabis patients from the states, and other countries that have
14 a medical cannabis patient registry (eg., Canada, Israel), to safely access Virgin
15 Islands medical cannabis for a fee, and also allow non-cannabis patients
16 worldwide to visit the Virgin Islands and receive cannabis therapy as part of an
17 in-patient program.

18 • The MPCPA will closely regulate the medical cannabis industry by
19 providing on-line “seed-to-sale” oversight that will allow it to track medical
20 cannabis from seed through cultivation, processing and sale. The rules will
21 ensure appropriate security including video camera surveillance 24/7 and
22 cultivation will occur outdoors surrounded by fences that restrict public view.

23 • Those who violate the MPCPA will face license suspension or revocation.

24 • Tax revenue generated by the MPCPA will be allocated appropriately. 50%
25 of the revenue will go to the Virgin Islands general fund and will pay for startup
26 costs for the program; the balance will be divided as follows: (i) 12.5% for drug
27 education and rehabilitation programs jointly administered by the OCR and
28 Department of Licensing and Consumer Affairs; (ii) 12.5% to promote medical
29 tourism to be jointly administered by the OCR and Department of Tourism; (iii)
30 12.5% to promote medical cannabis research in conjunction with the UVI, and
31 (iv) 12.5% for Virgin Islands law enforcement agencies for education and training
32 on medical cannabis.

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35 **BR15-0063/ September 15, 2015/Reviewed by YLT**

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