

**COMMITTEE ON HEALTH, HOSPITALS, AND
HUMAN SERVICES**

**10/12/2018-REASSIGNED TO THE COMMITTEE ON ECONOMIC DEVELOPMENT AND
AGRICULTURE
10/12/2018-SPECIAL ORDERED**

BILL NO. 32-0135

Thirty-Second Legislature of the Virgin Islands

July 26, 2017

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, and

1 **WHEREAS**, the purpose of enacting this legislation is to legalize the medicinal
2 use of cannabis to protect patients with medical conditions, their physicians and primary
3 care givers from local arrest, criminal prosecution and other penalties. It is also the intent
4 of this act to regulate and protect supporting industries involved in the medical marijuana
5 growth, processing, packaging, labeling and distribution process; and

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

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

18 **WHEREAS**, studies published since the 1999 Institute of Medicine report continue
19 to show the therapeutic value of cannabis in treating a wide variety of debilitating medical
20 and psychological conditions. Over one hundred forty (140) national and international
21 medical and legal organizations have endorsed the medical and psychological treatment of
22 cannabis for a wide variety of debilitating symptoms. American organizations that support
23 the medical and psychological use include the American Academy of HIV Medicine, the

American College of Physicians, The American Nurses Association, the American Public Health Association, the Leukemia and Lymphoma Society, the Epilepsy Foundation as well as numerous others, and

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

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

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

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

WHEREAS, hundreds of thousands of Americans travel to Central and South America as well as Asia for many surgical and other therapies; the legalization of medicinal

1 cannabis in the U.S. Virgin Islands can make the V.I. a destination in the warm tropics for
2 cannabis therapy treatments. These same medical visitors can avail themselves of the
3 services offered by a newly accredited University of the Virgin Islands Medical school and
4 the UVI Agricultural Experiment Station; and

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

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

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

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

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

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

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

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

17 **Chapter 34. Medicinal Cannabis**

18 This act shall be known and may be cited as the "Virgin Islands Medical Cannabis
19 Patient Care Act" or "MCPCA"

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

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

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

4 (1) 4.0 ounces of cannabis;

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

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

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

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

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

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

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

21 (c) “*Cannabis*” means all parts of the Cannabis plant, growing or not; the seeds
22 thereof; the resin extracted from any part of the plant; and every compound, manufacture,
23 salt, derivative, mixture, or preparation of the plant or its seeds or resin. It does not include

1 the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the
2 seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or
3 preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake, or
4 the sterilized seed of the plant which is incapable of germination. It includes "marijuana",
5 a colloquial term associated with the cannabis plant.

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

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

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

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

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

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

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

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

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

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

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

20 (1) Is at least 21 years of age;

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

23 (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.

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

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

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

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

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

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

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

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

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

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

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

8 (p) "*Medical cannabis dispensary*" or "*dispensary*" means an entity registered
9 with the OCR pursuant to this act that acquires, possesses, stores, delivers, transfers,
10 transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or
11 related supplies and educational materials to cardholders.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(y) "*Written certification*" means a document dated and signed by a practitioner, stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification shall affirm that it is made in the

1 course of a bona fide practitioner-patient relationship and shall specify the qualifying
2 patient's debilitating medical condition.

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

5 The executive authority to implement this Act and administer the provisions hereof
6 including, but not limited to, rulemaking authority, shall be delegated to the Office of
7 Cannabis Regulation "OCR" as part of the Department of Licensing and Consumer Affairs.
8 The Director of the Office of Cannabis Regulation shall be appointed by the CAB for a
9 three (3) year term, which may be extended.

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

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

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

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

22 (2) the effectiveness of the dispensaries and cultivation facilities,
23 individually and together, in serving the needs of qualifying patients, including the

1 provision of educational and support services by dispensaries, the reasonableness
2 of their prices, whether they are generating any complaints or security problems,
3 and the sufficiency of the number operating to serve the state's registered qualifying
4 patients;

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

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

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

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

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

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

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

20 (3) Establishment of a Virgin Islands medical cannabis testing lab in
21 each of the two major districts (St. Croix, and St. Thomas/St. John), initially
22 operated by private entities awarded annual contracts using the Government of the
23 Virgin Islands' Request for Proposal (REF) process, with the Board retaining the

1 authority to establish and direct construction of its own medical cannabis testing
2 facilities at a later date. The private entities awarded the contract to serve as a neutral
3 testing facilities, must hire a majority of its entire workforce (full-time and part-
4 time) as bona fide Virgin Islands residents and must not have, among its ownership
5 interests or workforce, any conflict ownership interest of any form of cannabis
6 establishment in the Territory.

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

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

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

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

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

4 (9) Adopt regulations to ensure that all medical cannabis establishments
5 are located in and advertised in areas that do not negatively impact enterprises and
6 entities that rely on family and youth participation (such as school, churches, and
7 cruise ship docks). Regulations must address street-level and media-based
8 advertising and marketing guidelines to ensure that medical cannabis advertising and
9 marketing does not negatively impact family-based enterprises and civic
10 organizations. Regulation must also ensure that each medical cannabis
11 establishment has comprehensive security and camera monitoring systems in place
12 at all times.

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

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

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

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

§778. Cannabis Advisory Board (“CAB”) to issue regulations for OCR.

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

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

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

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

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

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

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

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

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

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

16 (A) Oversight requirements;

17 (B) Recordkeeping requirements;

18 (C) Security requirements, including lighting, physical security,
19 and alarm requirements;

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

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

1 (F) Requirements for the transportation and storage of cannabis
2 by medical cannabis establishments; including requirements that
3 transportation manifests be kept for all transportation of medical cannabis;

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

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

9 (I) restrictions on the advertising, signage, and display of
10 medical cannabis, provided that the restrictions may not prevent appropriate
11 signs on the property of a dispensary, listings in business directories
12 including phone books, listings in cannabis-related or medical publications,
13 or the sponsorship of health or not-for-profit charity or advocacy events;

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

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

18 (6) establishing procedures for suspending or terminating the
19 registration certificates, business licenses or registry identification cards of
20 cardholders and medical cannabis establishments that commit multiple or serious
21 violations of the provisions of this chapter or the regulations promulgated pursuant
22 to this section;

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

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

5 (B) Disclosing ingredients and possible allergens;

6 (C) A nutritional fact panel; and

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

10 (8) Procedures for the registration of nonresident cardholders including
11 the submission of:

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

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

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

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

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

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

(i) For Cultivation License(s):

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

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

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

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

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

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

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

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

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

(D) Approval to Operate Certificate Fees:

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

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

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

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

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

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

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

20 (2) reimbursement by a registered qualifying patient to the patient's
21 registered designated caregiver for direct costs incurred by the registered
22 designated caregiver for assisting with the registered qualifying patient's medical
23 use of cannabis;

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

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

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

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

12 (c) There is a presumption that a qualifying patient or designated caregiver is
13 engaged in the medical use of cannabis pursuant to this chapter if the cardholder is in
14 possession of a registry identification card and an amount of cannabis that does not exceed
15 the allowable amount of cannabis. The presumption may be rebutted by evidence that
16 conduct related to cannabis was not for the purpose of treating or alleviating a qualifying
17 patient's debilitating medical condition or symptoms associated with the qualifying
18 patient's debilitating medical condition pursuant to this chapter.

19 (d) A practitioner shall not be subject to arrest, prosecution, or penalty in any
20 manner, or denied any right or privilege, including, but not limited to, civil penalty or
21 disciplinary action by the Virgin Islands Medical Board or by any other occupational or
22 professional licensing board or bureau, solely for providing written certifications or for
23 otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive

1 therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the
2 patient's serious or debilitating medical condition or symptoms associated with the serious
3 or debilitating medical condition, provided that nothing in this chapter shall prevent a
4 practitioner from being sanctioned for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (5) Deliver, sell, supply, transfer, or transport cannabis, cannabis
2 products, 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,
5 search, or inspection, except by the OCR pursuant to section 789, seizure, or penalty in any
6 manner, and may not be denied any right or privilege, including civil penalty or disciplinary
7 action by a court or business licensing board or entity, for acting pursuant to this chapter
8 and rules authorized by this chapter to:

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

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

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

17 (4) Receive compensation for those services.

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

21 (l) Any cannabis, cannabis product, cannabis paraphernalia, or other interest in
22 or right to property that is possessed, owned, or used in connection with the medical use of
23 cannabis as allowed under this chapter, or acts incidental to such use, shall not be seized

1 or forfeited. This chapter shall not prevent the seizure or forfeiture of cannabis exceeding
2 the amounts allowed under this chapter, nor shall it prevent seizure or forfeiture if the basis
3 for the action is unrelated to the cannabis that is possessed, manufactured, transferred, or
4 used pursuant to this chapter.

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

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

12 (o) No law enforcement officer employed by an agency which receives
13 territorial funds shall expend any territorial resources, including the officer's time, to effect
14 any arrest or seizure of cannabis, or conduct any investigation, on the sole basis of activity
15 the officer believes to constitute a violation of the federal Controlled Substances Act if the
16 officer has reason to believe that such activity is in compliance with the Virgin Islands
17 medical cannabis laws, nor shall any such officer expend any territorial resources,
18 including the officer's time, to provide any information or logistical support related to such
19 activity to any federal law 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, or medical
22 cannabis establishment agents, and those who allow property to be used by those persons,
23 should be enforceable. It is the public policy of the Virgin Islands that no contract entered

1 into by a cardholder, a medical cannabis establishment, or medical cannabis establishment
2 agent, or by a person who allows property to be used for activities that are exempt from
3 state criminal penalties by this chapter, shall be unenforceable on the basis that activities
4 related to cannabis are prohibited by federal law.

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

6 (a) Nothing in this chapter requires:

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

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

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

14 (b) Nothing in this chapter prohibits an employer from disciplining an
15 employee 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
18 space within the dispensary facility where patients may consume medical cannabis
19 products, if it complies with any regulations adopted by the Board in reference to such
20 consumption.

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1 **§ 781. Limitations**

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

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

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

9 (3) Smoking cannabis:

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

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

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

18 **§ 782. Discrimination Prohibited**

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

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

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

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

16 (1) Any interaction with a person's employer;

17 (2) Drug testing by a person's employer; or

18 (3) Drug testing required by any territorial agency or government
19 official.

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

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

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

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

12 Any resident of the Virgin Islands may petition the OCR to add serious medical
13 conditions or their treatments to the list of debilitating medical conditions listed in section
14 776(i)(1). The OCR shall consider petitions in the manner required by OCR regulation,
15 including public notice and hearing. The OCR shall approve or deny a petition within 180
16 days of its submission. If the Petition is denied, the Petitioner may file an Administrative
17 Appeal, as more fully described herein, and provided a Notice of Appeal has been filed
18 with the OCR within thirty (30) days of the denial. The approval or denial of any timely
19 filed appeal is a final decision of the OCR, subject to judicial review. Jurisdiction and venue
20 are vested in the Superior Court.

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

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

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

7 (2) The application or renewal fee;

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

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

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

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

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

21 (b) If the qualifying patient is unable to submit the information required by
22 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
5 submitted pursuant to this chapter and approve or deny an application within 15
6 days or renewal within five (5) days of receiving a completed application or renewal
7 application;

8 (2) Issue registry identification cards to a qualifying patient and his or
9 her designated caregivers, if any, within five (5) days of approving the application
10 or renewal. A designated caregiver must have a registry identification card for each
11 of his qualifying patients; and

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

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

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

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

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

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

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

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

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

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

7 (3) Provided false information.

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

10 (1) The designated caregiver does not meet the requirements of section
11 776;

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

13 (3) The designated caregiver previously had a registry identification
14 card revoked; or

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

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

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

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

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

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

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

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

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

§ 785. Contents of Registry Identification Cards

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

(1) The name of the cardholder;

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

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

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

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

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

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

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

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

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

17 **§786. Verification system**

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

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

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

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

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

- (1) A registered qualifying patient shall notify the OCR of any change in his or her name or address, or if the registered qualifying patient ceases to have his or her debilitating medical condition, within 10 days of the change.
- (2) A registered designated caregiver shall notify the OCR of any change in his or her name or address, or if the designated caregiver becomes aware the qualifying patient passed away, within 10 days of the change.

1 (3) Before a registered qualifying patient changes his or her designated
2 caregiver, the qualifying patient must notify the OCR.

3 (4) When a registered qualifying patient changes his or her preference
4 as to who may cultivate cannabis for the qualifying patient, the qualifying patient
5 must notify the OCR.

6 (5) If a cardholder loses his or her registry identification card, he or she
7 shall notify the OCR within 10 days of becoming aware the card has been lost.

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

11 (c) When a cardholder notifies the OCR of items listed in subsection (a), but
12 remains eligible under this chapter, the OCR shall issue the cardholder a new registry
13 identification card with a new random 10-digit alphanumeric identification number within
14 10 days of receiving the updated information and a fee in accordance with OCR Rule. If
15 the person notifying the OCR is a registered qualifying patient, the OCR shall also issue
16 his or her registered designated caregiver, if any, a new registry identification card within
17 10 days of receiving the updated information.

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

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

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

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

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

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

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

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

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

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

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

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

10
11 (d) If an individual demonstrates the individual's medical purpose for using
12 cannabis pursuant to this section, except as provided in section 781, the individual shall
13 not be subject to the following for the individual's use of cannabis for medical purposes:

14 (1) Disciplinary action by an occupational or professional licensing
15 board or bureau; or

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

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

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

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

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

5 (B) An application, including:

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

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

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

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

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

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

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

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

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

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

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

14 (a) Medical cannabis establishments shall conduct a background check into the
15 criminal history of every person seeking to become a principal officer, board member,
16 agent, volunteer, or employee before the person begins working at the medical cannabis
17 establishment.

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

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

20 (2) Is under the age of 21.

21 (c) The operating documents of a medical cannabis establishment must include
22 procedures for the oversight of the medical cannabis establishment and procedures to
23 ensure accurate recordkeeping.

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

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

12 (f) No medical cannabis establishment other than a cannabis product
13 manufacturer may produce cannabis concentrates, cannabis extractions, or other cannabis
14 products.

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

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

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

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

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

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

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

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

10 (k) A dispensary may not dispense more than 3.0 ounces of cannabis to a
11 nonresident cardholder or a registered qualifying patient, directly or via a designated
12 caregiver, in any 14-day period. Dispensaries shall ensure compliance with this limitation
13 by maintaining internal, confidential records that include records specifying how much
14 cannabis is being dispensed to the nonresident cardholder or registered qualifying patient
15 and whether it was dispensed directly to a registered qualifying patient or to the designated
16 caregiver. Further, a dispensary shall log the sale on an OCR approved, confidential
17 website.

18 **§ 791. Violations**

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

22 (b) In addition to any other penalty applicable in law, a medical cannabis
23 establishment or an agent of a medical cannabis establishment who intentionally sells or

1 otherwise transfers cannabis in exchange for anything of value to a person other than a
2 cardholder, a nonresident cardholder, or to a medical cannabis establishment or its agent is
3 guilty of a felony punishable by imprisonment for not more than two years or by payment
4 of a fine of not more than \$3,000, or both. A person convicted under this subdivision may
5 not continue to be affiliated with the medical cannabis establishment and is disqualified
6 from further participation under this chapter.

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

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

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

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

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

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

§ 792. *Suspension and revocation*

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

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

(c) A medical cannabis establishment may continue to possess cannabis during a suspension, but it may not dispense, transfer, or sell cannabis. A cultivation facility may

1 continue to cultivate and possess cannabis plants during a suspension, but it may not
2 dispense, transfer, or sell cannabis.

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

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

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

14 **§ 793. Confidentiality**

15 (a) Data in registration applications and supporting data submitted by
16 qualifying patients, designated caregivers, nonresident cardholders, and medical cannabis
17 establishments, including data on designated caregivers and practitioners, are private data
18 on individuals that is confidential and exempt from the Virgin Islands Freedom of
19 Information Act.

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

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

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

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

4 (3) Notification of territorial law enforcement of apparent criminal
5 violations of this chapter;

6 (4) Notification of territorial law enforcement about falsified or
7 fraudulent information submitted for purposes of obtaining or renewing a registry
8 identification card; or

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

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

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

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

21 **§ 794. *Business Expenses Deductions***

22 Unless otherwise prohibited by law, in computing net income for medical cannabis
23 establishments pursuant to Virgin Islands law, there shall be allowed as a deduction from

all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business as a medical cannabis establishment, including reasonable allowance for salaries or other compensation for personal services actually rendered.

§ 795. *Excise and consumption fees*

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

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

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

The medical cannabis cultivation establishment shall be responsible for collecting the excise fees and paying the full proceeds thereof to the Virgin Islands Bureau of Internal Revenue, within ten (10) days of the close of the previous month. The medical dispensary shall be responsible for collecting the consumption fees and paying the full proceeds thereof to the Virgin Islands Bureau of Internal Revenue, within ten (10) days of the close of the previous month. 25% of the proceeds shall be returned to the General Fund of the Government of the Virgin Islands which shall also be used to re-pay the \$500,000 loaned to the OCR to commence the Program. The remaining funds shall be maintained in a segregated account to be used for the following purposes: (i) 12.5% for addictive behavior, drug education and rehabilitation programs jointly administered by the OCR and Department of Health; (ii) 5% to promote medical tourism to be jointly administered by the OCR, Department of Health and Department of Tourism; (iii) 12.5% to the Department

1 of Licensing and Consumer Affairs, Office of Cannabis Regulations to defray operating
2 costs of the licensing program and (iv) 5% for Virgin Islands law enforcement agencies for
3 education and training on medical cannabis (v) 10%, to the Department of Agriculture for
4 the development of the Agriculture Depot Program, 5% to the Department of Labor
5 working jointly with the Department of Education for the development of an
6 Apprenticeship Program, 10% to the Department of Sports, Parks and Recreation for the
7 sports development, training and travel, 10% to the Department of Public Works for
8 Infrastructure Maintenance and Improvement of government owned building in the
9 territory, and 5% to the Department of Planning and Natural Resources for the Council of
10 the Arts for performing arts programs.

11 **§ 796. *Annual report***

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

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

20 **§ 797. *Severability***

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

1 § 798. *Date of effect*

2 This chapter shall take effect upon its approval.

3 **BILL SUMMARY**

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

- 8 • MCPCA protects patients, caregivers, cultivators, producers, dispensaries,
9 and others, from criminal prosecution provided that they are validly enrolled in
10 MCPCA.
- 11 • MCPCA provides for criminal sanctions against participants who
12 intentionally violate the Act.
- 13 • MPCPA provides that patients and their caregivers can grow a small
14 quantity of medical cannabis plants for their own use.
- 15 • MPCPA provides licenses for cultivators from a family farm (100 plants) to
16 the larger commercial grows allowing up to 1,000 plants.
- 17 • MPCPA provides licenses for medical cannabis product manufacturing
18 facilities to process the plant through extract and infusing the same into products
19 that may be safely consumed as a smokeless alternative (salves, tinctures, edibles,
20 etc.).
- 21 • MPCPA requires a healthcare professional to provide patients with medical
22 cannabis recommendations, but only after the patient has been properly evaluated

1 and determined to be suffering from a serious and debilitating condition for which
2 medical cannabis provides a therapeutic or palliative benefit.

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

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

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

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

- 1 • 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 within
6 4 months of legislative approval, and expect licenses to be issued within 3 months
7 thereafter. The OCR will be supervised by a board comprised representatives of
8 the Virgin Islands Legislature, Department of Health, Department of Agriculture,
9 Department of Licensing and Consumer Affairs, a disability advocate, the tourism
10 industry, a patient and a medical cannabis health practitioner, will meet quarterly,
11 and issue an annual report.
- 12 • MPCPA will provide a new medical cannabis tourism industry by allowing
13 medical cannabis patients from the states, and other countries that have a medical
14 cannabis patient registry (eg., Canada, Israel), to safely access Virgin Islands
15 medical cannabis for a fee, and also allow non-cannabis patients worldwide to visit
16 the Virgin Islands and receive cannabis therapy as part of an in-patient program.
- 17 • MPCPA will closely regulate the medical cannabis industry by providing
18 on-line “seed-to-sale” oversight that will allow it to track medical cannabis from
19 seed through cultivation, processing and sale. The rules will ensure appropriate
20 security including video camera surveillance 24/7 and cultivation will occur
21 outdoors surrounded by fences that restrict public view.
- 22 • Those who violate the MPCPA will face license suspension or revocation.

1 • Tax revenue generated by the MPCPA will be allocated appropriately. 25%
2 of the revenue will go to the Virgin Islands general fund and will pay for startup costs for
3 the program; the balance will be divided as follows: (i) 12.5% for addictive behavior, drug
4 education and rehabilitation programs jointly administered by the OCR and Department of
5 Health; (ii) 5% to promote medical tourism to be jointly administered by the OCR,
6 Department of Health and Department of Tourism; (iii) 12.5% to the Department of
7 Licensing and Consumer Affairs, Office of Cannabis Regulations to defray operating costs
8 of the licensing program and (iv) 5% for Virgin Islands law enforcement agencies for
9 education and training on medical cannabis (v) 10%, to the Department of Agriculture for
10 the development of the Agriculture Depot Program., 5% to the Department of Labor and
11 Department of Education for the development of an Apprenticeship Program, 10% to the
12 Department of Sports, Parks and Recreation for the sports development, training and travel,
13 10% to the Department of Public Works for Infrastructure Maintenance and Improvement
14 of government owned building in the territory, and 5% to the Department of Planning and
15 Natural Resources to the Council of the Arts for performing arts programs.

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17 **BR17-0099/ January 18, 2017/**
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