

ACT NO. 8167

BILL NO. 32-0135

THIRTY-SECOND LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2018

An Act amending title 19 Virgin Islands Code to add a chapter 34 establishing "The Virgin Islands Medicinal Cannabis Patient Care Act" as it relates to the medicinal use and regulation of cannabis, the regulation of Medicinal Cannabis Provisioning Centers, and other related purposes

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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 percent of the voters; and

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

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

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

WHEREAS, the recorded use of cannabis, here used interchangeably with marijuana, as a medicine goes back nearly 5,000 years. Modern medical research by the National Academy of Science's Institute of Medicine in 1999 has confirmed the beneficial uses of cannabis in treating or alleviating pain, glaucoma, severe nausea, seizures, caused by epilepsy, muscle spasms caused by multiple sclerosis, HIV/AIDS, Crohn's disease, spinal cord injuries, as well as other symptoms associated with a variety of debilitating

medical conditions including cancer, wasting syndrome and numerous auto immune diseases; and

WHEREAS, studies published since the 1999 National Academy of Science Institute of Medicine report continue to show the therapeutic value of cannabis in treating a wide variety of debilitating medical and psychological conditions. Over 140 national and international medical and legal organizations have endorsed the use of cannabis in the medicinal and psychological treatment of a wide variety of debilitating symptoms. American organizations that support the medicinal 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, and the Epilepsy Foundation, as well as numerous others; and

WHEREAS, 33 states of the United States of America, the District of Columbia, Guam, Northern Marianas, and Puerto Rico have recognized the benefit of medicinal cannabis through legalization, and 20 countries worldwide have legalized medicinal cannabis; and

WHEREAS, data from the Federal Bureau of Investigation Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 cannabis arrests in the United States 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 seriously ill users of medicinal 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 cannabis in the U.S. Virgin Islands can make the Virgin Islands a destination in the warm tropics for cannabis therapy treatments. These same medicinal visitors can avail themselves of the services offered by a newly accredited University of the Virgin Islands Medical School and the UVI Agricultural Experiment Station; and

WHEREAS, cannabis has many accepted medicinal uses in the United States, having been recommended by thousands of licensed physicians to more than one million patients in states with medicinal 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 medicinal utility; and

WHEREAS, the law of the Virgin Islands should make a distinction between the medicinal and non-medicinal use of cannabis; and

WHEREAS, the legal availability of medicinal cannabis can create a viable medicinal tourism economy in the territory and place the Virgin Islands in the forefront of the Caribbean wellness industry; and

WHEREAS, as proven by the states having medicinal cannabis laws, the legalization in the Virgin Islands will create business opportunities and jobs for the people of the Virgin Islands. There currently exist numerous methods of benefiting from the medicinal use of the cannabis plant, including but not limited to ingesting teas and edibles; oils, topical creams, lotions and balms; tinctures, vaporizing, smoking, infusing, suppositories and transdermal patches; and

WHEREAS, this medicinal cannabis act represents a great and timely opportunity for the U.S. Virgin Islands to bring recent health discoveries to the citizens, as well as to give jobs to the citizens and enhance the Territory's economic well-being; 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;" Now, Therefore,

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 19 Virgin Islands Code, part III is amended by adding chapter 34 that reads:

"Chapter 34. Medicinal Cannabis

This chapter may be known and cited as the "Virgin Islands Medicinal Cannabis Patient Care Act" or "MCPCA"

§775. Purpose

This chapter allows for the beneficial use of medicinal cannabis in a regulated system for alleviating symptoms caused by debilitating medical conditions and their medical treatments.

§776. Definitions

In this chapter, unless the context otherwise requires, the following words, terms and phrases have the following meaning:

(a) “Allowable amount of cannabis” means:

- (1) 4.0 ounces of cannabis for residents and 3.0 ounces for nonresidents;
- (2) The quantity of cannabis products as established by the Virgin Islands Office of Cannabis Regulation (OCR) regulation;
- (3) If the cardholder has a registry identification card allowing cultivation, any combination of 12 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) “Bona fide Virgin Islands resident” means an individual who has maintained permanent residency in the Virgin Islands for a minimum of two years prior to submitting any application pursuant to this chapter.

(d) “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.

(e) “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.

(f) "Cannabis product manufacturing facility" means an entity registered with the OCR pursuant to this chapter that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to medicinal cannabis dispensaries.

(g) "Cannabis testing facility" or "testing facility" means the official Virgin Islands laboratory established for the purpose of analyzing and approving the safety and potency of cannabis distributed to any person or entity pursuant to this chapter. Nothing herein precludes a medicinal cannabis establishment, patient or caregiver from testing their cannabis or cannabis products; however, the testing may not take the place of official testing for the purpose of selling, transferring or otherwise distributing to the medicinal cannabis market.

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

(i) "Cultivation facility" means an entity registered with the OCR pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to medicinal cannabis establishments.

(j) "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, autism, opiate use disorder, 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, the characteristics of multiple sclerosis;

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

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

(l) "Designated caregiver" means a person who:

(1) is at least 21 years of age;

(2) has agreed to assist with a qualifying patient's medicinal use of cannabis;

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

(4) assists no more than three qualifying patients, including him or herself, with their medicinal use of cannabis, unless the designated caregiver's qualifying patients each reside in or is admitted to a health care facility or residential care facility where the designated caregiver is employed.

(m) "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.

(n) "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.

(o) "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 cardholders allowed to cultivate the plants. Two or more cardholders who reside in the same dwelling may share one enclosed, locked facility for cultivation.

(p) "Medicinal cannabis" or "cannabis" has the meaning given to the term "marijuana" in any other provision of law in the Virgin Islands.

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

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

(s) "Medicinal cannabis establishment agent" means an owner, officer, board member, employee, or volunteer at a medicinal cannabis establishment.

(t) "Medicinal 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 the cardholder's 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.

(u) "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 medicinal treatment of a person who has been diagnosed with a debilitating medical condition;

(2) is not a resident of the Virgin Islands or who has been a resident of the Virgin Islands 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 medicinal purposes in the jurisdiction of issuance; and

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

(v) "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 medicinal treatment of a person who has been diagnosed with a debilitating medical condition;

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

(3) is attending or participating in medicinal 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, 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.

(w) "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.

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

(y) "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.

(z) "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 medicinal use of cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification must affirm that it is made in the course of a bona fide practitioner-patient relationship and must specify the qualifying patient's debilitating medical condition.

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

(a) The executive authority to implement this chapter and administer the provisions including, but not limited to, rulemaking authority, is delegated to the Office of Cannabis Regulation as part of the Department of Licensing and Consumer Affairs. The Director of the Office of Cannabis Regulation is appointed by the CAB for a three-year term, which may be extended.

(b) The Governor shall appoint a nine member Virgin Islands Cannabis Advisory Board ("the Board") with advise and consent of the Legislature which must be comprised of: one representative of the Department of Health; one representative of the Department of Agriculture; one representative of the Department of Licensing and Consumer Affairs; one farmer recommended by the Commissioner of Agriculture; two healthcare practitioners knowledgeable in cannabis medicine recommended by the Board of Medical Examiners; one disability advocate; one representative from the University of the Virgin Islands Cooperative Extension Service; one economist or person in expertise in finance; and the Director of the OCR who serves as an ex officio voting member.

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

(d) Members of the Board who are employed by the Government are not entitled to a per diem for their service on the Board, but non-governmental members are entitled to

a \$75 per day per diem or a proportionate amount of \$75 for hours worked, if less than an eight-hour day.

(e) The Director of the OCR has the responsibility to ensure:

(1) the ability of qualifying patients in all areas of the Territory to obtain timely access to high-quality medicinal 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 Territory'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 are provided only to cardholders;

(5) the proposal of additions or revisions to the OCR regulations or this chapter, relating to security, safe handling, labeling and nomenclature are considered; and

(6) that research studies regarding health effects of medicinal cannabis for patients are encouraged and conducted.

(f) Notwithstanding anything provided herein to the contrary, the Board shall further establish:

(1) rules authorizing and permitting a Virgin Islands sponsored non-resident medicinal cannabis tourism program;

(2) a Virgin Islands medicinal cannabis testing lab in each of the two major districts -- St. Croix and St. Thomas/St. John-- initially operated by private entities awarded annual contracts using the Government of the Virgin Islands' Request for Proposal process, with the Board retaining the authority to establish and direct construction of its own medicinal cannabis testing facilities at a later date;

(3) educational and certification requirements for medicinal cannabis establishment applicants and licensees, their agents and employees; medicinal practitioners; and medicinal cannabis related businesses including, vendors, transporters, security companies, etc.;

(4) an approved list of medicinal cannabis establishment vendors;

(5) such other and further programs that provide a benefit to patients and promote the economic welfare of the Virgin Islands without exceeding the authority granted in this chapter; and

(6) regulations to ensure that all medicinal cannabis establishments are located in and advertised in areas that do not negatively impact enterprises and entities that rely on family and youth participation, such as schools and churches. Regulations must address street-level and media-based advertising and marketing guidelines to ensure that medicinal cannabis advertising and marketing do not negatively impact family-based enterprises and civic organizations. Regulation must also provide that each medicinal cannabis establishment has comprehensive security and camera monitoring systems in place at all times.

(f) Notwithstanding any provision of law to the contrary, the Board shall to propose rules governing the program not later than 120 days after the effective date of this chapter. The rules must be published on a Virgin Islands official website. The Board shall provide not less than 30 days for public comment. Not later than 30 days after the period for public comment, the Board shall publish the final rules and proceed with implementation of the program in accordance with the rules.

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

(h) The Director shall submit an annual report to the Commissioner of Department of Licensing and Consumer Affairs (DCLA); the Legislature of the Virgin Islands, Committee on Health; and the VI CAB. The annual report must comprehensively outline compiled data on the program, accomplishments, challenges and recommended regulation changes.

(i) Upon passage of this chapter, 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 must be re-paid not later than two years after the date of commencement of the program.

(j) The private entities awarded the contract to serve as a neutral-testing lab shall hire a majority of its entire workforce, full-time and part-time, as bona fide Virgin Islands residents and may not have, among its ownership interests or workforce, any conflict ownership interest of any form of cannabis establishment in the Territory.

(k) Nothing in this chapter prevents a dispensary from providing appropriate space within the dispensary facility where patients may consume medicinal cannabis or medicinal cannabis products, provided that it complies with the rules adopted by the Board in reference to that consumption.

§778. Cannabis Advisory Board to issue regulations for OCR

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

(1) providing procedures and requirements for issuing cultivation licenses, dispensary licenses, cannabis product manufacturers licenses, research development licenses, and vendors licenses, including residency requirements of not less than five years and provisions for granting a waiver of the residency requirement;

(2) 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), including public notice of and an opportunity to comment at public hearings on the petitions;

(3) establishing the form and content of registration and renewal applications submitted under this chapter;

(4) establishing a system to evaluate competing medicinal cannabis establishment applicants that includes an analysis of:

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

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

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

(D) the business plan proposed by the applicant, which, in the case of cultivation facilities and dispensaries, must 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.

(5) governing the manner in which it considers applications for and renewals of registry identification cards, which may include creating a standardized written certification form;

(6) governing 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 medicinal cannabis establishments; including requirements that transportation manifests be kept for all transportation of medicinal cannabis;

(G) employment and training requirements, including requiring that each medicinal 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 medicinal cannabis, but 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 safe, accurate and appropriately childproofed packaging and labeling of medicinal cannabis; and

(K) certification standards for testing facilities, including requirements for equipment and qualifications for personnel;

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

(8) 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.

(9) establishing 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;

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

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

(10) establishing the amount of cannabis products, including the amount of concentrated cannabis, each cardholder and nonresident cardholder may possess; and

(11) establishing reasonable application and renewal fees for registry identification cards and registration certificates, according to the following medicinal establishment classifications:

(A) Application fees for medicinal cannabis establishments may not exceed the following during the first two years from the inception of the medicinal cannabis program:

(i) Cultivation License:

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

(b) Level II - Not to exceed 500 plants: \$2,500, \$2,000 for existing farmers

(c) Level III - Not to exceed 1,000 plants: \$5,000, \$4,500 for existing farmers

(ii) Dispensary License: \$5,000

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

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

(v) Approved Vendor Certificate: \$1,000

(B) Unsuccessful applicants shall receive a reimbursement in an amount equal to 50 percent 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, medicinal cannabis establishments that are approved are 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.

(E) Renewal fees are charged annually in an amount equal to the application fees or as otherwise determined by Board's regulations. 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; and

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

§ 779. Protections for the medicinal 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 medicinal 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 medicinal 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; or

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

(b) A nonresident cardholder is not 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 medicinal cannabis pursuant to this chapter if the nonresident cardholder does not possess more than 4.0 ounces of cannabis or 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 medicinal 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.

(d) A practitioner is not 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 Virgin Islands Medicinal 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 medicinal 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, but nothing in this chapter prevents 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 medicinal cannabis establishments or others on matters related to activity that is no longer subject to criminal penalties under state law pursuant to this chapter.

(f) Individuals who are properly registered and licensed under this chapter are not 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, a nonresident cardholder, or to a medicinal cannabis establishment;

(2) being in the presence or vicinity of the medicinal use of cannabis that is 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 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 the 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; or

(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 the 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) purchase or otherwise acquire cannabis from cultivation facilities;

(4) purchase cannabis seeds from cardholders, nonresident cardholders, and the equivalent of a medicinal cannabis establishment that is registered in another jurisdiction; or

(5) 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 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) 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; or

(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 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 the rules authorized by this chapter to:

(1) acquire, possess, transport, and store cannabis and cannabis products obtained from cardholders, nonresident cardholders, and medicinal cannabis establishments;

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

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

(4) receive compensation for those services.

(k) A cardholder, a nonresident cardholder, or the equivalent of a medicinal 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 medicinal use of cannabis as allowed under this chapter, or acts incidental to the use, may not be seized or forfeited. This chapter does not prevent the seizure or forfeiture of cannabis exceeding the amounts allowed under this chapter, nor does 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 may 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 the Virgin Islands law, activities related to medicinal cannabis are considered lawful as long as they are in accordance with this chapter.

(o) No law enforcement officer employed by an agency that receives territorial funds may 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 the activity is in compliance with the Virgin Islands medicinal cannabis laws, nor may the officer expend any territorial resources, including the officer's time, to provide any information or logistical support related to the activity to any federal law enforcement authority or prosecuting entity.

(p) It is the public policy of the Virgin Islands that contracts related to medicinal cannabis that are entered into by cardholders, medicinal cannabis establishments, or medicinal cannabis establishment agents, and those who allow property to be used by those persons, are enforceable. It is the public policy of the Virgin Islands that no contract entered into by a cardholder, a medicinal cannabis establishment, or medicinal 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, is unenforceable on the basis that activities related to cannabis are prohibited by federal law.

§ 780. 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 medicinal 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 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.

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

§ 781. 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 medicinal 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 may 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.

§ 782. 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 may 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 is 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 medicinal purposes must be afforded all the same rights under Virgin Islands law, including those guaranteed under the Territory's disability rights law, as the individual would be afforded if the person 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 if they conflict with an employer's obligations under federal law or regulations or it 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 is not 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, the patient has a THC concentration of 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.

§ 783. Addition of debilitating medical conditions

Any resident of the Virgin Islands may petition the OCR to add serious medical conditions or their treatments to the list of debilitating medical conditions listed in section 776(i)(1). 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 not later than 180 days after 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 not later than 30 days after 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 of the Virgin Islands.

§ 784. Issuance and denial of registry identification cards

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

(1) written certification issued by a practitioner no less than 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 medicinal use.

(b) If the qualifying patient is unable to submit the information required under 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 not later than 15 days or renewal not later than five days after receiving a completed application or renewal application; and

(2) issue registry identification cards to a qualifying patient and the designated caregivers, if any, not later than five days after approving the application or renewal. A designated caregiver must have a registry identification card for each qualifying patient.

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

(e) The OCR may 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 medicinal 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 medicinal 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 medicinal 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 776;

(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 the issuance of 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 is subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court of the Virgin Islands.

(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 is considered 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 qualifying patient's application, written certification, and proof that the application was submitted to the OCR is considered a registry identification card.

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

(m) Until 25 days after the OCR makes applications available, the following is considered 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;

(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 each 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 medicinal use;

(7) a photograph of the cardholder; and

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

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

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

§786. 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 may not be combined or linked in any manner with any other list or database, nor may it be used for any purpose not provided for in this chapter.

(b) Not later than 120 days after 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 medicinal cannabis establishments to enter a registry identification number and determine whether the number corresponds with a current, valid registry identification card. The system must 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 penalties

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

(1) A registered qualifying patient shall notify the OCR of any change of name or address, or if the registered qualifying patient ceases to have a debilitating medical condition, not later than 10 days after the change.

(2) A registered designated caregiver shall notify the OCR of any change of name or address, or if the designated caregiver becomes aware the qualifying patient passed away, not later than 10 days after the change.

(3) Before a registered qualifying patient changes his designated caregiver, the qualifying patient shall notify the OCR.

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

(5) If a cardholder loses his registry identification card, he shall notify the OCR not later than 10 days after becoming aware the card has been lost.

(b) Each notification a registered qualifying patient is required to make must instead be made by the patient's designated caregiver if the qualifying patient is unable to make the notification due to his 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 not later than 10 days after 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 registered designated caregiver, if any, a new registry identification card not later than 10 days after 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 medicinal use of cannabis, the card becomes void. However, the registered qualifying patient has 10 days to return the cannabis to a licensed dispensary for disposal.

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

§ Section 788. Affirmative defense and dismissal for medicinal cannabis

(a) Except as provided in section 779 and this section, a person may assert the medicinal purpose for using cannabis as a defense to any prosecution involving cannabis, and the defense is 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 medicinal purposes would likely outweigh the health risks for the person;

(2) the person was in possession of not more than 4.0 ounces of cannabis, the amount of cannabis products allowed by OCR regulation, 12 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 may 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) Registered cardholders must carry the card at all times, when in possession of cannabis.

(d) If an individual demonstrates the individual's medical purpose for using cannabis pursuant to this section, except as provided in section 781, the individual is not subject to the following for the individual's use of cannabis for medicinal 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.

§ 789. Registration of medicinal cannabis establishments

(a) Not later than 90 days after receiving an application for a medicinal cannabis establishment, the OCR shall register the prospective medicinal 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 medicinal 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 medicinal cannabis establishment;

(ii) the physical address of the prospective medicinal cannabis establishment that is not less than 500 feet of a public or private school existing before the date of the medicinal cannabis establishment application;

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

(iv) any additional information requested by the OCR.

(C) Operating procedures consistent with rules for oversight of the proposed medicinal 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 medicinal cannabis establishment that has had its registration certificate revoked.

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

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

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

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

§ 790. Requirements, prohibitions, penalties

(a) Medicinal 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 medicinal cannabis establishment.

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

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

(2) is under the age of 21.

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

(d) A medicinal 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 medicinal cannabis establishment, emergency personnel, and adults who are 21 years and older and who are accompanied by medicinal cannabis establishment agents. Nothing in this chapter prevents outdoor cultivation, provided the same is secure and is completely surrounded by a 10 foot or greater fence constructed in a manner as to reasonably block any view from ground level of the grow from outside the facility.

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

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

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

(i) Medicinal 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.

§ 791. Violations

(a) A cardholder or medicinal cannabis establishment that willfully fails to provide a notice required by section 786 is civilly liable for the infraction, subject to a fine of not more than \$150.

(b) In addition to any other penalty applicable in law, a medicinal cannabis establishment or an agent of a medicinal 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 medicinal 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 subsection may not continue to be affiliated with the medicinal 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 medicinal 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 medicinal 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 medicinal 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 medicinal cannabis establishment or to a designated caregiver, who advertises in a medicinal cannabis establishment, or who issues written certifications while holding a financial interest in a medicinal cannabis establishment shall be fined up to \$1,000.

(g) It is 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 medicinal cannabis establishment shall be fined up to \$1,000 for any violation of this chapter, or the regulations issued pursuant to this chapter 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 medicinal 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 medicinal cannabis establishment at the address on the registration certificate. A suspension may not be for a longer period than six months.

(c) A medicinal 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 medicinal purposes under this chapter, and the cardholder is suspended 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 of the Virgin Islands in which the standard of proof is that the decision was arbitrary or capricious.

§ 793. Confidentiality

(a) Data in registration applications and supporting data submitted by qualifying patients, designated caregivers, nonresident cardholders, and medicinal cannabis establishments, including data on designated caregivers and practitioners, are private data on individuals that is confidential and exempt from the Virgin Islands 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 786;

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

(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 Virgin Islands Medicinal Board if there is reason to believe that a practitioner provided a written certification, or 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 medicinal cannabis establishments must identify cardholders by their registry identification numbers and may 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.

§ 794. Business Expenses Deductions

Unless otherwise prohibited by law, in computing net income for medicinal cannabis establishments pursuant to Virgin Islands law, there is 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 medicinal 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 medicinal cannabis and consumption fees on the sale of medicinal cannabis must be levied, as follows:

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

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

The medicinal cannabis cultivation establishment is be responsible for collecting the excise fees and paying the full proceeds to the Virgin Islands Bureau of Internal Revenue, not later than 10 days after the close of the previous month. The medicinal dispensary is responsible for collecting the consumption fees and paying the full proceeds to the Virgin Islands Bureau of Internal Revenue, not later than 10 days after the close of the previous month. Twenty-five percent of the proceeds must be returned to the General Fund of the Government of the Virgin Islands which must be used to re-pay the \$500,000 loaned to the OCR to commence the program. The remaining funds must be maintained in a segregated account to be used for the following purposes:

(i) 12.5 percent for addictive behavior, drug education and rehabilitation programs jointly administered by the OCR and Department of Health;

(ii) 5 percent to promote medicinal tourism to be jointly administered by the OCR, Department of Health and Department of Tourism;

(iii) 12.5 percent to the Department of Licensing and Consumer Affairs, Office of Cannabis Regulations to defray operating costs of the licensing program;

(iv) 5 percent for Virgin Islands law enforcement agencies for education and training on medicinal cannabis;

(v) 10 percent to the Department of Agriculture for the development of the Agriculture Depot Program;

(vi) 5 percent to the Department of Labor working jointly with the Department of Education for the development of an apprenticeship program;

(vii) 10 percent to the Department of Sports, Parks and Recreation for the sports development, training and travel;

(viii) 10 percent to the Department of Public Works for infrastructure maintenance and improvement of government owned building in the territory;

(ix) 5% to the Department of Planning and Natural Resources for the Council of the Arts for performing arts programs; and

(x) after the loans has been repaid, 10% of the proceeds that goes to the General Fund must be disbursed to the Government Employees Retirement System.

§ 796. 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 medicinal cannabis establishment that are registered, and the expenses incurred and revenues generated from the medicinal cannabis program.

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

§ 797. Severability

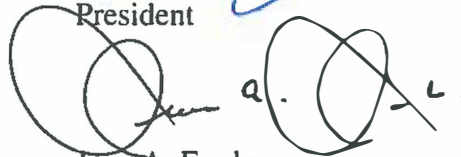
Any section of this chapter held invalid as to any person or circumstance does not affect the application of any other section of this chapter that can be given full effect without the invalid section or application.

Thus passed by the Legislature of the Virgin Islands on December 28, 2018.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 4th Day of January, A.D., 2019.



Myron D. Jackson
President



Jean A. Forde
Legislative Secretary



Bill No. 32-0135 is hereby approved.

Witness my hand and the seal of the Government of the United States Virgin Islands at Charlotte Amalie, St. Thomas, this 17 day of January, 2019 A.D.



Albert Bryan, Jr.
Governor