



Legislature of the Virgin Islands

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Member

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*Committee on Energy &
Environmental Protection*

*Committee on Culture Historic
Preservation, Youth and
Recreation*

Committee on Finance

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Senator Terrence "Positive" Nelson 31st Legislature -BR# 15-0063

The US VIRGIN ISLANDS MEDICAL CANNABIS PATIENT CARE ACT ("MCPCA")

Description: An Act To Add A New Chapter 30 to Title 19 of The United States Virgin Islands Code Annotated, relative to allowing the medical use of cannabis. To regulate medical cannabis provisioning centers and other related entities. To provide for the powers and duties of The Office of Cannabis Regulation ("OCR") to allow for the promulgation of rules and regulations of the medical cannabis industry; to provide immunity for persons and entities engaging in activities in compliance with this Act, and amending provisions of the Controlled Substances Act.

Section 1. Title.

Sections 1 to 26 of this chapter shall be known as the US Virgin Islands ("USVI") Medical Cannabis Patient Care Act ("The Act").

Section 2. Findings.

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

WHEREAS, Cannabis' recorded use as a medicine goes back nearly 5,000 years. Modern medical research has confirmed the beneficial uses for cannabis — which is also called marijuana — in treating or alleviating pain, severe nausea, seizures, including seizures caused by epilepsy, muscle

spasms including spasms caused by multiple sclerosis or Crohn's disease and other symptoms associated with a variety of debilitating medical conditions, including cancer, wasting syndrome, severe or chronic pain and HIV/AIDS, nausea, and other symptoms associated with a variety of debilitating medical conditions, including cancer, multiple sclerosis, and HIV/AIDS, as found by the National Academy of Sciences' Institute of Medicine in March 1999.

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

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

WHEREAS, Data from the Federal Bureau of Investigation's Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 cannabis arrests in the U.S. are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use cannabis.

WHEREAS, Twenty-three (23) states and the District of Columbia (Washington, D.C.) have removed state-level criminal penalties from the medical use and cultivation of cannabis. The US Territory of Guam has enacted a regulated medical marijuana program, and the Governor of the US Territory of Puerto Rico has signed an Executive Order to implement a medical marijuana program. Four (4) states have approved "adult use" of marijuana. Fourteen (14) other states have decriminalized the use of medical marijuana for children with seizure disorders ("Charlotte's Web" laws). Accordingly, a majority of states (37) and more than 70% of the US population now live in a jurisdiction that has some form of legal medical cannabis program. USVI joins in this effort for the health and welfare of its citizens.

WHEREAS, States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with this act does not put USVI in violation of federal law.

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 also have the right to access, without discrimination, to all social and health services.

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

WHEREAS, our law should make a distinction between the medicinal and non-medicinal use of cannabis.

WHEREAS, the purpose of enacting legislation to legalize the medicinal use of cannabis is to protect patients with medical conditions, their physicians and primary caregivers from local arrest and prosecution, and criminal and other penalties if such patient, or caregivers engage in the medicinal use of cannabis; and as well as legalize and protect supporting industries involved in the medical cannabis growth, packaging and distribution process.

WHEREAS, legalizing cannabis for medicinal purposes would regulate and provide a safer means for individuals to obtain their choice of prescription without the criminal element and provide for a known, tested and certified accurately measured dosage of medication.

WHEREAS, it would be beneficial to conduct extensive, joint and individual, research, nationally and internationally through the University of the Virgin Islands (“UVI”) on the various medicinal benefits, uses, correct dosage/measurement, and strains of the marijuana plant in the Virgin Islands; and

WHEREAS, the availability of medicinal cannabis would create a viable medical tourism economy in this territory and place the Virgin Islands at the forefront of the Caribbean Wellness tourism industry.

WHEREAS, hundreds of thousands of Americans are willing to travel to Central and South America and Asia for knee replacement, cosmetic surgery, bariatric bypass surgeries, etc., and the Virgin Islands can be a destination for those who have the resources and want to leave the cold and take up temporary residence in the Virgin Islands for cannabis therapy treatment and to avail themselves of the Virgin Islands’ new accredited medical school and the Agriculture Experiment Station within UVI; and

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

WHEREAS, the Federal Government has acknowledged the medicinal benefits derived from the cannabis plant with patent No: US 6,630,507 B1 since October 7, 2003, as follows: “Cannabinoids have been found to have antioxidant properties, unrelated to NMDA receptor antagonism. This new found property makes cannabinoids useful in the treatment and prophylaxis of a wide variety

of oxidation associated diseases, such as ischemic, age-related, inflammatory and autoimmune diseases. The cannabinoids are found to have particular application as neuroprotectants, for example in limiting neurological damage following ischemic insults, such as stroke and trauma, or in the treatment of neurodegenerative diseases, such as Alzheimer's disease, Parkinson's disease and HIV dementia.”

Section 3. Purpose of Act. The purpose of this Act is to allow the beneficial use of medical cannabis in a regulated system for alleviating symptoms caused by debilitating medical conditions and their medical treatments.

Section 4. Definitions.

For purposes of this chapter, unless the context otherwise requires:

(a) “Allowable amount of cannabis” means:

- (1) 8.0 ounces of cannabis;
- (2) The quantity of cannabis products as established by OCR regulation;
- (3) if the cardholder has a registry identification card allowing cultivation, any combination of sixteen (16) plants, mature or immature; and
- (4) If the cardholder has a registry identification card allowing cultivation, the amount of cannabis and cannabis products that were produced from the cardholder's allowable plants, if the cannabis and cannabis products are possessed at the same property where the plants were cultivated.

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

- (1) a practitioner and patient have a treatment or consulting relationship, during the course of which the practitioner has completed an assessment of the patient's medical history and current medical condition, including an appropriate in-person physical examination;
- (2) The practitioner has consulted with the patient with respect to the patient's debilitating medical condition; and
- (3) The practitioner is available to or offers to provide follow-up care and treatment to the patient, including, but not limited to, patient examinations.

(c) “Cannabis” means all parts of the Cannabis plant, growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of

the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. It includes “marijuana”, a colloquial term associated with the cannabis plant.

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

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

(f) “Cannabis testing facility” or “testing facility” means the official USVI laboratory established for the purpose of analyzing and approving the safety and potency of cannabis distributed to any person or entity pursuant to this act. Nothing herein shall preclude a medical cannabis establishment, patient or caregiver from testing their cannabis or cannabis products; however, such testing shall not take the place of official testing for the purpose of selling, transferring or otherwise distributing to the medical cannabis market.

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

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

(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 chronic or debilitating disease or medical condition or its treatment or the symptoms related to any medical condition for which a healthcare practitioner believes the use of medical cannabis will provide a therapeutic or palliative benefit to his or her patient; or

(4) Any other medical condition or its treatment added by the OCR, as provided for in section 7.

(j) "OCR" means the Office of Cannabis Regulation ("OCR") USVI OCR of Health 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.

(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:

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

(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.

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

(o) "Medical cannabis" or "cannabis" has the meaning given to the term "marijuana" in any other provision of law under the USVI.

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

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

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

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

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

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

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

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

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

- (2) Is not a resident of USVI or who has been a resident of USVI for less than 45 days;

- (3) was issued a currently valid registry identification card or its equivalent by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medical purposes

in the jurisdiction of issuance; and

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

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

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

(2) Is not a resident of USVI or who has been a resident of USVI for less than 45 days;

(3) is attending or participating in medical cannabis treatment in the US Virgin Islands under the supervision of a practitioner in the US Virgin Islands, and has been issued a temporary non-resident valid registry identification card by the US 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 USVI as a medical doctor, osteopath, naturopath, homeopath, chiropractor, physician's assistant, nurse practitioner or registered nurse, provided such practitioner has received a certificate of completion in a USVI 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 9.

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

Section 5. Protections for the Medical Use of Cannabis.

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

- (1) the medical use of cannabis pursuant to this chapter, if the cardholder does not possess more than the allowable amount of cannabis, and if any cannabis plants are either cultivated in an enclosed, locked facility or are being transported;
- (2) reimbursement by a registered qualifying patient to the patient's registered designated caregiver for direct costs incurred by the registered designated caregiver for assisting with the registered qualifying patient's medical use of cannabis;
- (3) Transferring cannabis to a testing facility for testing;
- (4) Compensating a dispensary or a testing facility for goods or services provided;
- (5) Selling, transferring, or delivering cannabis seeds produced by the cardholder to a cultivation facility or dispensary; or
- (6) Offering or providing cannabis to a cardholder for a registered qualifying patient's medical use or to a nonresident cardholder if nothing of value is transferred in return and the person giving the cannabis does not knowingly cause the recipient to possess more than the allowable amount of cannabis.
- (7) Reimbursement by a dispensary or producer to a registered qualifying patient (with cultivation privileges, only), or the registered qualifying patient's caregiver, for direct and reasonable costs incurred by the registered cultivating patient or caregiver for excess cannabis grown by same up to 64 ounces per year.

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

(c) There is a presumption that a qualifying patient or designated caregiver is engaged in the medical use of cannabis pursuant to this chapter if the cardholder is in possession of a registry identification card and an amount of cannabis that does not exceed the allowable amount of

cannabis. The presumption may be rebutted by evidence that conduct related to cannabis was not for the purpose of treating or alleviating a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition pursuant to this chapter.

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

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

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

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

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

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

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

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

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

(g) A dispensary or a dispensary agent is not subject to prosecution, search, or inspection, except by the OCR pursuant to section 16, 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) accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return; except, a resident cardholder cultivator may transfer up to 64 oz. of medical cannabis every 12 months, and accept reimbursement for his/her direct and reasonable costs.
- (4) Purchase or otherwise acquire cannabis from cultivation facilities or dispensaries, and cannabis products from cannabis product manufacturing facilities or dispensaries; and
- (5) 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 16, 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;
- (3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;
- (4) Purchase or otherwise acquire cannabis from cultivation facilities;
- (5) Purchase cannabis seeds from cardholders, nonresident cardholders, and the equivalent of a medical cannabis establishment that is registered in another jurisdiction; and
- (6) Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, and related supplies and educational materials to cultivation facilities and dispensaries.

(i) A cannabis product manufacturing facility or a cannabis product manufacturing facility agent is not subject to prosecution, search, or inspection, except by the OCR pursuant to section 16, 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) Purchase or otherwise acquire cannabis from cultivation facilities, and cannabis products or cannabis from cannabis product manufacturing facilities and, to a limited extent, from an authorized patient or caregiver;
- (2) Possess, produce, process, manufacture, compound, convert, prepare, pack, repack, and store cannabis and cannabis products;
- (3) Deliver, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, and related supplies and educational materials to dispensaries and cannabis product manufacturing facilities;
- (4) Deliver, transfer, or transport cannabis to testing facilities and compensate testing facilities for services provided;
- (5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, and related supplies and educational materials to cannabis product manufacturing facilities or dispensaries.

(j) A testing facility or testing facility agent is not subject to prosecution, search, or inspection, except by the OCR pursuant to section 16, 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) Acquire, possess, transport, and store cannabis and cannabis products obtained from cardholders, nonresident cardholders, and medical cannabis establishments;
- (2) Return the cannabis and cannabis products to the cardholders, nonresident cardholders, and medical cannabis establishment from whom it was obtained;
- (3) Test cannabis, including for potency, pesticides, mold, or contaminants; and
- (4) Receive compensation for those services.

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

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

possessed, manufactured, transferred, or used pursuant to this chapter.

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

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

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

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

Section 6. Limitations.

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

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

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

(3) Smoking cannabis:

(A) On any form of public transportation; or

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

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

Section 7. Discrimination Prohibited.

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

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

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

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

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

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

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

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

(f) No employer is required to allow the ingestion of cannabis in any workplace or to allow any employee to work while under the influence of cannabis. A registered qualifying patient shall not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment. A

registered qualifying patient is presumed to have worked under the influence of cannabis if, prior to the conclusion of the work day, such patient has a THC concentration off 150 nanograms/ml. or higher as shown by analysis of the person's blood or urine.

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

Section 8. Addition of Debilitating Medical Conditions.

Any resident of USVI may petition the OCR to add serious medical conditions or their treatments to the list of debilitating medical conditions listed in section 3(h). The OCR shall consider petitions in the manner required by OCR regulation, including public notice and hearing. The OCR shall approve or deny a petition within 180 days of its submission. If the Petition is denied, the Petitioner may file an Administrative Appeal, as more fully described herein, and provided a Notice of Appeal has been filed with the OCR within thirty (30) days of the denial. The approval or denial of any timely filed appeal is a final decision of the OCR, subject to judicial review. Jurisdiction and venue are vested in the Superior Court.

Section 9. Acts Not Required, Acts Not Prohibited.

(a) Nothing in this chapter requires:

- (1) A government medical assistance program or private insurer to reimburse a person for costs associated with the medical use of cannabis;
- (2) Any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to smoke cannabis on or in that property; or
- (3) A landlord to allow the cultivation of cannabis on the rental property.

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

Section 10. Issuance and Denial of Registry Identification Cards.

(a) No later than 120 days after the effective date of this act, the OCR shall begin issuing registry identification cards to qualifying patients who submit the following, in accordance with the OCR's regulations:

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

(2) The application or renewal fee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Provided false information.

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

(1) The designated caregiver does not meet the requirements of section 3(k);

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

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

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

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

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

Section 10. 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;

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

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

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

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

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

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

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

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

Section 12. Verification System.

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

Section 13. 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.
- (3) Before a registered qualifying patient changes his or her designated caregiver, the qualifying patient must notify the OCR.

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

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

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

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

(d) If the registered qualifying patient's certifying practitioner notifies the OCR in writing that either the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of cannabis, the card shall become null and void. However, the registered qualifying patient shall have 10 days to 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 14. Affirmative Defense and Dismissal for Medical Cannabis.

(a) Except as provided in section 5 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.

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

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

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

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

(d) If an individual demonstrates the individual's medical purpose for using cannabis pursuant to this section, except as provided in section 5, the individual shall not be subject to the following for the individual's use of cannabis for medical purposes:

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

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

Section 15. Registration of Medical Cannabis Establishments.

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

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

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

(B) An application, including:

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

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

of the medical cannabis establishment application;

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

(iv) Any additional information requested by the OCR.

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

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

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

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

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

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

Section 16. Requirements, Prohibitions, Penalties.

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

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

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

(2) Is under 21 years of age.

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

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

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

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

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

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

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

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

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

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

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

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

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

OCR approved, confidential website.

Section 17. Office of Cannabis Regulation (“OCR”) to Issue Regulations.

Not later than 120 days after the effective date of this chapter, the OCR 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 3(e) 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) The preference of the OCR;

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

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

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

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

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

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

(A) Oversight requirements;

- (B) Recordkeeping requirements;
- (C) Security requirements, including lighting, physical security, and alarm requirements;
- (D) Health and safety regulations, including restrictions on the use of pesticides that are injurious to human health;
- (E) Standards for the manufacture of cannabis products and both the indoor and outdoor cultivation of cannabis by cultivation facilities;
- (F) Requirements for the transportation and storage of cannabis by medical cannabis establishments;
- (G) Employment and training requirements, including requiring that each medical cannabis establishment create an identification badge for each agent;
- (H) Standards for the safe manufacture of cannabis products, including extracts and concentrates;
- (I) restrictions on the advertising, signage, and display of medical cannabis, provided that the restrictions may not prevent appropriate signs on the property of a dispensary, listings in business directories including phone books, listings in cannabis-related or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events;
- (J) Requirements and procedures for the safe and accurate packaging and labeling of medical cannabis; and
- (K) Certification standards for testing facilities, including requirements for equipment and qualifications for personnel.

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

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

- (A) The length of time it typically takes for a product to take effect;
- (B) Disclosing ingredients and possible allergens;

(C) A nutritional fact panel; and

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

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

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

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

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

(9) Establishing the amount of cannabis products, including the amount 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): For existing USVI licensed commercial farmers as of June 1, 2015: \$500.00.

(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, Certificates to Operate 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. Such fees to be determined by OCR Rule, but shall not exceed the Application fee for the particular license approved.

(E) Renewal Fees:

Renewal fees shall be charged annually in an amount equal to the Application Fees or as otherwise determined by OCR Rule. All license fees may be adjusted annually for inflation.

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

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

(H) The OCR may accept donations from private sources to reduce application and renewal fees.

Section 18. Violations.

(a) A cardholder or medical cannabis establishment who willfully fails to provide a notice required by section 12 is guilty of a civil infraction, punishable by a fine of no more than \$150.

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

(c) In addition to any other penalty applicable in law, a cardholder or nonresident cardholder who intentionally sells or otherwise transfers cannabis in exchange for anything of value to a person other than a cardholder, a nonresident cardholder, or to a medical cannabis establishment or its agent is guilty of a misdemeanor punishable by imprisonment for not more than one year or by

payment of a fine of not more than \$1,000, or both.

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

(e) A person who knowingly submits false records or documentation required by the OCR to certify a medical cannabis establishment under this chapter is guilty of a felony and may be sentenced to imprisonment for not more than two years or by payment 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.

Section 19. 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 17.

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

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

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

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

Section 20. Confidentiality.

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

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

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

(1) The verification of registration certificates and registry identification cards pursuant to section 11;

(2) Submission of the annual report required by section 23;

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

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

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

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

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

medical professional, or court.

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

Section 21. Business Expenses Deductions.

Unless otherwise prohibited by law, in computing net income for medical cannabis establishments pursuant to USVI 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.

Section 22. 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 (10%) of the price charged per pound.
- (b) For medical cannabis flower or medical cannabis products sold to qualified patients, an amount equal to 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 USVI 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 USVI Bureau of Internal Revenue, within ten (10) days of the close of the previous month.

50% of the proceeds shall be returned to the General Fund of the Government of the U.S. 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) 25% for drug education and rehabilitation programs jointly administered by the OCR and Department of Health; (ii) 25% to promote medical tourism to be jointly administered by the OCR and Department of Tourism; (iii) 25% to promote medical cannabis research in conjunction with the UVI, and (iv) 25% for USVI law enforcement agencies for education and training on medical cannabis

Section 23. USVI Office of Cannabis Regulation (“OCR”) and USVI Cannabis Advisory Board (“CAB”).

All executive authority to implement this Act and administer the provisions hereof including, but not limited to, rulemaking authority, shall be delegated to the Office of Cannabis Regulation “OCR” as part of the Department of Licensing and Consumer Affairs. The Director of the Office

of Cannabis Regulation shall be appointed by the CAB for a three (3) year term, which may be extended.

(a) The legislature shall appoint a nine (9) member USVI Cannabis Advisory Board (“the Board”) comprised of: one (1) member of the Senate; one (1) representative of the Department of Health; one (1) representative of the Department of Agriculture; one (1) representative of the Department of Licensing and Consumer Affairs; the President or designee of UVI; one (1) member of a USVI tourism business or an association of tourism businesses; one (1) healthcare practitioner knowledgeable in cannabis medicine; one (1) qualifying patient; and the Director of the OCR who shall serve as Chairman and ex officio voting member.

(b) The Board shall meet at least four times per year for the purpose of providing oversight and recommendations to the OCR.

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

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

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

(3) The effectiveness of the cannabis testing facilities;

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

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

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

(d) Notwithstanding anything provided herein to the contrary, the OCR shall further establish:

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

(2) Rules authorizing and permitting a USVI sponsored non-resident medical cannabis tourism program;

(3) Establishment of a USVI medical cannabis testing lab in conjunction with the University of the Virgin Islands which will provide the testing of all cannabis, hemp, cannabis products and hemp products at fees to be determined by the Board;

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

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

(6) Establishing a Research and Development Program allowing licensees to have access to cannabis to perform research and development on medical cannabis and/or hemp in conjunction with UVI. Such licenses may be conditioned on the licensee paying a royalty to UVI for new strains developed. UVI shall be exempt from the payment of licensing fees for research and development.

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

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

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

(10) Establishing such other and further programs that provide a benefit to patients and promote the economic welfare of USVI without exceeding the authority granted herein

(e) Notwithstanding any provision in law to the contrary, the Director shall be required to propose rules governing the program within thirty (30) days of his or her appointment, and not greater than sixty (60) days after this bill has become law. Such rules to be published on the USVI official website. The Director shall provide up to 30 days for public comment. Within thirty (30) days thereafter, the Director shall publish the final rules and proceed with implementation of the program in accordance therewith.

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

(g) Upon passage of this Act, the OCR shall receive a loan in the amount of \$250,000 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.

Section 24. Annual Report.

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

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

Section 25. 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.

Section 26. Date of Effect.

This chapter shall take effect upon its approval.

Summary of BR 15-0063/Amendment # 31-076

USVI Medical Cannabis Patient Care Act

- 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.
- MPCPA provides licenses for medical cannabis product manufacturing facilities to process the plant through extract and infusing the same into products that may be safely consumed as a smokeless alternative (salves, tinctures, edibles, etc.).
- MPCPA requires a healthcare professional to provide patients with medical cannabis recommendations, but only after the patient has been properly evaluated and determined to be suffering from a serious and debilitating condition for which medical cannabis provides a therapeutic or palliative benefit.
- MPCPA allows a patient to sell a small quantity of their “excess” grow to cultivators ensuring that there is an appropriate supply of medical cannabis available through dispensaries, expanding the number and diversity of plants on USVI for research purposes, and allowing ordinary USVI residents who have been hit hard by the recession to make a small monetary return for their efforts.
- MPCPA encourages the participation of USVI residents by
 1. A two year residency requirement for licensees;
 2. Rules that will require that USVI license-holders comprise the majority % in equity ownership;
 3. Diverse production and distribution licenses limiting a consolidation of the industry (“horizontal market”);
 4. Relatively low entry barriers with regard to licensing fees;
 5. Access to market for patient-growers to ensure no excess medicine becomes part of the black market.
- MPCPA will provide hundreds of new, good paying jobs, and will generate tens of millions of dollars in economic activity and new tax revenues and fees within five (5) years of full implementation. The jobs created cannot be exported outside USVI, and the industry is environmentally clean.
- MPCPA will provide educational opportunities for patients and stakeholders; all stakeholders will be required to be certified and meet the highest industry standards.

- An Office of Cannabis Regulation (“OCR”) will be established within the Department of Licensing and Consumer Affairs. The OCR will publish rules within 4 months of legislative approval, and expect licenses to be issued within 3 months thereafter. The OCR will be supervised by a board comprised representatives of the USVI Senate, Department of Health, Department of Agriculture, Department of Licensing and Consumer Affairs, UVI, the tourism industry, a patient and a medical cannabis health practitioner, will meet quarterly, and issue an annual report.
- MPCPA will provide a new medical cannabis tourism industry by allowing medical cannabis patients from the states, and other countries that have a medical cannabis patient registry (e.g., Canada, Israel), to safely access USVI medical cannabis for a fee, and also allow non-cannabis patients worldwide to visit USVI and receive cannabis therapy as part of an in-patient program.
- MPCPA will closely regulate the medical cannabis industry by providing on-line “seed-to-sale” oversight that will allow it to track medical cannabis from seed through cultivation, processing and sale. The rules will ensure appropriate security including video camera surveillance 24/7 and cultivation will occur outdoors surrounded by fences that restrict public view.
- Those who violate the MPCPA will face license suspension or revocation.
- Tax revenue generated by the MPCPA will be allocated appropriately. 50% of the revenue will go to the USVI general fund and will pay for startup costs for the program; the balance will be divided as follows: (i) 25% for drug education and rehabilitation programs jointly administered by the OCR and Department of Health; (ii) 25% to promote medical tourism to be jointly administered by the OCR and Department of Tourism; (iii) 25% to promote medical cannabis research in conjunction with the UVI, and (iv) 25% for USVI law enforcement agencies for education and training on medical cannabis.