

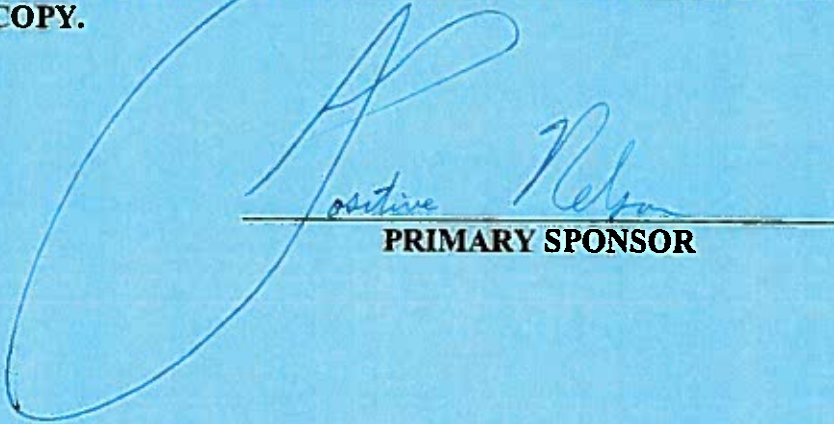
PRIMARY SPONSOR SHEET
THIRTY SECOND LEGISLATURE OF THE VIRGIN ISLANDS
OFFICE OF THE LEGISLATIVE COUNSEL

BR. NO: 17-0099 PRIMARY SPONSOR: Senator Positive T.A. Nelson

SUBJECT MATTER:

An Act amending Title 19 Virgin Islands Code, to add a Chapter 34 establishing "The Virgin Islands
Medical Cannabis Patient Care Act" as it relates to the Medical Use and Regulation of Cannabis, the
regulation of Medicinal Cannabis Provisioning Centers, and other related purposes

UPON APPROVING THE ATTACHED BLUE COPY, PLEASE SIGN BELOW AND RETURN IT TO THE OFFICE OF LEGISLATIVE LEGAL COUNSEL. A REQUEST SHEET FOR CO-SPONSORSHIP IS ALSO ATTACHED. IF YOU OBTAIN SIGNATURES FOR CO-SPONSORSHIP, PLEASE RETURN THAT SHEET ALONG WITH THIS FORM AND THE BLUE COPY.



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VI. LEGISLATURE

REQUEST FOR CO-SPONSORSHIP
THIRTY SECOND LEGISLATURE OF THE VIRGIN ISLANDS
OFFICE OF THE LEGISLATIVE COUNSEL

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PLEASE INDICATE YOUR DESIRE TO CO-SPONSOR THE ATTACHED BILL BY SIGNING NEXT TO YOUR NAME ON THIS FORM. YOUR NAME WILL NOT BE ADDED AS A CO-SPONSOR, UNLESS YOU SIGN THIS FORM.

CO-SPONSORS

Marvin A. Blyden	Positive T.A. Nelson
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Alicia "Chucky" Hansen	Janelle K. Sarauw
Myron D. Jackson	Brian A. Smith
Neville A. James	Kurt A. Vialet
Janette Millin Young	

BILL NO. _____

Thirty-second Legislature of the Virgin Islands

An Act amending Title 19 Virgin Islands Code, to add a Chapter 34 establishing "The Virgin Islands Medical Cannabis Patient Care Act" as it relates to the Medical Use and Regulation of Cannabis, the regulation of Medicinal Cannabis Provisioning Centers, and other related purposes

PROPOSED BY: Senator Positive T. A. Nelson

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

5 **WHEREAS**, the Virgin Island Legislature respects the wishes of the voting
6 public, honors the suffering of Virgin Islanders with serious medical and psychological
7 issues and seeks by this legislation to assist these citizens with their health concerns.

8 **WHEREAS**, the purpose of enacting this legislation is to legalize the medicinal
9 use of cannabis to protect patients with medical conditions, their physicians and primary
10 care givers from local arrest, criminal prosecution and other penalties. It is also the intent

1 of this act to regulate and protect supporting industries involved in the medical marijuana
2 growth, processing, packaging, labeling and distribution process; and

3 **WHEREAS**, legalizing medical cannabis would regulate and provide safer means
4 for qualified individuals to obtain their choice of prescriptions without the criminal element
5 and provide labeling for a known, tested and certified accurately measured dosage of
6 appropriate medication; and

7 **WHEREAS**, the recorded use of cannabis (here used interchangeably with
8 marijuana) as a medicine goes back nearly five thousand (5,000) years. Modern medical
9 research by the National Academy of Science's Institute of Medicine in 1999 has
10 confirmed the beneficial uses of cannabis in treating or alleviating pain, glaucoma, severe
11 nausea, seizures, caused by epilepsy, muscle spasms caused by multiple sclerosis,
12 HIV/AIDS, Crohn's disease, spinal cord injuries, as well as other symptoms associated
13 with a variety of debilitating medical conditions including cancer, wasting syndrome and
14 numerous auto immune diseases.

15 **WHEREAS**, studies published since the 1999 Institute of Medicine report continue
16 to show the therapeutic value of cannabis in treating a wide variety of debilitating medical
17 and psychological conditions. Over one hundred forty (140) national and international
18 medical and legal organizations have endorsed the medical and psychological treatment of
19 cannabis for a wide variety of debilitating symptoms. American organizations that support
20 the medical and psychological use include the American Academy of HIV Medicine, the
21 American College of Physicians, The American Nurses Association, the American Public
22 Health Association, the Leukemia and Lymphoma Society, the Epilepsy Foundation as
23 well as numerous others, and

1 **WHEREAS**, twenty-nine (29) U.S. states, the District of Columbia, Guam and
2 Puerto Rico have recognized the benefit of medical cannabis through legalization. Twenty
3 countries worldwide have legalized medical cannabis.

4 **WHEREAS**, data from the Federal Bureau of Investigation Uniform Crime
5 Reports and the Compendium of Federal Justice Statistics show that approximately ninety
6 nine (99) out of every one hundred (100) cannabis arrests in the U.S. are made under state
7 law rather than federal law. States and Territories are not required to enforce Federal Law.
8 Therefore compliance with this act does not put the Virgin Islands in violation of Federal
9 law. Consequently, changing the Virgin Islands law will have the practical effect of
10 protecting from arrest of seriously ill users of medical cannabis. And

11 **WHEREAS**, Indigenous Peoples have the right to their traditional medicines and
12 to maintain their health practices, including the conservation of their vital medicinal plants,
13 animals and minerals. Indigenous individuals have the right to access, without
14 discrimination, to all health and social services; and,

15 **WHEREAS**, it would be beneficial to conduct extensive collaborative and
16 institutional research nationally and internationally through the University of the Virgin
17 Islands (UVI) on the various medicinal benefits, usage, dosage/ measurement and strains
18 of the cannabis plant in the Virgin Islands, and

19 **WHEREAS**, hundreds of thousands of Americans travel to Central and South
20 America as well as Asia for many surgical and other therapies; the legalization of medicinal
21 cannabis in the U.S. Virgin Islands can make the V.I. a destination in the warm tropics for
22 cannabis therapy treatments. These same medical visitors can avail themselves of the

1 services offered by a newly accredited University of the Virgin Islands Medical school and
2 the UVI Agricultural Experiment Station, and

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

10 **WHEREAS**, our laws should make a distinction between the medicinal and non-
11 medicinal use of cannabis; and

12 **WHEREAS**, the legal availability of medicinal cannabis can create a viable
13 medical tourism economy in the territory and place the Virgin Islands in the forefront of
14 the Caribbean Wellness industry, and

15 **WHEREAS**, as proven by the States having Medical Cannabis Laws, Virgin
16 Islands legalization will create business opportunities and jobs for the people of the V.I.
17 There currently exist numerous methods of benefiting from the medicinal use of cannabis
18 plant to include but not limited to ingesting (teas and edibles) oils, topical (creams,
19 lotions and balms), tinctures, vaporizing, smoking, infusing, suppository and transdermal
20 patches, and

21 **WHEREAS**, this Medical Cannabis Bill represents a great and timely opportunity
22 for the U.S. Virgin Islands to bring recent health discoveries to our citizens as well as to
23 give jobs to our citizens and enhance our economic well being.

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

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

12 **SECTION 1.** Title 19, Part III of the Virgin Islands Code, is amended by adding
13 Chapter 34 to read as follows:

14 Chapter 34. Medicinal Cannabis

15 --- This act shall be known and may be cited as the “Virgin Islands Medical
16 Cannabis Patient Care Act” or “MCPCA”

17 **§775. Purpose.** The purpose of this Act is to allow the beneficial use of medical cannabis
18 in a regulated system for alleviating symptoms caused by debilitating medical conditions
19 and their medical treatments.

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

22 (a) “Allowable amount of cannabis” means:

23 (1) 4.0 ounces of cannabis;

1 (2) The quantity of cannabis products as established by OCR regulation;

2 (3) if the cardholder has a registry identification card allowing
3 cultivation, any combination of twelve (12) plants, mature or immature; and

4 (4) If the cardholder has a registry identification card allowing
5 cultivation, the amount of cannabis and cannabis products that were produced from
6 the cardholder's allowable plants, if the cannabis and cannabis products are
7 possessed at the same property where the plants were cultivated.

8 (b) "*Bona fide practitioner-patient relationship*" means:

9 (1) a practitioner and patient have a treatment or consulting relationship,
10 during the course of which the practitioner has completed an assessment of the
11 patient's medical history and current medical condition, including an appropriate
12 in-person physical examination;

13 (2) The practitioner has consulted with the patient with respect to the
14 patient's debilitating medical condition; and

15 (3) The practitioner is available to or offers to provide follow-up care
16 and treatment to the patient, including, but not limited to, patient examinations.

17 (c) "*Cannabis*" means all parts of the Cannabis plant, growing or not; the seeds
18 thereof; the resin extracted from any part of the plant; and every compound, manufacture,
19 salt, derivative, mixture, or preparation of the plant or its seeds or resin. It does not include
20 the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the
21 seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or
22 preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake, or

1 the sterilized seed of the plant which is incapable of germination. It includes "marijuana",
2 a colloquial term associated with the cannabis plant.

3 (d) "*Cannabis products*" means concentrated cannabis, cannabis extracts, and
4 products that are infused with cannabis or an extract thereof, and are intended for use or
5 consumption by humans. The term includes, without limitation, edible cannabis products,
6 beverages, topical products, ointments, oils, and tinctures.

7 (e) "*Cannabis product manufacturing facility*" means an entity registered with
8 the OCR pursuant to this act that acquires, possesses, manufactures, delivers, transfers,
9 transports, supplies, or sells cannabis products to medical cannabis dispensaries.

10 (f) "*Cannabis testing facility*" or "*testing facility*" means the official THE
11 VIRGIN ISLANDS laboratory established for the purpose of analyzing and approving the
12 safety and potency of cannabis distributed to any person or entity pursuant to this act.
13 Nothing herein shall preclude a medical cannabis establishment, patient or caregiver from
14 testing their cannabis or cannabis products; however, such testing shall not take the place
15 of official testing for the purpose of selling, transferring or otherwise distributing to the
16 medical cannabis market.

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

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

22 (i) "*Debilitating medical condition*" means:

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

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

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

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

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

- (1) Is at least 21 years of age;
- (2) Has agreed to assist with a qualifying patient's medical use of cannabis;
- (3) Has not been convicted of a disqualifying felony offense; and
- (4) Assists no more than five qualifying patients (including him or herself) with their medical use of cannabis, unless the designated caregiver's qualifying patients each reside in or are admitted to a health care facility or residential care facility where the designated caregiver is employed.

1 (l) "*Disqualifying felony offense*" means:

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

4 (2) A violation of a state, territorial or federal controlled substances law
5 that was classified as a felony in the jurisdiction where the person was convicted,
6 not including, but not limited to:

7 (A) An offense for which the sentence was
8 completed, including any term of probation, or supervised
9 release; or

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

14 (m) "*Edible cannabis products*" means products that:

15 (1) Contain or are infused with cannabis or an extract thereof;

16 (2) Are intended for human consumption by oral ingestion; and

17 (3) Are presented in the form of foodstuffs, beverages,
18 extracts, oils, tinctures, and other similar products.

19 (n) "*Enclosed, locked facility*" means a closet, room, greenhouse, building, or
20 other enclosed area that is equipped with locks or other security devices that permit access
21 only by the cardholder or cardholders allowed to cultivate the plants. Two or more
22 cardholders who reside in the same dwelling may share one enclosed, locked facility for
23 cultivation.

1 (o) "*Medical cannabis*" or "*cannabis*" has the meaning given to the term
2 "*marijuana*" in any other provision of law in the Virgin Islands.

3 (p) "*Medical cannabis dispensary*" or "*dispensary*" means an entity registered
4 with the OGR pursuant to this act that acquires, possesses, stores, delivers, transfers,
5 transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or
6 related supplies and educational materials to cardholders.

7 (q) "*Medical cannabis establishment*" means a cultivation facility, a cannabis
8 testing facility, a cannabis product manufacturing facility, or a dispensary.

9 (r) "*Medical cannabis establishment agent*" means an owner, officer,
10 board member, employee, or volunteer at a medical cannabis establishment.

11 (s) "*Medical use*" includes the acquisition, administration, cultivation,
12 manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of
13 cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a
14 registered qualifying patient's debilitating medical condition or symptoms associated with
15 the patient's debilitating medical condition. The term does not include:

16 (1) The cultivation of cannabis by a nonresident cardholder;

17 (2) The cultivation of cannabis by a cardholder who is not designated as being
18 allowed to cultivate on his or her registry identification card; or

19 (3) The extraction of resin from cannabis by solvent extraction unless the
20 extraction is done by a cannabis product manufacturing facility.

21 (t) "*Nonresident cardholder*" means a person who:
22

1 (1) Has been diagnosed with a debilitating medical condition, or is the parent,
2 guardian, conservator, or other person with authority to consent to the medical treatment
3 of a person who has been diagnosed with a debilitating medical condition;

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

6 (3) was issued a currently valid registry identification card or its equivalent by
7 another state, district, territory, commonwealth, insular possession of the United States, or
8 country recognized by the United States that allows the person to use cannabis for medical
9 purposes in the jurisdiction of issuance; and

10 (4) Has submitted any documentation required by the OCR, and has received
11 confirmation of registration.

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

13 (1) Has been diagnosed with a debilitating medical condition, or is the parent,
14 guardian, conservator, or other person with authority to consent to the medical treatment
15 of a person who has been diagnosed with a debilitating medical condition;

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

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

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

3 (v) "*Practitioner*" means a person who is licensed and in good standing in the
4 Virgin Islands as a medical doctor, osteopath, naturopath, homeopath, chiropractor,
5 physician's assistant, or nurse practitioner, provided such practitioner has received a
6 certificate of completion in the Virgin Islands approved medical cannabis education
7 program, except as otherwise provided in this subsection.

8 (w) "*Qualifying patient*" means a person who has been diagnosed by a
9 practitioner as having a debilitating medical condition.

10 (x) "*Registry identification card*" means a document issued by the OCR that
11 identifies a person as a registered qualifying patient or registered designated caregiver, or
12 documentation that is deemed a registry identification card pursuant to section 784.

13 (y) "*Written certification*" means a document dated and signed by a
14 practitioner, stating that in the practitioner's professional opinion the patient is likely to
15 receive therapeutic or palliative benefit from the medical use of cannabis to treat or
16 alleviate the patient's debilitating medical condition or symptoms associated with the
17 debilitating medical condition. A written certification shall affirm that it is made in the
18 course of a bona fide practitioner-patient relationship and shall specify the qualifying
19 patient's debilitating medical condition.

20 § 777. *The Virgin Islands Office of Cannabis Regulation ("OCR"); the Virgin Islands*
21 *Cannabis Advisory Board ("CAB")*

22 The executive authority to implement this Act and administer the
23 provisions hereof including, but not limited to, rulemaking authority, shall be

1 delegated to the Office of Cannabis Regulation "OCR" as part of the Department
2 of Licensing and Consumer Affairs. The Director of the Office of Cannabis
3 Regulation shall be appointed by the CAB for a three (3) year term, which may
4 be extended.

5 (a) The legislature shall appoint a nine (9) member Virgin Islands Cannabis
6 Advisory Board ("the Board") comprised of: One (1) representative of the Department of
7 Health; two (2) representative of the Department of Agriculture; two (2) representative of
8 the Department of Licensing and Consumer Affairs; one (1) farmer appointed by the
9 Commissioner of Agriculture; one (1) healthcare practitioner knowledgeable in cannabis
10 medicine appointed by the Board of Medical Examiners; One (1) disability advocate; the
11 Director of the OCR who serve as an ex officio voting member.

12 (b) The Board shall meet at least four times per year for the purpose
13 of providing oversight and establishing policies to be carried out by the OCR.

14 (c) The Director of the OCR shall have the responsibility to ensure:

15 (1) The ability of qualifying patients in all areas of the territory to obtain
16 timely access to high-quality medical cannabis;

17 (2) the effectiveness of the dispensaries and cultivation facilities,
18 individually and together, in serving the needs of qualifying patients, including the
19 provision of educational and support services by dispensaries, the reasonableness
20 of their prices, whether they are generating any complaints or security problems,
21 and the sufficiency of the number operating to serve the state's registered qualifying
22 patients;

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

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

4 (5) Any additions or revisions to the OCR regulations or this chapter,
5 including relating to security, safe handling, labeling and nomenclature.

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

8 (d) Notwithstanding anything provided herein to the contrary, the Board shall
9 further establish:

10 (1) Rules authorizing and permitting the cultivation and distribution for hemp
11 in locations that will not substantially interfere with the cultivation of medical cannabis;

12 (2) Rules authorizing and permitting a Virgin Islands sponsored non-resident
13 medical cannabis tourism program;

14 (3) Establishment of a Virgin Islands medical cannabis testing lab in each of
15 the two major districts (St. Croix, and St. Thomas/St. John), initially operated by private
16 entities awarded annual contracts using the Government of the Virgin Islands' Request for
17 Proposal (REF) process, with the Board retaining the authority to establish and direct
18 construction of its own medical cannabis testing facilities at a later date. The private
19 entities awarded the contract to serve as a neutral testing facilities, must hire a majority of
20 its entire workforce (full-time and part-time) as bona fide Virgin Islands residents and must
21 not have, among its ownership interests or workforce, any conflict ownership interest of
22 any form of cannabis establishment in the Territory.

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

5 (5) Establishing an approved list of medical cannabis establishment vendors;

6 (6) Nothing herein shall prevent a Dispensary from providing appropriate space
7 within the dispensary facility where patients may consume medical cannabis or medical
8 cannabis products, provided that it complies with any rules adopted by the Board in
9 reference to such consumption.

10 (7) Enacting rules providing for additional licensing for private facilities that
11 allow medical cannabis patients to meet and use their medical cannabis or medical cannabis
12 products together in a location open only for private members, each of whom must possess
13 a valid medical card, and be over the age of twenty-one (21).

14 (8) Establishing such other and further programs that provide a benefit to
15 patients and promote the economic welfare of the Virgin Islands without exceeding the
16 authority granted herein

17 (9) Adopt regulations to ensure that all medical cannabis establishments are
18 located in and advertised in areas that do not negatively impact enterprises and entities that
19 rely on family and youth participation (such as school, churches, and cruise ship docks).
20 Regulations must address street-level and media-based adverting and marketing guidelines
21 to ensure that medical cannabis advertising and marketing does not negatively impact
22 family-based enterprises and civic organizations. Regulation must also ensure that each

1 medical cannabis establishment has comprehensive security and camera monitoring
2 systems in place at all times.

3 (e) Notwithstanding any provision in law to the contrary, the Board shall be
4 required to propose rules governing the program within one hundred and twenty (120) days
5 after the effective date of this chapter. Such rules are to be published on the Virgin Islands
6 official website. The Board shall provide up to 30 days for public comment. Within thirty
7 (30) days thereafter, the Board shall publish the final rules and proceed with
8 implementation of the program in accordance therewith.

9 (f) The Director shall hire such additional staff as may be required to
10 implement the program, including consultants, provided that the program will become self-
11 sufficient from the taxes or fees generated through the program within two (2) years from
12 commencement of the program.

13 (g) Upon passage of this Act, the OCR shall receive a loan in the amount of
14 \$500,000 from the general fund in order to pay the start-up costs of the program which loan
15 shall be re-paid within two (2) years from the date of commencement of the program.

16 (h) The Director shall submit an annual report to the Commissioner of DLCA, the
17 Legislature of the Virgin Islands, Committee on Health, and the VI Cannabis Advisory
18 Board. Such annual report shall comprehensively outline complied data on the program,
19 accomplishments, challenges and recommended regulation changes.

20 **§778. Cannabis Advisory Board ("CAB") to issue regulations for OCR.**

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

1 (1) governing the manner in which the OCR shall consider petitions
2 from the public to add debilitating medical conditions or treatments to the list of
3 debilitating medical conditions set forth in section 776(i) of this chapter, including
4 public notice of and an opportunity to comment in public hearings on the petitions;

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

7 (3) Establishing a system to evaluate competing medical cannabis
8 establishment applicant that includes an analysis of:

9 (A) In the case of dispensaries, the suitability of the proposed
10 location and its accessibility for patients;

11 (B) The character, veracity, background, qualifications, and
12 relevant experience of principal officers and board members;

13 (C) The economic benefits that will inure to the residents of the
14 Virgin Islands by local ownership, jobs and other opportunities;

15 (D) The business plan proposed by the applicant, which in the
16 case of cultivation facilities and dispensaries shall include the ability to
17 maintain an adequate supply of cannabis, plans to ensure safety and security
18 of patrons and the community, procedures to be used to prevent diversion,
19 and any plan for making cannabis available to low-income registered
20 qualifying patients.

21 (4) Governing the manner in which it shall consider applications for and
22 renewals of registry identification cards, which may include creating a standardized
23 written certification form;

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

5 (A) Oversight requirements;

6 (B) Recordkeeping requirements;

7 (C) Security requirements, including lighting, physical security, and
8 alarm requirements;

9 (D) Health and safety regulations, including restrictions on the use of
10 pesticides that are injurious to human health;

11 (E) Standards for the manufacture of cannabis products and both the
12 indoor and outdoor cultivation of cannabis by cultivation facilities;

13 (F) Requirements for the transportation and storage of cannabis by
14 medical cannabis establishments; including requirements that transportation
15 manifests be kept for all transportation of medical cannabis;

16 (G) Employment and training requirements, including requiring that
17 each medical cannabis establishment create an identification badge for each agent;

18 (H) Standards for the safe manufacture of cannabis products, including
19 extracts and concentrates;

20 (I) restrictions on the advertising, signage, and display of medical
21 cannabis, provided that the restrictions may not prevent appropriate signs on the
22 property of a dispensary, listings in business directories including phone books,

1 listings in cannabis-related or medical publications, or the sponsorship of health or
2 not-for-profit charity or advocacy events;

3 (J) Requirements and procedures for safe, accurate and appropriately
4 childproofed packaging and labeling of medical cannabis; and

5 (K) Certification standards for testing facilities, including requirements
6 for equipment and qualifications for personnel.

7 (6) establishing procedures for suspending or terminating the
8 registration certificates, business licenses or registry identification cards of
9 cardholders and medical cannabis establishments that commit multiple or serious
10 violations of the provisions of this chapter or the regulations promulgated pursuant
11 to this section;

12 (7) Establishing labeling requirements for cannabis and cannabis
13 products, including requiring cannabis products' labels to include the following:

14 (A) The length of time it typically takes for a product to take effect;

15 (B) Disclosing ingredients and possible allergens;

16 (C) A nutritional fact panel; and

17 (D) Requiring that edible cannabis products be clearly identifiable,
18 when practicable, with a standard symbol indicating that it contains cannabis.

19 (8) Procedures for the registration of nonresident cardholders including the
20 submission of:

21 (A) A practitioner's statement confirming that the patient has a debilitating
22 medical condition; and

1 (B) Documentation demonstrating that the nonresident cardholder is allowed to
2 possess cannabis or cannabis preparations in the jurisdiction where he or she resides; or

3 (C) Documentation demonstrating that the nonresident is visiting the Virgin
4 Islands in order to undergo cannabis treatment as an in-patient at a Virgin Islands approved
5 facility.

6 (9) Establishing the amount of cannabis products, including the amount of
7 concentrated cannabis, each cardholder and nonresident cardholder can possess.

8 (10) Establishing reasonable application and renewal fees for registry
9 identification cards and registration certificates, according to the following medical
10 establishment classifications:

11 (A) Application fees for medical cannabis establishments shall not exceed the
12 following during the first two (2) years from the inception of the Medical Cannabis
13 Program:

14 (i) For Cultivation License(s):

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

17 (b) Level II (Not to exceed 500 plants): \$2,500.00

18 (c) Level III (Not to exceed 1,000 plants): \$5,000.00

19 (ii) For Dispensary License(s): \$5,000.00

20 (iii) For Cannabis Product Manufacturer License: \$5,000.00

21 (iv) For Research and Development License: \$1,000.00.

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

1 (B) Unsuccessful Applicants shall receive a reimbursement in an amount equal
2 to 50% of the Application Fee.

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

5 (D) Approval to Operate Certificate Fees:

6 In addition to the Application fee(s), medical cannabis establishments that are
7 approved shall be required to pay a Certificate to Operate ("CO") fee prior to commencing
8 any business operations. The OCR shall by regulations adopted by the Board set the fee,
9 but the fee may not exceed the application fee for the particular license approved.

10 (E) Renewal fees shall be charged annually in an amount equal to the
11 application fees or as otherwise determined by Board's regulations. All license fees may
12 be adjusted annually for inflation.

13 (F) The OCR may establish a sliding scale of patient application and renewal
14 fees based upon a qualifying patient's household income; and

15 (G) the fees charged to qualifying patients, nonresident cardholders, and
16 caregivers shall not exceed: \$50 for residents for a one (1) year card; \$50 for non-residents
17 for a five (5) day card, \$75 for a ten (10) day card, and \$100 for a 30 day card; with these
18 upper limits adjusted annually for inflation; such fees may be changed after the program
19 has been in place for two (2) years.

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

21 (a) A cardholder who possesses a valid registry identification card is not subject
22 to arrest, prosecution, or penalty in any manner, or denial of any right or privilege,

1 including any civil penalty or disciplinary action by a court or occupational or professional
2 licensing board or bureau for:

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

7 (2) reimbursement by a registered qualifying patient to the patient's
8 registered designated caregiver for direct costs incurred by the registered
9 designated caregiver for assisting with the registered qualifying patient's medical
10 use of cannabis;

11 (3) Transferring cannabis to a testing facility for testing;

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

14 (5) Selling, transferring, or delivering cannabis seeds produced by the
15 cardholder to a cultivation facility or dispensary; or

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

22 (c) There is a presumption that a qualifying patient or designated caregiver is
23 engaged in the medical use of cannabis pursuant to this chapter if the cardholder is in

1 possession of a registry identification card and an amount of cannabis that does not exceed
2 the allowable amount of cannabis. The presumption may be rebutted by evidence that
3 conduct related to cannabis was not for the purpose of treating or alleviating a qualifying
4 patient's debilitating medical condition or symptoms associated with the qualifying
5 patient's debilitating medical condition pursuant to this chapter.

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

15 (1) Issuing a written certification to a patient with whom the practitioner does
16 not have a bona fide practitioner-patient relationship; or

17 (2) Failing to properly evaluate a patient's medical condition.

18 (e) An attorney may not be subject to disciplinary action by the state bar
19 association or other professional licensing association for providing legal assistance to
20 prospective or registered medical cannabis establishments or others related to activity that
21 is no longer subject to criminal penalties under state law pursuant to this chapter.

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

4 (1) Providing or selling cannabis paraphernalia to a cardholder, nonresident
5 cardholder, or to a medical cannabis establishment;

6 (2) Being in the presence or vicinity of the medical use of cannabis that are
7 exempt from criminal penalties by this chapter;

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

10 (4) Assisting a registered qualifying patient with the act of using or administering
11 cannabis.

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

17 (1) Possess, transport, and store cannabis and cannabis products;

18 (2) Deliver, transfer, and transport cannabis to testing facilities and compensate
19 testing facilities for services provided;

20 (3) Purchase or otherwise acquire cannabis from cultivation facilities or
21 dispensaries, and cannabis products from cannabis product manufacturing facilities or
22 dispensaries; and

1 (4) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, and
2 cannabis paraphernalia, and related supplies and educational materials to cardholders,
3 nonresident cardholders, and dispensaries.

4 (h) A cultivation facility or a cultivation facility agent is not subject to
5 prosecution, search, or inspection, except by the OCR pursuant to section 789, seizure, or
6 penalty in 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 pursuant
8 to this chapter and rules authorized by this chapter to:

9 (1) Possess, plant, propagate, cultivate, grow, harvest, produce, process,
10 manufacture, compound, convert, prepare, pack, repack, or store cannabis;

11 (2) Deliver, transfer, or transport cannabis to testing facilities and compensate
12 testing facilities for services provided;

13 (3) Purchase or otherwise acquire cannabis from cultivation facilities;

14 (4) Purchase cannabis seeds from cardholders, nonresident cardholders, and the
15 equivalent of a medical cannabis establishment that is registered in another jurisdiction;
16 and

17 (5) Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia,
18 and related supplies and educational materials to cultivation facilities and dispensaries.

19 (i) A cannabis product manufacturing facility or a cannabis product
20 manufacturing facility agent is not subject to prosecution, search, or inspection, except by
21 the OCR pursuant to section 789, seizure, or penalty in any manner, and may not be denied
22 any right or privilege, including civil penalty or disciplinary action by a court or business

1 licensing board or entity, for acting pursuant to this chapter and rules authorized by this
2 chapter to:

3 (1) Purchase or otherwise acquire cannabis from cultivation facilities, and
4 cannabis products or cannabis from cannabis product manufacturing facilities and, to a
5 limited extent, from an authorized patient or caregiver;

6 (2) Possess, produce, process, manufacture, compound, convert, prepare, pack,
7 repack, and store cannabis and cannabis products;

8 (3) Deliver, transfer, or transport cannabis, cannabis products, cannabis
9 paraphernalia, and related supplies and educational materials to dispensaries and cannabis
10 product manufacturing facilities;

11 (4) Deliver, transfer, or transport cannabis to testing facilities and compensate
12 testing facilities for services provided;

13 (5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products,
14 cannabis paraphernalia, and related supplies and educational materials to cannabis product
15 manufacturing facilities or dispensaries.

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

21 (1) Acquire, possess, transport, and store cannabis and cannabis products
22 obtained from cardholders, nonresident cardholders, and medical cannabis establishments;

1 (2) Return the cannabis and cannabis products to the cardholders, nonresident
2 cardholders, and medical cannabis establishment from whom it was obtained;

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

4 (4) Receive compensation for those services.

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

8 (l) Any cannabis, cannabis product, cannabis paraphernalia, or other interest in
9 or right to property that is possessed, owned, or used in connection with the medical use of
10 cannabis as allowed under this chapter, or acts incidental to such use, shall not be seized
11 or forfeited. This chapter shall not prevent the seizure or forfeiture of cannabis exceeding
12 the amounts allowed under this chapter, nor shall it prevent seizure or forfeiture if the basis
13 for the action is unrelated to the cannabis that is possessed, manufactured, transferred, or
14 used pursuant to this chapter.

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

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

22 (o) No law enforcement officer employed by an agency which receives
23 territorial funds shall expend any territorial resources, including the officer's time, to effect

1 any arrest or seizure of cannabis, or conduct any investigation, on the sole basis of activity
2 the officer believes to constitute a violation of the federal Controlled Substances Act if the
3 officer has reason to believe that such activity is in compliance with the Virgin Islands
4 medical cannabis laws, nor shall any such officer expend any territorial resources,
5 including the officer's time, to provide any information or logistical support related to such
6 activity to any federal law enforcement authority or prosecuting entity.

7 (p) It is the public policy of the Virgin Islands that contracts related to medical
8 cannabis that are entered into by cardholders, medical cannabis establishments, or medical
9 cannabis establishment agents, and those who allow property to be used by those persons,
10 should be enforceable. It is the public policy of the Virgin Islands that no contract entered
11 into by a cardholder, a medical cannabis establishment, or medical cannabis establishment
12 agent, or by a person who allows property to be used for activities that are exempt from
13 state criminal penalties by this chapter, shall be unenforceable on the basis that activities
14 related to cannabis are prohibited by federal law.

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

16 (a) Nothing in this chapter requires:

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

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

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

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

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

8 **§ 781. Limitations**

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

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

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

16 (3) Smoking cannabis:

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

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

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

1 **§ 782. *Discrimination Prohibited***

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

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

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

16 (d) Except as provided in this chapter, a registered qualifying patient who uses
17 cannabis for medical purposes shall be afforded all the same rights under Virgin Islands
18 law, including those guaranteed under the Territory's disability rights law, as the individual
19 would be afforded if he or she were solely prescribed pharmaceutical medications, as it
20 pertains to:

- 21 (1) Any interaction with a person's employer;
22 (2) Drug testing by a person's employer; or
23 (3) Drug testing required by any territorial agency or government official.

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

5 (f) No employer is required to allow the ingestion of cannabis in any workplace
6 or to allow any employee to work while under the influence of cannabis. A registered
7 qualifying patient shall not be considered to be under the influence of cannabis solely
8 because of the presence of metabolites or components of cannabis that appear in
9 insufficient concentration to cause impairment. A registered qualifying patient is presumed
10 to have worked under the influence of cannabis if, prior to the conclusion of the work day,
11 such patient has a THC concentration of 150 nanograms/ml. or higher as shown by analysis
12 of the person's blood or urine.

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

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

16 Any resident of the Virgin Islands may petition the OCR to add serious medical
17 conditions or their treatments to the list of debilitating medical conditions listed in section
18 776(i)(1). The OCR shall consider petitions in the manner required by OCR regulation,
19 including public notice and hearing. The OCR shall approve or deny a petition within 180
20 days of its submission. If the Petition is denied, the Petitioner may file an Administrative
21 Appeal, as more fully described herein, and provided a Notice of Appeal has been filed
22 with the OCR within thirty (30) days of the denial. The approval or denial of any timely

1 filed appeal is a final decision of the OCR, subject to judicial review. Jurisdiction and venue
2 are vested in the Superior Court.

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

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

7 (1) A written certification issued by a practitioner within 90 days immediately
8 preceding the date of an application;

9 (2) The application or renewal fee;

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

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

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

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

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

22 (b) If the qualifying patient is unable to submit the information required by
23 subsection (a) due to the persons' age or medical condition, the person responsible for

1 making medical decisions for the qualifying patient may do so on behalf of the qualifying
2 patient.

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

4 (1) Verify the information contained in an application or renewal submitted
5 pursuant to this chapter and approve or deny an application within 15 days or renewal
6 within five (5) days of receiving a completed application or renewal application;

7 (2) Issue registry identification cards to a qualifying patient and his or her
8 designated caregivers, if any, within five (5) days of approving the application or renewal.

9 A designated caregiver must have a registry identification card for each of his qualifying
10 patients; and

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

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

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

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

20 (A) Allow the qualifying patient's medical use of cannabis;

21 (B) Serve as the qualifying patient's designated caregiver; and

22 (C) Control the acquisition of the cannabis, the dosage, and the frequency of the
23 medical use of cannabis by the qualifying patient.

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

3 (1) Did not provide the required information, fee, or materials;

4 (2) Previously had a registry identification card revoked; or

5 (3) Provided false information.

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

8 (1) The designated caregiver does not meet the requirements of section 776;

9 (2) The applicant did not provide the information required;

10 (3) The designated caregiver previously had a registry identification card
11 revoked; or

12 (4) The applicant or the designated caregiver provided false information.

13 (h) The OCR shall give written notice to the qualifying patient of the reason for
14 denying a registry identification card to the qualifying patient or to the qualifying patient's
15 designated caregiver.

16 (i) Denial of an application or renewal is considered a final OCR action, subject
17 to Administrative Appeal, as more fully described herein. Denial of the Administrative
18 Appeal shall be subject to judicial review. Jurisdiction and venue for judicial review are
19 vested in the Superior Court.

20 (j) Until a qualifying patient who has submitted an application and the required
21 fee to the OCR receives a registry identification card or a rejection, a copy of the
22 individual's application, written certification, and proof that the application was submitted
23 to the OCR shall be deemed a registry identification card.

1 (k) Until a designated caregiver whose qualifying patient has submitted an
2 application and the required fee receives a registry identification card or a rejection, a copy
3 of the a qualifying patient's application, written certification, and proof that the application
4 was submitted to the OCR shall be deemed a registry identification card.

5 (l) Until 25 days after the OCR makes applications available, a valid, written
6 certification issued within the previous year shall be deemed a registry identification card
7 for a qualifying patient.

8 (m) Until 25 days after the OCR makes applications available, the following
9 shall be deemed a designated caregiver registry identification card:

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

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

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

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

17 (1) The name of the cardholder;

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

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

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

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

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

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

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

8 (b) Except as provided in this subsection, the expiration date shall be one year
9 after the date of issuance.

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

13 §786. *Verification system*

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

19 (b) Within 120 days of the effective date of this chapter, the OCR shall establish
20 a secure phone or web-based verification system. The verification system must allow law
21 enforcement personnel and medical cannabis establishments to enter a registry
22 identification number and determine whether or not the number corresponds with a current,
23 valid registry identification card. The system may disclose only:

- 1 (1) Whether the identification card is valid;
- 2 (2) The name of the cardholder;
- 3 (3) Whether the cardholder is a qualifying patient or a designated caregiver;
- 4 (4) Whether the cardholder is permitted to cultivate cannabis plants;
- 5 (5) The registry identification number of any affiliated registered qualifying
- 6 patient; and
- 7 (6) The registry identification of the qualifying patient's dispensary or
- 8 dispensaries, if any.

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

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

11 (1) A registered qualifying patient shall notify the OCR of any change

12 in his or her name or address, or if the registered qualifying patient ceases to have

13 his or her debilitating medical condition, within 10 days of the change.

14 (2) A registered designated caregiver shall notify the OCR of any

15 change in his or her name or address, or if the designated caregiver becomes aware

16 the qualifying patient passed away, within 10 days of the change.

17 (3) Before a registered qualifying patient changes his or her designated

18 caregiver, the qualifying patient must notify the OCR.

19 (4) When a registered qualifying patient changes his or her preference

20 as to who may cultivate cannabis for the qualifying patient, the qualifying patient

21 must notify the OCR.

22 (5) If a cardholder loses his or her registry identification card, he or she

23 shall notify the OCR within 10 days of becoming aware the card has been lost.

1 (b) Each notification a registered qualifying patient is required to make shall
2 instead be made by the patient's designated caregiver if the qualifying patient is unable to
3 make the notification due to his or her age or medical condition.

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

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

17 (e) A medical cannabis establishment shall notify the OCR within one (1)
18 business day of any theft or significant loss of cannabis.

19 **§ Section 788. Affirmative Defense and Dismissal for Medical Cannabis.**

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

1 (1) a practitioner has stated that, in the practitioner's professional opinion, after
2 having completed a full assessment of the person's medical history and current medical
3 condition made in the course of a bona fide practitioner-patient relationship, the patient has
4 a debilitating medical condition and the potential benefits of using cannabis for medical
5 purposes would likely outweigh the health risks for the person;

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

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

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

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

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

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

23

1 (d) If an individual demonstrates the individual's medical purpose for using
2 cannabis pursuant to this section, except as provided in section 781, the individual shall
3 not be subject to the following for the individual's use of cannabis for medical purposes:

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

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

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

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

12 (1) The prospective medical cannabis establishment has submitted all of the
13 following:

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

16 (B) An application, including:

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

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

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

1 (iv) Any additional information requested by the OCR.

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

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

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

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

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

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

21 **§ 790. Requirements, prohibitions, penalties**

22 (a) Medical cannabis establishments shall conduct a background check into the
23 criminal history of every person seeking to become a principal officer, board member,

1 agent, volunteer, or employee before the person begins working at the medical cannabis
2 establishment.

3 (b) A medical cannabis establishment may not employ any person who:

4 (1) Was convicted of a disqualifying felony offense; or

5 (2) Is under the age of 21.

6 (c) The operating documents of a medical cannabis establishment must include
7 procedures for the oversight of the medical cannabis establishment and procedures to
8 ensure accurate recordkeeping.

9 (d) A medical cannabis establishment shall implement appropriate security
10 measures designed to deter and prevent the theft of cannabis and unauthorized entrance
11 into areas containing cannabis.

12 (e) All cultivation, harvesting, manufacture, and packaging of cannabis must
13 take place in a secure facility at a physical address provided to the OCR during the
14 registration process. The secure facility may only be accessed by agents of the medical
15 cannabis establishment, emergency personnel, and adults who are 21 years and older and
16 who are accompanied by medical cannabis establishment agents. Nothing herein shall
17 prevent an outdoor cultivation, provided the same is secure and is completely surrounded
18 by a 10' or greater fence which shall constructed in such manner as to reasonably block
19 any view from ground level of the grow from outside the facility.

20 (f) No medical cannabis establishment other than a cannabis product
21 manufacturer may produce cannabis concentrates, cannabis extractions, or other cannabis
22 products.

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

3 (h) A medical cannabis establishment may not permit any person to consume
4 cannabis on the property of a medical cannabis establishment, except as may be provided
5 under OCR rule.

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

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

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

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

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

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

18 (k) A dispensary may not dispense more than 3.0 ounces of cannabis to a
19 nonresident cardholder or a registered qualifying patient, directly or via a designated
20 caregiver, in any 14-day period. Dispensaries shall ensure compliance with this limitation
21 by maintaining internal, confidential records that include records specifying how much
22 cannabis is being dispensed to the nonresident cardholder or registered qualifying patient
23 and whether it was dispensed directly to a registered qualifying patient or to the designated

1 caregiver. Further, a dispensary shall log the sale on an OCR approved, confidential
2 website.

3 **§ 791. *Violations***

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

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

15 (c) In addition to any other penalty applicable in law, a cardholder or
16 nonresident cardholder who intentionally sells or otherwise transfers cannabis in exchange
17 for anything of value to a person other than a cardholder, a nonresident cardholder, or to a
18 medical cannabis establishment or its agent is guilty of a misdemeanor punishable by
19 imprisonment for not more than one year or by payment of a fine of not more than \$1,000,
20 or both.

21 (d) A person who intentionally makes a false statement to a law enforcement
22 official about any fact or circumstance relating to the medical use of cannabis to avoid
23 arrest or prosecution is guilty of a misdemeanor punishable by imprisonment for not more

1 than 90 days or by payment of a fine of not more than \$1,000, or both. This penalty is in
2 addition to any other penalties that may apply for making a false statement or for the
3 possession, cultivation, or sale of cannabis not protected by this chapter.

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

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

12 (g) It shall be a misdemeanor punishable by up to 180 days in jail and a \$1,000
13 fine for any person, including an employee or official of the OCR or another territorial
14 agency, to breach the confidentiality of information obtained pursuant to this chapter.

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

18 **§ 792. *Suspension and revocation***

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

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

5 (c) A medical cannabis establishment may continue to possess cannabis during
6 a suspension, but it may not dispense, transfer, or sell cannabis. A cultivation facility may
7 continue to cultivate and possess cannabis plants during a suspension, but it may not
8 dispense, transfer, or sell cannabis.

9 (d) The OCR shall immediately revoke the registry identification card of any
10 cardholder who sells cannabis to a person who is not allowed to possess cannabis for
11 medical purposes under this chapter, and the cardholder is suspended from further
12 participation under this chapter.

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

16 (f) Revocation is a final decision of the OCR, subject to Administrative
17 Appeal, as provided herein. A final decision of the Administrative Appeal is subject to
18 judicial review in Superior Court in which the standard of proof shall be that the decision
19 was arbitrary or capricious.

20 § 793. *Confidentiality*

21 (a) Data in registration applications and supporting data submitted by
22 qualifying patients, designated caregivers, nonresident cardholders, and medical cannabis
23 establishments, including data on designated caregivers and practitioners, are private data

1 on individuals that is confidential and exempt from the Virgin Islands Freedom of
2 Information Act.

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

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

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

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

10 (3) Notification of territorial law enforcement of apparent criminal violations
11 of this chapter;

12 (4) Notification of territorial law enforcement about falsified or fraudulent
13 information submitted for purposes of obtaining or renewing a registry identification card;
14 or

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

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

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

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

3 **§ 794. *Business Expenses Deductions***

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

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

10 Excise Fees on the cultivation of medical cannabis and consumption fees on the
11 sale of medical cannabis shall be levied, as follows:

12 (a) For each pound of medical cannabis sold or transferred to a medical
13 cannabis dispensary or manufacturing facility, an excise tax equal to ten percent (10%) of
14 the price charged per pound.

15 (b) For medical cannabis flower or medical cannabis products sold to qualified
16 patients, an amount equal to five percent (5%) of the sales transaction.

17 The medical cannabis cultivation establishment shall be responsible for collecting
18 the excise fees and paying the full proceeds thereof to the Virgin Islands Bureau of Internal
19 Revenue, within ten (10) days of the close of the previous month. The medical dispensary
20 shall be responsible for collecting the consumption fees and paying the full proceeds
21 thereof to the Virgin Islands Bureau of Internal Revenue, within ten (10) days of the close
22 of the previous month. 25% of the proceeds shall be returned to the General Fund of the
23 Government of the Virgin Islands which shall also be used to re-pay the \$500,000 loaned

1 to the OCR to commence the Program. The remaining funds shall be maintained in a
2 segregated account to be used for the following purposes: (i) 12.5% for addictive behavior,
3 drug education and rehabilitation programs jointly administered by the OCR and
4 Department of Health; (ii) 5% to promote medical tourism to be jointly administered by
5 the OCR, Department of Health and Department of Tourism; (iii) 12.5% to the Department
6 of Licensing and Consumer Affairs, Office of Cannabis Regulations to defray operating
7 costs of the licensing program and (iv) 5% for Virgin Islands law enforcement agencies for
8 education and training on medical cannabis (v) 10%, to the Department of Agriculture for
9 the development of the Agriculture Depot Program, 5% to the Department of Labor
10 working jointly with the Department of Education for the development of an
11 Apprenticeship Program, 10% to the Department of Sports, Parks and Recreation for the
12 sports development, training and travel, 10% to the Department of Public Works for
13 Infrastructure Maintenance and Improvement of government owned building in the
14 territory, and 5% to the Department of Planning and Natural Resources for the Council of
15 the Arts for performing arts programs.

16 **§ 796. *Annual report***

17 (a) The Board shall report annually to the legislature on the findings and
18 recommendations of the Board, the number of applications for registry identification cards
19 received, the number of qualifying patients and designated caregivers approved, the
20 number of registry identification cards revoked, the number of each type of medical
21 cannabis establishment that are registered, and the expenses incurred and revenues
22 generated from the medical cannabis program.

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

3 § 797. Severability

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

7 § 798. Date of effect

8 This chapter shall take effect upon its approval.

9 Bill Summary

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

- MCPCA protects patients, caregivers, cultivators, producers, dispensaries, and others, from criminal prosecution provided that they are validly enrolled in MCPCA.
- MCPCA provides for criminal sanctions against participants who intentionally violate the Act.
- MPCPA provides that patients and their caregivers can grow a small quantity of medical cannabis plants for their own use.
- MPCPA provides licenses for cultivators from a family farm (100 plants) to the larger commercial grows allowing up to 1,000 plants.

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

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

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

15 • MPCPA encourages the participation of Virgin Islands residents by:

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

1 • MPCPA will provide hundreds of new, good paying jobs, and will generate
2 tens of millions of dollars in economic activity and new tax revenues and fees
3 within five (5) years of full implementation. The jobs created cannot be exported
4 outside the Virgin Islands, and the industry is environmentally clean.

5 • MPCPA will provide educational opportunities for patients and
6 stakeholders; all stakeholders will be required to be certified and meet the highest
7 industry standards.

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

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

21 • MPCPA will closely regulate the medical cannabis industry by providing
22 on-line “seed-to-sale” oversight that will allow it to track medical cannabis from
23 seed through cultivation, processing and sale. The rules will ensure appropriate

1 security including video camera surveillance 24/7 and cultivation will occur
2 outdoors surrounded by fences that restrict public view.

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

4 • Tax revenue generated by the MPCPA will be allocated appropriately. 25%

5 of the revenue will go to the Virgin Islands general fund and will pay for startup costs for
6 the program; the balance will be divided as follows: (i) 12.5% for addictive behavior, drug
7 education and rehabilitation programs jointly administered by the OCR and Department of
8 Health; (ii) 5% to promote medical tourism to be jointly administered by the OCR,
9 Department of Health and Department of Tourism; (iii) 12.5% to the Department of
10 Licensing and Consumer Affairs, Office of Cannabis Regulations to defray operating costs
11 of the licensing program and (iv) 5% for Virgin Islands law enforcement agencies for
12 education and training on medical cannabis (v) 10%, to the Department of Agriculture for
13 the development of the Agriculture Depot Program. , 5% to the Department of Labor and
14 Department of Education for the development of an Apprenticeship Program, 10% to the
15 Department of Sports, Parks and Recreation for the sports development, training and travel,
16 10% to the Department of Public Works for Infrastructure Maintenance and Improvement
17 of government owned building in the territory, and 5% to the Department of Planning and
18 Natural Resources to the Council of the Arts for performing arts programs.