

# **Rules Regulating Cannabis for Symptom Relief**

18 V.S.A. Chapter 86 Subchapter 2: Marijuana for Medical  
Symptom Use by Persons with Severe Illness

Effective Date: 11/30/2015



**Vermont Department of Public Safety  
Vermont Marijuana Registry  
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**Purpose:** These rules are intended to implement the provisions of 18 V.S.A. Chapter 86, Therapeutic Use of Cannabis, as they pertain to registered patients, caregivers, and the creation and operation of four dispensaries. If any of these rules contradict the provisions of 18 V.S.A. Chapter 86 then the language in 18 V.S.A. Chapter 86 shall prevail. This program shall be referred to as the Vermont Marijuana Registry (VMR). The rules contain the following information related to the VMR; definitions of terms, procedures for issuing registry identification cards, procedures for issuing a certificate of registration to a dispensary, operating requirements for registered dispensaries, criminal history procedures, fees, confidentiality, enforcement, Marijuana Oversight Committee, and appeals. These rules shall apply only to marijuana and hemp for symptom relief provided by dispensaries pursuant to 18 V.S.A. Chapter 86 and shall not apply to or impose any requirements on any other use of hemp.

**Section 1: DEFINITIONS:** As used in these rules the terms specified in this section shall have the following meanings:

- 1.1** “Appeal” means a request for review of a decision made by the Department pursuant to Section 13 of these rules.
- 1.2** “Bona fide health care professional–patient relationship” means a treating or consulting relationship of not less than six months duration, in the course of which a health care professional has completed a full assessment of the registered patient’s medical history and current medical condition, including a personal physical examination. The six month requirement shall not apply if a patient has been diagnosed with:
  - (A) A terminal illness,
  - (B) cancer with distant metastases, or
  - (C) acquired immune deficiency syndrome.
- 1.3** “Cannabis” shall mean the Cannabis plant and any part of the plant that are defined in Sections 1.12 and 1.16.
- 1.4** “Cardholder” means a person currently registered with the Vermont Marijuana Registry as a patient, caregiver, principal officer, board member, or employee.
- 1.5** “Clone” means a plant section from a female marijuana plant not yet root-bound, growing in a water solution, which is capable of developing into a new plant.
- 1.6** “Criminal history record” means all information documenting an individual’s contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

- 1.7** “Debilitating medical condition,” provided that, in the context of the specific disease or condition described in section (A) or (B), reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms, means:
- (A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or
  - (B) a disease, medical condition, or its treatment that is chronic, debilitating, and produces severe, persistent, and one or more of the following intractable symptoms: cachexia or wasting syndrome; severe pain; severe nausea; or seizures.
- 1.8** “Department” means the Vermont Department of Public Safety.
- 1.9** “Dispensary” means a nonprofit entity registered under 18 V.S.A. § 4474e which acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient’s use for symptom relief. A registered dispensary may provide marijuana for symptom relief to registered patients at only one facility or location but may have a second location associated with the dispensary where the marijuana is cultivated or processed. Both locations are considered part of the same dispensary.
- 1.10** “Government employee” means a person employed by the State of Vermont or its political subdivisions.
- 1.11** “Health care professional” means an individual licensed to practice medicine under 26 V.S.A. Chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. Chapter 81 who has a special license endorsement authorizing the individual to prescribe, dispense, and administer prescription medicines to the extent that a diagnosis provided by a naturopath under this chapter is within the scope of his or her practice, an individual certified as a physician assistant under 26 V.S.A. Chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. Chapter 28.
- (A) Except for naturopaths, this definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.
- 1.12** “Hemp” shall have the same meaning as defined in 6 V.S.A. § 562.
- 1.13** “Hemp-infused product” means a product permeated with hemp that is intended for use of consumption other than by smoking, including but not limited to oil, solvents, ointments, tinctures, and edible or potable products.
- 1.14** “Immature marijuana plant” means a female marijuana plant that has not flowered and which does not have buds that may be observed by visual examination.

- 1.15** “Locked container” means a secure enclosed container equipped with a padlock, key lock, combination lock or similar locking device that only permits access to the cardholder.
- 1.16** “Marijuana” shall have the same meaning as defined in 18 V.S.A. § 4201.
- 1.17** "Marijuana-infused product" means a product permeated with marijuana intended for use or consumption other than by smoking, including but not limited to oils, solvents, ointments, tinctures, and edible or potable products.
- 1.18** “Marijuana-related supplies” shall include pipes, vaporizers, and other items classified as drug paraphernalia under 18 V.S.A. Chapter 89.
- 1.19** “Mature marijuana plant” means a female marijuana plant that has flowered and which has buds that may be observed by visual examination.
- 1.20** “Ounce” means a unit of weight equaling 28 grams for the purpose of these rules.
- 1.21** “Possession limit” means the amount of marijuana, including the attributed weight of marijuana used in marijuana-infused products:
- (A) Allowed to be collectively possessed between the registered patient and the patient’s registered caregiver, which is no more than two mature marijuana plants, seven immature plants, and two ounces of usable marijuana;
  - (B) Allowed to be possessed by a registered dispensary, which is no more than 28 mature marijuana plants, 98 immature plants, and 28 ounces of usable marijuana;
  - (C) If a registered dispensary is designated by more than 14 registered patients; the dispensary is allowed to possess no more than two mature marijuana plants, seven immature marijuana plants and four ounces of usable marijuana for each currently registered patient that has designated that specific dispensary.
- 1.22** “Recent or sudden onset” means a length of time of six months or less.
- 1.23** “Registered caregiver” means a person who is at least 21 years of age, has met eligibility requirements as determined by the Department in accordance with these rules, and who has agreed to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief. A registered caregiver shall be a resident of Vermont and shall not be a currently registered patient.
- 1.24** “Registered patient” means a resident of Vermont who has been issued a registration card by the Department of Public Safety identifying the person as having a debilitating medical condition as defined by these rules. “Resident of Vermont” means a person whose domicile is Vermont.
- 1.25** “Secure indoor facility” means a building or room equipped with locks or other security devices that only permits the cardholder access.

- 1.26** “Terminal illness” means a medical prognosis that limits an individual’s life expectancy to less than six months.
- 1.27** “Transport” means the movement of marijuana or marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, to registered patients and caregivers in accordance with delivery protocols, or as otherwise authorized by these rules. Transport shall only occur within the State of Vermont.
- 1.28** “Usable marijuana” means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant.
- 1.29** “Use for symptom relief” means the acquisition, possession, cultivation, use, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a registered patient’s debilitating medical condition which is in compliance with all the limitations and restrictions contained in these rules.
- 1.30** “Violent felony” means a listed crime as defined in 13 V.S.A. § 5301 or an offense involving sexual exploitation of children in violation of 13 V.S.A. Chapter 64.
- 1.31** “V.S.A” means Vermont Statutes Annotated as defined in 1 V.S.A. Chapter 1.

## **Section 2: SCOPE**

**2.1 Restrictions:** The exemption from criminal and civil penalties afforded by 18 V.S.A. § 4474b do not extend to violation(s) of other Vermont state laws or to violation(s) of the laws of other states.

**2.1.1 Federal Law Violations:** The production, possession, and distribution of marijuana remains a violation of federal law. Persons in violation of federal law may be subject to federal prosecution. Neither, 18 V.S.A. Chapter 86, nor these rules, provides any protection against a violation of federal law.

**2.1.2 State Law Violations:** The provisions contained in 18 V.S.A. Chapter 86 apply only to conduct that occurs in Vermont. They do not apply to conduct that occurs outside of the state of Vermont.

**2.2 Prohibitions:** These rules shall not exempt any person from arrest and/or prosecution for:

**2.2.1** Being under the influence of marijuana while:

**2.2.1.1** operating a motor vehicle, boat, or vessel, or any other vehicle propelled or drawn by power other than muscular power;

**2.2.1.2** in a workplace or place of employment; or

**2.2.1.3** operating heavy machinery or handling a dangerous instrumentality.

**2.2.2** The possession or cultivation of marijuana or marijuana-infused products by a cardholder:

**2.2.2.1** for purposes other than symptom relief as permitted by these rules; or

**2.2.2.2** in a manner that endangers the health or well-being of another person.

**2.2.3** The use, possession, or cultivation of marijuana or marijuana-infused products by a registered patient:

**2.2.3.1** for purposes other than symptom relief as permitted by these rules; or

**2.2.3.2** in a manner that endangers the health or well-being of another person.

**2.2.4** The smoking of marijuana in any public place, including but not limited to:

**2.2.4.1** a school bus, public bus, or other public vehicle;

**2.2.4.2** a workplace or place of employment;

**2.2.4.3** any school grounds;

**2.2.4.4** any correctional facility;

**2.2.4.5** any public park, public beach, public recreation center, or youth center.

- 2.3 Limitations:** These rules shall not be construed to require that coverage or reimbursement for the use of marijuana for symptom relief be provided by:
- 2.3.1** a health insurer as defined in 18 V.S.A. § 9402, or any insurance company regulated under 8 V.S.A.;
  - 2.3.2** Medicaid or any other public health care assistance program;
  - 2.3.3** an employer; or
  - 2.3.4** for purposes of worker's compensation, an employer as defined in 21 V.S.A. § 601.
- 2.4 Construction:** These rules may not be construed to prevent a municipality from prohibiting the establishment of a registered dispensary within its boundaries or from regulating the time, place, and manner of dispensary operations through zoning or other local ordinances.
- 2.5 Disposal of unused marijuana:** Unused marijuana or marijuana plants in the possession of the registered patient, caregiver, or dispensary that is no longer needed for the registered patient's use, or if they are over their possession limits, may be disposed of by transporting the marijuana to a state law enforcement agency. Presentation of a valid registry identification card and a valid driver's license or non-driver identification card may be required. After the death of a registered patient, any marijuana or marijuana plants that were in their possession shall be disposed of within 72 hours. The registered patient's caregiver or next of kin shall contact a state law enforcement agency and make arrangements for disposal of the marijuana and/or marijuana plants.
- 2.6 Cardholders authorized conduct:**
- 2.6.1** Cardholders shall comply with the authorized possession limit as defined in Section 1;
  - 2.6.2** Cardholders shall not transport marijuana in public, including in a motor vehicle, except in a locked container;
  - 2.6.3** Cardholders shall notify the VMR within 10 business days when a registry identification card is lost or stolen; and
  - 2.6.4** Cardholders shall submit all information required for renewal of a registry identification card to the VMR 30 days before the expiration date of the current card, in order to prevent a lapse in status. This information may not be submitted more than 90 days before the expiration date.



### **Section 3: REGISTERED PATIENT**

**3.1 Applying for a registry identification card:** A person who is domiciled in Vermont and meets the requirements under 18 V.S.A. Subchapter 2 of Chapter 86 may apply to become a registered patient by submitting the following to the VMR:

**3.1.1** A patient applying for a registry identification card shall complete a Department-approved application form. The form shall include a statement that the information submitted by the applicant is accurate and the application shall be signed in the presence of a notary. At a minimum, the form shall provide the following information concerning the applicant:

**3.1.1.1** Name, address, phone number, and date of birth;

**3.1.1.2** A general physical description, such as height and weight;

**3.1.1.3** A valid Vermont driver's license or non-driver identification number. A valid Vermont driver's license or non-driver identification card is required to establish residency. The VMR will review alternative documentation submitted on a case-by-case basis for patients without such documentation;

**3.1.1.4** Name, address, phone number, and data of birth, of any person applying for authorization to become the applicant's registered caregiver under 18 V.S.A. Chapter 86 and Section 4 of these rules; and

**3.1.1.5** Whether the applicant intends to obtain marijuana from a registered dispensary, and if so, which dispensary, or whether the applicant intends to cultivate marijuana in accordance with state law. A registered patient may not cultivate marijuana if the patient designates a dispensary. Applicants who elect to cultivate marijuana shall provide the physical address and specific location of the enclosed locked facility in which cultivation will occur.

**3.1.2** A Health Care Professional Verification Form that has been completed by a health care professional;

**3.1.3** The required fee; and

**3.1.4** A recent electronic photograph of the patient applicant. This photograph may be obtained from any source.

**3.2 Patient applicant is subject to guardianship, power of attorney, or under the age of 18:** A patient who is subject to guardianship, power of attorney, or under the age of 18, may apply for a registry identification card for the lawful use of marijuana for symptom relief.

**3.2.1** A patient subject to this subsection applying for a registry identification card shall submit all required information specified in Section 3.1.



- 3.3.6** A release of information signed by the patient applicant authorizing the Department to verify and confirm the accuracy of the information contained within the Health Care Professional Verification Form.
- 3.4** **Renewal of registry identification card:** A registered patient may apply to renew his or her registry identification card provided the required documentation and fee are submitted in accordance with Section 3.1 or 3.2 of these rules. Subsequent renewal applications shall not require notarization. An updated electronic photo may be required.
- 3.5** **Registered patient authorized conduct:** In addition to the prohibitions contained in Section 2.2 and the authorized conduct in Section 2.6 of these rules, a registered patient may:
- 3.5.1** Obtain marijuana only from his or her designated dispensary and may only designate one dispensary;
  - 3.5.2** Not grow marijuana for symptom relief if the patient designates a dispensary;
  - 3.5.3** Elect to cultivate marijuana for symptom relief in a single secure indoor facility, in lieu of designating a registered dispensary for obtaining useable marijuana;
  - 3.5.4** Acquire marijuana seeds or clones from a registered dispensary, if the registered patient has elected to cultivate marijuana in a single secure indoor facility;
  - 3.5.5** Designate one registered caregiver, except registered patients under 18 years of age may designate two registered caregivers; and
  - 3.5.6** Change his or her designated dispensary only once every 90 days.
- 3.6** **Registered patient prohibitions:** These rules shall not exempt a registered patient from arrest and/or prosecution for:
- 3.6.1** Using, possessing marijuana if he or she does not have a debilitating medical condition;
  - 3.6.2** Obtaining marijuana for symptom relief from any source other than authorized by these rules;
  - 3.6.3** Cultivating marijuana in a manner other than authorized by these rules; and
  - 3.6.4** Consuming marijuana on the property of a registered dispensary.
- 3.7** **Sole Preference:** A registered caregiver and/or designated dispensary identified on the patient's application shall solely be determined by the registered patient.

## **Section 4: REGISTERED CAREGIVER**

- 4.1 Caregiver designation:** A registered patient may designate a caregiver to assist with marijuana for symptom relief.
- 4.2 Applying for a caregiver registry identification card:** A person, whose domicile is Vermont may apply for a caregiver registry identification card to undertake responsibility for managing the well-being of a registered patient with respect to the use of cannabis for symptom relief by submitting:
- 4.2.1** A completed Department-approved caregiver application including at least the following information:
    - 4.2.1.1** Name, address, and date of birth;
    - 4.2.1.2** A general physical description, such as height and weight;
    - 4.2.1.3** A valid Vermont driver's license or non-driver identification number; and,
    - 4.2.1.4** Consent to release criminal history records.
  - 4.2.2** The required fee;
  - 4.2.3** A recent electronic photograph of the caregiver applicant. This photograph may be obtained from any source.
- 4.3 Renewal of registry identification card:** A registered caregiver may apply to renew his or her registry identification card provided the required documentation and fee are submitted in accordance with Section 4.2 of these rules. An updated electronic photo may be required for subsequent renewal applications.
- 4.4 Registered caregiver's authorized conduct:** In addition to the prohibitions contained in Section 2.2 and the authorized conduct in Section 2.6 of these rules, a registered caregiver assisting a registered patient may:
- 4.4.1** Possess marijuana as authorized by these rules and Vermont law for his or her registered patient's use for symptom relief. The amount of marijuana collectively possessed between the registered caregiver and patient must not exceed the possession limit;
  - 4.4.2** Cultivate marijuana plants for his or her registered patient, in a single secure indoor facility. The amount of marijuana collectively possessed between the registered caregiver and patient must not exceed the possession limit;
  - 4.4.3** Acquire marijuana seeds or clones from a registered dispensary, if his or her registered patient elected to cultivate in a single secure indoor facility;

- 4.4.4 Cultivate marijuana for symptom relief for his or her registered patient in a single secure indoor facility specified by the registered patient, in lieu of designating a registered dispensary for obtaining useable marijuana;
  - 4.4.5 Obtain marijuana only from his or her registered patient's designated dispensary and may not grow marijuana for symptom relief, if the registered patient has designated a dispensary;
  - 4.4.6 Assist no more than one registered patient at any one time with his or her use of marijuana for symptom relief.
- 4.5 **Caregiver criminal history record:** A person applying to become a registered patient's registered caregiver shall meet the criminal history record requirements described in Section 7.1 of these rules.
- 4.6 **Transport:** A registered caregiver shall take reasonable steps to provide the marijuana to his or her registered patient in a timely manner.
- 4.7 **Application fee:** A parent or guardian applying to become a registered patient's registered caregiver shall not be subject to the required fee contained in Section 8, if the registered patient is under the age of 18 and has designated a dispensary.

## **Section 5: DISPENSARY APPLICATION PROCEDURES**

- 5.1 Limit of dispensary registration certificates:** Unless otherwise authorized by statute, no more than four dispensaries shall hold valid registration certificates at any one time.
- 5.2 Announcement:** The Department shall publish an announcement when opening the application period for dispensary registration certificates. The announcement shall include the application requirements and a deadline for the acceptance of applications.
- 5.3 Application:** Entities may apply for a dispensary registration certificate during an open application period by submitting:
- 5.3.1** A completed Department-approved dispensary application that shall include:
- 5.3.1.1** The formal nonprofit entity name, name of principal officer applicant, mailing address, and phone number;
  - 5.3.1.2** Articles of incorporation and bylaw;
  - 5.3.1.3** The proposed location(s), physical address and documentation from the landlord or property owner providing consent to operate a dispensary at the identified location. If the proposed location(s) has yet to be determined, the applicant shall identify the municipality in which the proposed dispensary will be located;
  - 5.3.1.4** Verification from the municipality that the proposed physical address is not located within 1,000 feet of a pre-existing public or private school boundary or licensed/regulated childcare facility, and that local codes and ordinances do not prohibit dispensaries. In the event that the municipality is unable to provide verification that the proposed physical address is not located within 1,000 feet from and existing public or private school boundary or licensed/regulated childcare facility, a sworn affidavit of the applicants or other qualified individual may be substituted, provided that the affidavit sets out that reasonable efforts were made;
  - 5.3.1.5** The name, address, dates of birth, and valid Vermont driver's license or non-driver identification number of each principal officer and board member of the dispensary;
  - 5.3.1.6** Proof of fingerprinting from a designated Identification Center for each principal officer and board member;
  - 5.3.1.7** A list of all individuals or entities proposed that will have direct or indirect entitlements to the land or building(s), and/or providing capital to the non-profit entity;
  - 5.3.1.8** An acknowledgement that the dispensary will pay for the costs associates with all persons that apply as a principal officer, board member, or employee of a dispensary for a registry identification card;

**5.3.1.9** Information addressing selection criteria and measures contained in Section 5.4;

**5.3.1.10** A signature, certifying that the information submitted is true and accurate; and

**5.3.1.11** A completed statement of compliance with taxes and unemployment compensation contributions.

**5.3.2** The required fee.

**5.4 Selection criteria and measures:** Each application shall address each of the following criteria and measures. Applications that fail to address all criteria and measures will be rejected as non-responsive, and will not be considered.

**5.4.1 Criterion 1: Business plan and facility information [up to 25 points]**

Measure 1: Describe the secure indoor facility that will be used for cultivating marijuana, including, but not limited to, security measures contained in Section 6.10 and visibility to the public. If applicable, describe the facility or location that will be used to cultivate hemp, including, but not limited to, security measures contained in Section 6.14.2. [up to 10 points]

Measure 2: A business plan that thoroughly describes the expected financial development for the first three years of dispensary operations. The business plan, at a minimum, shall include: [up to 15 points]

- A detailed financial plan describing the amount and source of capital and debt obligations demonstrating viability for the first three years of operation. Additionally, this plan shall include the availability of funds allocated for capital and operating expenditures;
- A proposed sliding-scale pricing policy that addresses a registered patient's ability to pay;
- Projected income statements for the first three years of operations;
- A description of experience possessed by the principal officer(s) and board members relevant to managing non-profit or for-profit entities.

**5.4.2 Criterion 2: Overall health needs of registered patients [up to 35 points]**

Measure 1: Demonstrate the convenience of the proposed location for registered patients. Provide documentation that the facility is accessible for registered patients with limited mobility and that the proposed geographic region is underserved and/or the convenience of this geographic location including the projected impact to the registered patient population. Attach comments from cardholders regarding the location, if available. [up to 10 points]

Measure 2: Provide a cultivation plan detailing the process that will be implemented to provide an adequate supply of marijuana and projected number of registered patients expected to designate this dispensary, including: [up to 15 points]

- Start-up timetable providing an estimated time from dispensary registration until opening for patient appointments, and explain the assumptions used for the basis of these estimates;
- Provide documentation regarding the proposed process to ensure the quality, purity, and dose consistency of marijuana for symptom relief;
- Disclose proposed strains, marijuana and marijuana-infused products, and any other form(s) of marijuana anticipated to be dispensed.

Measure 3: Provide a staffing plan and proposed business hours that will allow registered patients to access marijuana for symptom relief in a timely manner in accordance with Section 6.12 of these rules. [up to 5 points]

Measure 4: Provide examples of patient education materials to be distributed to registered patients and caregivers in accordance with Section 6.11.4 of these rules. [up to 5 points]

#### **5.4.3 Criterion 3: Safe and secure communities [up to 40 points]**

Measure 1: Provide plans, policies and procedures for recordkeeping, inventory, quality control, and security to deter and prevent unauthorized access and theft for the proposed dispensary location(s) as required under Section 6.10 and 6.11 of these rules, including: [up to 25 points]

- A recordkeeping plan addressing maintaining confidential patient information and records in conformity with Vermont law and the Federal Health Insurance Portability and Accountability Act (HIPAA);
- A security plan to deter and prevent unauthorized entrance into areas containing marijuana and theft of marijuana, including a retention policy for electronic and video monitoring for each location.

Measure 2: Provide personnel policies as required under Section 6.11 of these rules. [up to 15 points]

**5.5 Application determinations:** A panel shall be convened by the Department to evaluate and score each application. This panel shall include a registered patient, a registered caregiver, and VMR personnel. This panel shall solicit input from registered patients and caregivers. The panel shall review each completed application that addresses all criteria and measures, including supporting information submitted during the open application period. Supplemental information may be requested and considered by the panel. The decision to grant a dispensary registration certificate shall be based on the overall health needs of registered patients. The maximum point value is determined by the quality of the applicant's submission. The maximum points that may be awarded for each criterion are indicated in Section 5.4 of these rules. For an application to be considered responsive, an application must receive at least 70 points and address all of the criteria and measures.



- 5.5.1 Registration award:** The Department shall notify the selected applicant(s) in writing. The Department may deny an application for a dispensary registration certificate if it is determined that the applicant's criminal history record indicates that the person's association with a dispensary would pose a demonstrable threat to public safety, or if the person has been convicted of a disqualifying offense. The Department shall notify applicant(s) not selected in writing. This action is final.
- 5.5.2 Determination timeframe:** A panel shall convene within 30 calendar days once the application period has closed. This panel shall issue a decision to the Department within 10 business days. The Department shall review this panel's decision and concur or reject with the panel's decision. Applicants will be notified, in writing, within five business days after the final determination is made.
- 5.6 Limited operating registration certificate:** No person shall commence operations as a registered dispensary without a Department-issued limited operating registration certificate and appropriate registry identification cards. A dispensary shall not possess marijuana until an operational security alarm system, video surveillance, and panic buttons have been installed and the Department has performed a site assessment. A dispensary shall not dispense marijuana to registered patients or caregivers before issuance of an active operating registration certificate. Limited operating registration certificates issued by the Department to a dispensary are non-transferable.
- 5.7 Dispensary opening:** After a dispensary has been issued a limited operating registration certificate, the dispensary must obtain an active operating registration certificate and begin dispensing marijuana to registered patients within six months. A waiver allowing an additional three months may be granted by the Department upon receipt of a written justification for the delay. A dispensary that does not commence dispensing to registered patients within the required timeframe shall forfeit any and all fees that have been submitted. If a dispensary fails to commence dispensing to registered patients within the required timeframe, the Department may reopen the application process for a replacement dispensary. No person shall operate a registered dispensary without a Department-issued registration certificate.
- 5.8 Active operating registration certificate:** Once a dispensary has installed all required security measures, submitted the required fee, obtained registry identification cards for each principal officer and board member, and is prepared to begin dispensing marijuana to registered patients and caregivers the Department shall perform a site assessment. If the dispensary passes the site assessment, an active operating registration certificate will be issued within 10 business days. During the course of the site assessment if any violations are discovered another site assessment shall occur to verify corrective actions have been implemented. A determination may be made to revoke the limited operating registration certificate and reopen the application process depending on the severity of the infraction. An active operating registration certificate issued by the Department shall expire no more than one year after issuance, and is non-transferable.

**5.9 Renewal of an active operating registration certificate:** The Department shall renew a dispensary's registration certificate for operation within 10 business days after submission of a completed Department-approved form with all required documentation and the required fee. When a registered dispensary is requesting to renew a registration certificate for operation, all information submitted by the dispensary shall be updated, if the updated information has not previously been submitted. Past enforcement action(s) and failure to provide all updated information are grounds for denial by the Department.

**5.9.1** Each time a dispensary registration certificate is granted, the decision shall be based on the overall health needs of qualified patients. The following factors shall weigh heavily in the consideration of an application:

- 5.9.1.1** Geographic convenience to patients from throughout the State of Vermont to a dispensary if the applicant were approved;
- 5.9.1.2** The entity's ability to provide an adequate supply to the registered patients in the State;
- 5.9.1.3** The entity's ability to demonstrate its board members' experience running a nonprofit organization or business;
- 5.9.1.4** The comments, if any, of registered patients and registered caregivers regarding which applicant should be granted a registration certificate;
- 5.9.1.5** The sufficiency of the applicant's plans for record-keeping, which records shall be considered confidential health care information under Vermont law and are intended to be deemed protected health care information for purposes of the federal Health Insurance Portability and Accountability Act of 1996, as amended;
- 5.9.1.6** The sufficiency of the applicant's plans for safety and security, including the proposed location and security devices employed.

## **Section 6: REGISTERED DISPENSARY**

- 6.1 Authorized conduct:** In addition to other applicable requirements contained in these rules, a registered dispensary:
- 6.1.1** Shall comply with the authorized possession limit at all times;
  - 6.1.2** May acquire marijuana seeds or clones from or dispense them to registered patients or their caregivers or acquire them from another registered Vermont dispensary, provided records are kept in accordance with Section 6.11;
  - 6.1.3** May receive reasonable monetary compensation for costs associated with providing cannabis to registered patients who have designated the dispensary;
  - 6.1.4** Shall implement and operate a sliding-scale fee system that takes into account a registered patient's ability to pay;
  - 6.1.5** May communicate with registered patients and caregivers through electronic means, U.S. mail or voice means, provided that written authorization for such communication has been received. This authorization may be withdrawn by the registered patient or caregiver at any time. Dispensaries shall develop the appropriate procedures and forms necessary for registered patients and caregivers to "opt in" and to "opt out" of such communications;
  - 6.1.6** May transport cannabis, cannabis-infused products and cannabis supplies to registered patients and caregivers as permitted by these rules;
  - 6.1.7** May acquire, possess, cultivate, manufacture, transfer, transport, supply, sell, and dispense hemp and hemp-infused products for symptom relief as permitted by these rules;
  - 6.1.8** Shall store cannabis and cannabis-infused products in a manner utilizing a separate double locking mechanism;
  - 6.1.9** Shall verify that the amount of marijuana and marijuana-infused products dispensed will not cause a registered patient or caregiver to exceed the possession limit;
  - 6.1.10** Shall verify the identity of each registered patient or caregiver prior to dispensing cannabis at his or her initial appointment;
  - 6.1.11** Shall verify that a registered patient's or caregiver's registry identification card is valid and has designated that dispensary prior to dispensing cannabis;
  - 6.1.12** Shall provide all revisions to policies, procedures, and educational information referenced in Section 6.1, 6.2, and 6.11 of these rules to the VMR;
  - 6.1.13** Shall notify the VMR within 10 business days when a registered dispensary cardholder is no longer affiliated with their registered dispensary;

- 6.1.14** Shall comply with Agency of Agriculture, Food and Markets pesticide regulations;
- 6.1.15** May donate marijuana, marijuana-infused products, and marijuana-related supplies to another registered dispensary in Vermont provided that no consideration is paid and that the recipient does not exceed the possession limits specified in these rules;
- 6.1.16** Shall operate on a nonprofit basis for the mutual benefit of its patients but shall not be required to be a tax-exempt organization by the Internal Revenue Service;
- 6.1.17** Shall not advertise through any means including electronic means or social media. Additionally, a registered dispensary shall not advertise any results of customer satisfaction surveys, their location of business, or any information that would identify them as a registered dispensary. Signage shall include only text and shall not contain pictures, logos, or symbols;
- 6.1.18** Shall ensure registered patients and caregivers do not have direct access to cannabis and cannabis-infused products, except upon the request to examine a specific product. Only one product may be examined at a time and then immediately returned to its proper location, unless the registered patient or caregiver has elected to purchase the product.

**6.2 Delivery procedures:** A registered dispensary electing to deliver cannabis to registered patients and caregivers shall submit their proposed delivery procedures for review to the Department. The Department shall respond to a registered dispensary within 10 business days from receiving proposed protocols for safe delivery of cannabis to registered patients and caregivers. The Department may request modifications or supplemental information related to the proposed delivery procedures. A registered dispensary shall not commence delivery operations under this section until the VMR has provided written authorization for the safe delivery of cannabis to registered patients and caregiver. In addition to requirements contained in Section 6.1 and 6.11.10, a registered dispensary electing to deliver to registered patients and caregivers shall:

- 6.2.1** Transport cannabis and cannabis-infused products in a secure locked container;
- 6.2.2** Only permit registered dispensary cardholders in the vehicle;
- 6.2.3** Deliver only to the registered patient's or caregiver's physical address transmitted to the registered dispensary from the VMR, provided that the registered patient has designated the dispensary;
- 6.2.4** Ensure that dispensary personnel other than the personnel performing delivery services have knowledge of the delivery schedule;
- 6.2.5** Depart with only the amount of marijuana scheduled for delivery;
- 6.2.6** Schedule deliveries to occur only during established operating hours;
- 6.2.7** Package and label all products in accordance with Section 6.6 of these rules prior to leaving the registered location;

- 6.2.8** Verify the identity of each registered patient or caregiver at the time of his or her initial delivery and prior to dispensing cannabis by a registered dispensary cardholder. Cannabis products shall be transferred physically to a cardholder;
  - 6.2.9** Prior to dispensing cannabis to a registered patient or caregiver, who scheduled a delivery, verify his or her registry identification card is current, valid, identifies the dispensary, and corresponds with the notice described in Section 6.13 at the time of delivery by a registered dispensary cardholder. Cannabis shall be transferred physically to a cardholder;
  - 6.2.10** Provide trip tickets in accordance with Section 6.8 of these rules;
  - 6.2.11** Ensure delivery vehicles are discreet and do not display advertising, cannabis related insignia, or distinguishing features indicative of dispensary operations;
  - 6.2.12** Ensure that all registered dispensary cardholders performing deliveries have a mode of communication for contacting emergency services personnel;
  - 6.2.13** Develop and implement policies and procedures to ensure employee safety and to provide security sufficient to prevent loss of inventory, theft, and diversion for the dispensing, delivery, and storage of cannabis;
  - 6.2.14** Require all registered dispensary cardholders physically possess their registry identification cards when performing delivery services.
- 6.3** **Maximum amount of marijuana dispensed during a 30-day period:** A registered dispensary shall not dispense more than two ounces of useable marijuana to a registered patient or his or her caregiver during a 30-day period. The amount of usable marijuana that is used to produce marijuana-infused products shall be calculated towards this two-ounce limit. Registered dispensaries shall comply with the requirements of Section 6.7 of these rules when producing marijuana-infused products. No more than seven clones may be dispensed to a registered patient or his or her caregiver during a 30-day period.
- 6.4** **Access to a registered dispensary, excluding cultivation area:** All cardholders shall have their registry identification cards on-site at all times while at a registered dispensary. A record shall be maintained of all individuals entering and exiting the dispensary. The record shall contain first and last legal name of all individuals, time, date, and registry identification number. In exceptional situations, the record shall also contain entity affiliation and purpose of entry and may omit a registry identification number. A registered dispensary shall limit access to cardholders, except for the following exceptional situations, listed below:
- 6.4.1** A contractor or vendor, or the owner of the property on which a dispensary is located, who is performing services related to the operation of a dispensary and who needs access to the registered dispensary may be allowed access for a limited time under the direct accompaniment of a registered dispensary cardholder.

- 6.4.2** A government employee who, in the performance of his or her job duties require access to the registered dispensary shall be allowed access for a limited time under the direct accompaniment of a registered dispensary cardholder.
- 6.4.3** Emergency services personnel, such as firefighters, police officers or other officials, who in the performance of his or her life safety duties require access to the registered dispensary in an emergency life safety or protection situation may enter a registered dispensary without escort in order to perform his or her job.
- 6.5 Access to a registered dispensary cultivation and processing location/area:** Only registered dispensary cardholders acting in his or her official capacity may access a registered dispensary cultivation or processing location, except in one (or more) of the circumstances set out in Section 6.4 of these rules. All cultivation of marijuana shall take place in a secure indoor facility.
- 6.5.1** A record shall be maintained of all individuals entering and exiting the cultivation and/or processing location. The record shall contain first and last legal name, time, date, purpose for entry, entity affiliation, and registry identification number. In the, exceptional situations contained in Section 6.4 of these rules, the record may omit a registry identification number.
- 6.5.2** All registered dispensaries conducting dispensing appointments in the same facility as cultivation and/or processing shall secure the cultivation and/or processing area(s) from the dispensing area of the facility with a lock or other security device in addition to all other security measures required by these rules.
- 6.6 Packaging and labeling:** A registered dispensary shall package all marijuana dispensed in an envelope or other container used and intended for sale. A label shall be affixed on the packaging of all marijuana that is dispensed. The label shall identify the particular strain of marijuana and the weight of marijuana contained within the package in gram or ounce units. Marijuana strains shall reflect the properties of the plant. Additionally, the label shall contain a statement to the effect that the State of Vermont does not attest to the medicinal value of cannabis, a statement that this product is not for resale, and clearly identify “marijuana” is contained within the packaging. The dispensary shall verify the amount of all marijuana dispensed. Documentation shall be maintained containing at a minimum the name and registry identification number of the registered dispensary cardholders verifying the amount of marijuana and any errors identified.
- 6.7 Marijuana-infused products:** Usable marijuana added when producing marijuana-infused products shall be measured by weight in gram or ounce units. The weight of usable marijuana included when preparing infused products shall be calculated in each batch or container of marijuana-infused products. A dispensary shall establish a methodology for determining the weight of marijuana attributable to each marijuana-infused product intended to be dispensed including any recorded testing results. This methodology shall be submitted to the Department for review prior to dispensing the marijuana-infused product to a registered patient or caregiver. The Department may require adjustments to this methodology.

- 6.7.1** All products shall be labeled with ingredients added during preparation and any relevant food safety handling and/or storage instructions in addition to packaging and labeling requirements contained in Section 6.6 of these rules.
- 6.7.2** The weight of usable marijuana contained in marijuana-infused products shall count toward the amount of marijuana dispensed under Section 6.3 of these rules.
- 6.7.3** The weight of usable marijuana contained in marijuana-infused products shall count towards the possession limit of a registered dispensary or patient.
- 6.8** **Trip tickets:** The transfer, transport, sale, and dispensing of marijuana between registered dispensary locations or to a registered patient or caregiver by a registered dispensary shall be accompanied by a trip ticket as permitted under these rules. Marijuana transported from a registered dispensary location shall be in a locked container.
- 6.8.1** A trip ticket provided to a registered patient or his or her caregiver shall include the registered dispensary's name, recipient's registry identification number, product type, strain, weight in ounce or gram units, form, and time and date of transaction.
- 6.8.2** A trip ticket when marijuana is transported by a registered dispensary to another registered dispensary shall contain the originating and receiving registered dispensary name and physical address, the weight and form of marijuana, cardholder registry identification numbers, and relinquishing time and date.
- 6.9** **On-Site Assessments:** A registered dispensary is subject to on-site assessments by the Department at any time, without notice.
- 6.9.1** The Department may perform an on-site assessment without limitation for the purpose of determining compliance with 18 V.S.A. Chapter 86 and these rules.
- 6.9.2** Issuance of a dispensary registration certificate constitutes permission for entry and assessment of the dispensary.
- 6.9.3** Failure to cooperate with required assessments may be grounds to revoke a dispensary registration certificate as set forth in Section 11 of these rules.
- 6.9.4** During an assessment, the Department may identify violations of these rules. If a violation is identified, the dispensary shall receive written notice issued by the Department of the nature of the violations, in accordance with Section 11 of these rules. The dispensary shall notify the Department in writing with a postmark date within 20 business days of the date of the notice identifying the corrective actions taken and the date of the correction.
- 6.9.5** The Department may require laboratory testing of cannabis produced by a registered dispensary. The Department may specify the testing methodology. The registered dispensary shall bear the costs of any testing required by the Department.
- 6.9.6** The Department may assess delivery vehicles for compliance with these rules.

**6.9.7** The Department may assess all records maintained by a registered dispensary as required by these rules. These records shall include the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' registry identification numbers to protect their confidentiality.

**6.10 Dispensary security requirements:** Registered dispensaries shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana. The Department may require modifications or supplemental information related to the dispensaries security measures. Security safeguards shall include at a minimum:

**6.10.1** Exterior lighting sufficient to deter nuisance activity and facilitate surveillance, while not disturbing neighbors;

**6.10.2** Preventing trees, bushes and other foliage outside of a registered dispensary location to grow to such an extent that would affect the functionality of security measures;

**6.10.3** Installation and use of devices or a series of devices, including, but not limited to, a signal system interconnected with a radio frequency method such as cellular, private radio signals, or other mechanical or electronic device to detect an unauthorized intrusion;

**6.10.4** An operational security alarm system at each registered location, with an immediate automatic electronic notification system, connected to an outside security provider that professionally monitors for unauthorized entry and robbery events. The operational alarm system shall at a minimum shall contain the following components: access control; alerting equipment; control panel; fire sensors; panic buttons; and perimeter sensors to deter and prevent against unauthorized entry and theft of marijuana. The alarm system shall allow "opening" and "closing" notifications to be transmitted to the outside security provider. This feature will alert the security provider every time the alarm system is turned "on" or "off";

**6.10.4.1** The alarm system and all of its components shall be tested professionally at least once a year. The alarm system shall transmit an automatic daily scheduled test to the outside security provider to ensure that the alarm system and telephone lines are operational. Cellular reporting backup and line seizure functionality shall be integrated into the alarm system. Repairs performed on the alarm system shall be made in a reasonable amount of time to ensure that the alarm system is operating properly. The alarm system shall be tested after any major electrical storms or significant power outages. Testing shall be documented and include at a minimum, testing date, summary of activity performed, any items that required corrective action, and name of the person performing the testing. Any items requiring corrective actions must be performed in a reasonable amount of time and documented. Documentation of corrective actions shall include at least



the following: the reason for repair, date of repair, name of the person performing the repair, and summary of repair activity. Automatic daily testing is not required to be documented but any corrective action required as a result of the daily testing shall be documented as described in this section. There shall be documentation describing the automatic daily testing process.

**6.10.4.2** In the event the security system is non-operational due to loss of power, mechanical malfunction, or other circumstance, for more than a four-hour period, the registered dispensary shall notify the Department in writing within 24 hours from the time of the event. Alternate security measures, approved by the Department, may be required until the security system is restored and fully operational. Documentation shall be maintained any time the security system is non-operational, including cause, date, corrective action taken, contactor performing corrective actions (if applicable), any alternative security measures implemented, and cardholder name and identification number documenting the event. If a violation occurs during an event, the Department shall be notified in accordance with Section 6.17 of these rules.

**6.10.5** Operational video surveillance at each registered location. Video surveillance shall monitor customer service areas, cultivation areas, entry and egress areas, and any other areas at the registered location containing marijuana, including processing and packing areas. Video footage shall be recorded and stored digitally for 30 days. The Department shall be provided remote access to the video surveillance at each registered dispensary location to assist with investigations related to any reported incidents, suspected illegal activity, or other violations of these rules, through a secure connection provided by the registered dispensaries. The Department's access to the video surveillance will be limited to the investigative reasons stated above for a limited period of time. The Department will not constantly monitor live video surveillance. The intended purpose is limited solely to investigate reported or suspected activity prohibited by these rules. The Department will maintain a log documenting the date and cause when accessing video surveillance. The registered dispensaries may record when the Department accesses the surveillance video and request a copy of the Department's documentation for the justification of access on a specific date. The Department's documentation will not be available during the course of an active investigation.

**6.10.6** A procedure to consistently and systematically prevent loitering.

**6.11 Dispensary recordkeeping requirements:** Operating documents of a registered dispensary shall include procedures for the oversight of the registered dispensary, personnel records, and procedures to ensure accurate and confidential recordkeeping as required by these rules. Records maintained by a registered dispensary shall include but are not limited to:

- 6.11.1 Personnel policies and practices:** The registered dispensary must have up-to-date written policies and practices on-site and available to the Department upon request. Each registered dispensary shall develop, implement, and maintain policies and procedures addressing confidentiality training, performance evaluations, proper use of security measures and controls, emergency training, and disciplinary actions. Emergency training shall include specific procedural instructions on how to respond to an emergency, including robbery or violent incident. Confidentiality training shall include specific instruction regarding how to protect the confidentiality of cardholders, and instruction regarding confidential health care information as defined by Vermont law and the Federal Health Insurance Portability and Accountability Act of 1996, as amended.
- 6.11.2 Job description and employment contract policies:** A registered dispensary shall develop, implement, and maintain on-site an up-to-date policy regarding job descriptions and employment contracts for all employees. This policy shall include information regarding an employee's duties, authority, responsibilities, qualifications, and supervision.
- 6.11.3 Business and financial records:** Registered dispensaries shall maintain manual or electronic financial records documenting, at a minimum: assets, liabilities, monetary transactions, sales, various journals, ledgers, supporting documents, agreements, checks, invoices, and vouchers. These records are subject to assessment and shall be made available to the Department electronically upon request.
- 6.11.3.1 Sales records:** Dispensary records shall include sales records containing the unique identification number of the registered patient or caregiver to whom marijuana has been distributed, the quantity of marijuana distributed, the date of distribution, and the form of marijuana distributed. The sales record must also indicate the purchase price of the product.
- 6.11.3.2 Financial Audit:** A registered dispensary shall submit the results of a financial audit to the Department no later than 60 days after the end of the dispensary's first fiscal year, and every other year thereafter. The audit shall be conducted by an independent certified public accountant, and the costs shall be borne by the registered dispensary. The Department may also periodically require, within its discretion, the audit of a registered dispensary's records by the Department.
- 6.11.4 Patient education:** A registered dispensary shall develop, implement, and maintain a policy that requires educational materials be provided to a registered patient or his or her caregiver during the initial appointment and available upon request. Each registered dispensary shall have an adequate supply of up-to-date educational material available for distribution. Educational materials shall be made available for inspection by the Department upon request. The educational material shall include the following information:

- 6.11.4.1 Strains of cannabis and its effects, including various forms and route of administration;
  - 6.11.4.2 “Tracking sheets” for registered patients and caregivers to track the effects of cannabis used including strains, amount, and forms;
  - 6.11.4.3 How to achieve proper dosage for different routes of administration. Emphasis shall be on using the smallest amount of marijuana possible to achieve symptom relief. Potency and potential side effects must also be explained.
- 6.11.5 Personnel Files:** A registered dispensary shall develop, implement, and maintain a confidential personnel file on each principal officer, board member and employee. All personnel files shall be kept on-site at a registered dispensary location and shall be available for inspection by the Department upon request. Personnel records shall include the following information:
- 6.11.5.1 Copy of current registry identification card and valid driver’s license or non-driver identification card;
  - 6.11.5.2 Employment application and required documentation;
  - 6.11.5.3 Job description or employment contract as required under Section 6.11.2 of these rules;
  - 6.11.5.4 Documentation of training as required under Section 6.11.1 of these rules;
  - 6.11.5.5 Past performance evaluations;
  - 6.11.5.6 Documentation of disciplinary actions;
  - 6.11.5.7 Documentation of results of drug tests.
- 6.11.6 Alcohol and drug-free workplace policy:** A registered dispensary shall have and adhere to a written alcohol and drug-free workplace policy. The policy must be available to the Department upon request. The policy must include the following definitions; alcohol, controlled substance, illegal drug, legal drug, under the influence, and workplace. The policy must also: explain its applicability; describe procedures for disciplinary actions; specify exceptions for legal drugs and for illegal drugs as permitted by these rules; outline employer and employee responsibilities; and include referral information.
- 6.11.7 Record of cannabis:** A registered dispensary shall establish written policies and procedures addressing inventory controls including the requirements contained in Section 6.3 and 6.7 of these rules. The registered dispensary shall submit these written policies and procedures, including any updates, to the VMR prior to implementation. Furthermore, records shall be maintained for the following information, at a minimum:

- 6.11.7.1** Marijuana clones and seeds acquired from registered patients, caregivers, or dispensaries. The record shall contain the date, quantity, strain, and participating cardholders' acknowledgement attesting to the transfer, including their registry identification numbers.
- 6.11.7.2** Hemp clones and seeds acquired. The record shall contain the date, quantity, strain, supplier name, entity affiliation, if any, and dispensary cardholder taking possession.
- 6.11.7.3** Immature and mature cannabis plants transferred between registered dispensaries. The record shall contain the plant's growth stage, date, quantity, strain, and participating cardholders' registry identification numbers and acknowledgement attesting to the transfer.
- 6.11.7.4** Culled cannabis plants. The record shall contain the plant's growth stage, date, strain, quantity, method of disposal, and acknowledgement attesting to the information by the cardholder culling and a second cardholder verifying the information, including the cardholders' registry identification numbers.
- 6.11.7.5** Cannabis plants harvested. The record shall contain the date, weight of the harvested portion of the plant, strain, any testing data, and acknowledgement attesting to the information by the cardholder harvesting and an acknowledgement by a second cardholder verifying the information, including the cardholders' registry identification numbers.
- 6.11.7.6** Cannabis plant material when the drying process has concluded. The record shall contain the duration of the drying process, the date, weight of remaining cannabis, strain, any testing data, and acknowledgement attesting to the information by the cardholder processing the cannabis and an acknowledgement by a second cardholder verifying this information, and duration, including the cardholders' registry identification numbers.
- 6.11.7.7** Cannabis plant material when the curing process is completed. The record shall contain the duration of the curing process, the date, weight of the flowers and leaves, strain, any testing data, signatures and registry identification numbers for the cardholder who processes the plant material and a second cardholder verifying the above information.
- 6.11.7.8** Packaged cannabis plant material. The record shall contain the date, weight of the flowers and leaves in grams or ounce units, the strain, any testing data, including signatures and registry identification numbers for the cardholder packaging and second cardholder verifying this information.

- 6.11.7.9** Cannabis plant material used in cannabis-infused products. In addition to requirements contained in Section 6.7 of these rules, the record shall contain the date, strain, any testing data, signatures, and registry identification numbers for the cardholder harvesting, and second cardholder verifying this information.
- 6.11.7.10** Cannabis or cannabis-infused products entered into inventory for distribution. The record shall contain weight of cannabis in gram or ounce units, quantity, strain, form, date, and signatures of the cardholder entering inventory and second cardholder verifying the information, including the cardholders' registry identification numbers.
- 6.11.7.11** Disposal of cannabis. The record shall contain the quantity, weight, strain, form, date, signatures and registry identification numbers for the cardholder disposing of cannabis and second cardholder or law enforcement officer verifying disposal of cannabis. When a law enforcement officer accepts possession of the cannabis for disposal, a registry identification number may be omitted.
- 6.11.8 Patient records:** A registered dispensary must maintain a record for each registered patient that has designated that dispensary. A registered patient's record shall contain at a minimum the following information: his or her sales records or trip tickets; a valid copy of his or her registry identification card; and a valid copy of his or her Vermont driver's license, non-driver identification card. A registered dispensary that intends to accept alternative documentation proving a registered patient's identity, other than a Vermont driver's license or non-driver identification card, must submit a policy to the VMR for review prior to implementation. The VMR shall provide a determination or modifications in writing within 10 business days from receipt. The registered patient's record shall also contain a valid copy of his or her caregiver's registry identification card and Vermont driver's license or non-driver identification card, when applicable. Files must be updated upon receipt of Department notifications of dispensary designation (See Section 6.13). Patient records shall be treated as protected health care information for the purposes of these rules. Confidentiality provisions contained in Section 10 of these rules shall apply to all registered patient and caregiver records maintained by a registered dispensary.
- 6.11.9 Security records:** A registered dispensary shall possess and implement plans, policies and procedures for security to deter and prevent unauthorized access and theft for the dispensary location(s). A registered dispensary shall retain documentation of all incident reports, alarm activations, and alarm system maintenance in accordance with Section 6.10 and 6.17 of these rules.
- 6.11.10 Delivery records:** A registered dispensary shall retain documentation containing the following information for each delivery to a registered patient and caregiver:

- 6.11.10.1** Registered patient name and registry identification number. If a registered caregiver accepts a delivery on behalf of his or her registered patient the documentation shall additionally include the registered caregiver's name and registry identification number;
- 6.11.10.2** Name(s) and registry identification number(s) of the registered dispensary cardholder(s) performing delivery;
- 6.11.10.3** Date and time of delivery; and
- 6.11.10.4** Strain, form, and amount of cannabis delivered. Amount of cannabis shall be in ounce or gram units of weight.

**6.12 Hours of Operation:** A registered dispensary may establish its own hours of operation with consideration provided to a registered patient's best interest, privacy, and ability to timely access cannabis for symptom relief. A registered dispensary shall ensure that cannabis is dispensed only by appointment to registered patients or caregivers who have designated that registered dispensary. A registered dispensary may not schedule appointments for more than three registered patients and/or their registered caregivers at any given time. A registered dispensary that intends to schedule more than one appointment at the same time must submit to the VMR detailed procedures regarding the protection of confidentiality. A registered dispensary may not schedule more than one appointment for the same time unless VMR has approved such procedures. Procedures to ensure confidentiality must include the use of dividers, shields, partitions, or individual rooms, sufficient to shield or protect the identity of the registered patients and/or registered caregivers. A registered dispensary must also ensure that any and all dispensing of cannabis is done privately and confidentially, and that each registered patient and/or his or her registered caregiver shall have his or her own individual point of service.

**6.13 Notice of dispensary designation:** The Department shall track the number of registered patients who have designated each dispensary. The Department shall issue a monthly written statement to each registered dispensary identifying the number of registered patients who have designated that dispensary and his or her registered caregivers, including registry identification numbers and expiration dates for each registered patient and caregiver.

**6.13.1** The Department shall provide written notice to a registered dispensary whenever a registered patient de-designates his or her designated dispensary.

**6.13.2** The Department shall provide written notice to a registered dispensary whenever a registered patient designates the dispensary to serve his or her needs.

**6.13.3** The Department shall provide written notice to a registered dispensary whenever a registered patient who has designated the dispensary loses his or her status as a registered patient.

**6.13.4** Department notifications may be transmitted electronically to registered dispensaries.

**6.14 Hemp for symptom relief:** Registered dispensaries cultivating hemp are not required to comply with 6 V.S.A. Chapter 34. A registered dispensary electing to cultivate hemp shall submit a proposal for doing so to the Department. The Department shall issue a written decision within 10 business days from receipt and may request supplemental information. The Department may also require a site visit of the proposed location. A registered dispensary shall not commence operations under this section until receipt of written approval.

**6.14.1** A registered dispensary submitting a proposal for hemp operations to the Department shall include at a minimum the following:

**6.14.1.1** Registered dispensary name;

**6.14.1.2** Proposed registered location for hemp cultivation;

**6.14.1.3** Acreage at registered location (if proposing outdoor hemp cultivation);

**6.14.1.4** Description of any additional security measures that will be implemented for hemp cultivation, in accordance with Section 6.14.2;

**6.14.1.5** Proposed hemp strains and products expected to be dispensed;

**6.14.1.6** Provide a hemp cultivation plan detailing a start-up timetable;

**6.14.1.7** Updated plans, policies, and procedures for recordkeeping, inventory, and quality control; and

**6.14.1.8** Signature certifying that all information submitted is true and accurate.

**6.14.2 Security requirements:** Registered dispensaries shall develop and implement appropriate security measures to deter and prevent unauthorized entrance to the cultivation area containing hemp. Security measures shall include, at a minimum:

**6.14.2.1** Exterior lighting sufficient to deter nuisance activity and facilitate surveillance, while not disturbing neighbors;

**6.14.2.2** Prevention of trees, bushes and other foliage outside a hemp cultivation location to grow to such an extent that would impact the functionality of security measures;

**6.14.2.3** Device or a series of devices, including at least, a signal system interconnected with a radio frequency method such as cellular, private radio signals, or other mechanical or electronic device to detect an unauthorized intrusion; and

**6.14.2.4** Fencing or other type of barrier to prevent unauthorized entrance and to reasonably prevent visibility to the public.

- 6.14.3 Trip tickets:** The transfer, transport, sale, and dispensing of hemp between registered dispensary locations or to a registered patient or caregiver by a registered dispensary shall be accompanied by a trip ticket as permitted under these rules. Hemp transported from a registered dispensary shall be in a locked container.
- 6.14.3.1** A trip ticket provided to a registered patient or his or her caregiver shall include the registered dispensary's name, registered patient's registry identification number, product type, strain, weight in ounce or gram units, form, and time and date of transaction. Additionally, a trip ticket provided to a registered caregiver shall include his or her registry identification number.
- 6.14.3.2** A trip ticket when hemp is transported or transferred by a registered dispensary to another registered dispensary shall contain the weight and form of hemp, originating and receiving registered dispensary name and physical address, cardholders' registry identification numbers, and relinquishing time and date.
- 6.14.4 Packaging and labeling:** A registered dispensary shall package all hemp dispensed in an envelope or other container used and intended for sale. A label shall be affixed on the packaging of all hemp that is dispensed. The label shall identify the particular strain of hemp and the amount of hemp contained within the package. Hemp strains shall reflect the properties of the plant. Additionally, the label shall contain a statement to the effect that the State of Vermont does not attest to the medicinal value of cannabis, and a statement that this product is not for resale.
- 6.14.5 Hemp-infused products:** Hemp added when producing hemp-infused products shall be measured by weight. The weight of hemp included when preparing infused products shall be calculated in each batch or container of hemp-infused products.
- 6.14.5.1** All products shall be labeled with ingredients added during preparation and any relevant food safety handling and/or storage instructions in addition to packaging and labeling requirements contained in Section 6.14.5 of these rules.
- 6.14.6 Record of cannabis:** As set out in Section 6.11.7 of these rules, (Record of cannabis, a registered dispensary shall maintain records related to hemp.
- 6.14.7 Possession limit waiver:** A registered dispensary may petition the Department in writing for a waiver of their authorized possession limit for the purpose of developing and providing a product for symptom relief to a registered patient under 18 years of age who suffers from seizures. A written petition for a waiver shall include; the purpose, necessity, aggregate number of impacted registered patients, quantified possession limit increase requested, demonstration of ability to manage requested possession limit, proposed location for additional possession limit, plan detailing the development process, supply plan, and duration.



- 6.15 Dispensary prohibitions:** In addition to prohibitions contained in Section 2.2 of these rules, a registered dispensary is prohibited from engaging in the following conduct:
- 6.15.1** Possessing at any one time more than their authorized possession limit in the absence of a possession limit waiver;
  - 6.15.2** Acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing cannabis for any purpose except to registered patients who have designated that registered dispensary;
  - 6.15.3** Acquiring marijuana except through the cultivation of marijuana by that registered dispensary at its registered location;
    - 6.15.3.1 Exception:** In addition to Section 6.1.2 of these rules, a registered dispensary may donate marijuana, marijuana-infused products, and marijuana related supplies to another registered dispensary in Vermont provided that no consideration is paid, and that the recipient does not exceed the possession limits. Records shall be kept in accordance with Section 6.11 of these rules.
  - 6.15.4** Contracting for the acquisition, possession, cultivation, manufacture, transfer, transport, delivery, or dispensing of seeds, clones, or plants or marijuana or marijuana-infused products (unless explicitly authorized by these rules);
  - 6.15.5** Dispensing an amount of useable marijuana to a registered patient or caregiver that would cause the recipient to exceed the possession limit.
- 6.16 Incident reporting:** The Department shall be notified immediately when a violation of these rules or emergency situation occurs. A registered dispensary shall notify the Department in writing the next business day after a violation of these rules is known or suspected. A registered dispensary shall provide any and all information pertaining to the violation to the Department. A registered dispensary shall complete and submit a Department-approved incident report form to the Department within 10 business days of the initial notification. The report must indicate the nature of the breach and the corrective actions taken by the registered dispensary. A registered dispensary must contact their local law enforcement agency when a violation of these rules results in a criminal law violation.
- 6.16.1** For the purposes of these rules, an incident includes:
    - 6.16.1.1** Confidential information accessed or disclosed in violation of these rules;
    - 6.16.1.2** Loss of inventory or discrepancy between actual and expected inventory;
    - 6.16.1.3** Intrusion of a registered dispensary location; and
    - 6.16.1.4** Any other violations of these rules governing operations of a registered dispensary.

- 6.17 Reporting of illegal activity:** Any suspected illegal activity involving operations of a registered dispensary must be reported to law enforcement and the Department by the registered dispensary, except for violations of federal law for the manufacturing, distribution or possession of marijuana.
- 6.18 Dispensary registry identification card:** An applicant chosen by a registered dispensary may apply for a dispensary registry identification card by submitting:
- 6.18.1** A completed Department-approved application including at least the following information:
    - 6.18.1.1** Type of registration;
    - 6.18.1.2** Applicant's name, address, and date of birth;
    - 6.18.1.3** Registered dispensary name, which the person is affiliated;
    - 6.18.1.4** Applicant's descriptive information, such as height and weight;
    - 6.18.1.5** Applicant's valid driver's license or non-driver identification number; and,
    - 6.18.1.6** Statement of compliance with child support and taxes.
  - 6.18.2** The required fee, which shall be paid by the registered dispensary and the cost shall not be passed on to the cardholder;
  - 6.18.3** A recent electronic photograph of the applicant for initial applications. This photograph may be obtained from any source;
  - 6.18.4** Applicant's consent to the release of criminal history records and a complete set of fingerprints.
- 6.19 Renewal of registry identification card:** A registered dispensary cardholder may renew his or her registry identification card by submitting the required documentation and required fee. Renewal applications may require an updated electronic photo.
- 6.20 Dispensary criminal history record:** A registered dispensary applicant shall meet the criminal history record requirements described in Section 7.2 of these rules.
- 6.21 Residency:** Principal officers and board members of a registered dispensary shall be residents of Vermont and possess a valid Vermont driver's license or non-driver identification card. A resident of Vermont means a person whose domicile is Vermont, and intends to maintain a principal dwelling place in Vermont indefinitely.
- 6.22 Conditional dispensary registry identification card:** The VMR may act on an application for a dispensary registry identification card prior to receiving a fingerprint supported record check provided a complete set of fingerprints have been submitted to the Department. The VMR shall obtain the applicant's Vermont criminal history record, out-of-state criminal history record, and criminal history record from the Federal Bureau of Investigation prior to issuing a conditional registration identification card. A registered dispensary applicant shall meet the criminal history record requirements described in Section 7.2.2 of these rules. A conditional registry identification card shall only be valid for a 30-day period. The one-year registration term shall deduct the duration of issuance for a conditional registry identification card.

## **Section 7: CARDHOLDER CRIMINAL HISTORY RECORD**

**7.1 Caregiver criminal history record:** Prior to acting on an application, the VMR shall obtain the applicant's Vermont, out-of-state, and Federal Bureau of Investigation criminal records. Each applicant shall consent to release of criminal records to the VMR when completing a Department-approved application. Criminal history records shall be obtained annually at the time of renewal. If an applicant has been convicted of a crime, the VMR shall consider the nature of the offense and whether the applicant has been rehabilitated. An applicant may not be denied solely on the basis of a conviction which is not listed in Section 7.1.1 of these rules.

**7.1.1** Except as provided in Section 7.1.2, the VMR shall deny a application or request for renewal of a registration if the applicant has a conviction for a violation of any of the following offenses:

- Drug-related offenses;
- Aggravated stalking as defined in 13 V.S.A. § 1063(a)(3) or (4);
- First degree aggravated domestic assault as defined in 13 V.S.A. § 1043;
- Second degree aggravated domestic assault as defined in 13 V.S.A. § 1044;
- Sexual assault as defined in 13 V.S.A. § 3252 or its predecessor as it was defined in 13 V.S.A. § 3201 or 3202;
- Aggravated sexual assault as defined in 13 V.S.A. § 3253;
- Lewd or lascivious conduct as defined in 13 V.S.A. § 2601;
- Lewd or lascivious conduct with a child as defined in 13 V.S.A. § 2602;
- Murder as defined in 13 V.S.A. § 2301;
- Aggravated murder as defined in 13 V.S.A. § 2311;
- Manslaughter as defined in 13 V.S.A. § 2304;
- Aggravated assault as defined in 13 V.S.A. § 1024;
- Assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);
- Arson causing death as defined in 13 V.S.A. § 501;
- Assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);
- Maiming as defined in 13 V.S.A. § 2701;
- Kidnapping as defined in 13 V.S.A. § 2405 or its predecessor as it was defined in 13 V.S.A. § 2401;
- Unlawful restraint in the second degree as defined in 13 V.S.A. § 2406;
- Unlawful restraint in the first degree as defined in 13 V.S.A. § 2407;
- Second or subsequent violation of abuse prevention order as defined in 13 V.S.A. § 1030(b),;
- Operating vehicle under the influence of intoxicating liquor or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(e) and (f);
- Careless or negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);
- Leaving the scene of an accident with serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c);
- Burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c);
- The attempt to commit any of the offenses listed above;

- Abuse, neglect, or sexual exploitation of a vulnerable adult in violation of 13 V.S.A. Chapter 28 ;
- Aggravated sexual assault of a child in violation of 13 V.S.A. § 3253a;
- Human trafficking in violation of 13 V.S.A. § 2652; and
- Aggravated human trafficking in violation of 13 V.S.A. § 2653;
- Sexual exploitation of children in violation of 13 V.S.A. Chapter 64.
- An equivalent offense in another jurisdiction for any of the offense listed in this section.

**7.1.2** A conviction for a misdemeanor offense listed in Section 7.1.1 of these rules shall not be a disqualifying offense for an applicant if at least five years has elapsed since the date of completion of any sentence imposed for the offense and the applicant has not been convicted of any other offense during that time period. A conviction for a felony offense listed in Section 7.1.1 of these rules shall not be a disqualifying offense for an applicant if at least ten years has elapsed since the date of completion of any sentence imposed for the offense and the applicant has not been convicted of any other offense during that time period.

**7.1.3** An applicant who is ineligible for a caregiver registration card based on a conviction for a disqualifying offense under Section 7.1.1 of these rules may submit information to the VMR with his or her application detailing the applicant’s rehabilitation and why an exception to the disqualification is appropriate. The VMR may grant an exception to the disqualification standards in this rule if the totality of the circumstances and facts concerning the application indicates that there is no threat to public safety or the safety of the registered patient for whom the caregiver is assisting and it is in the interest of justice to grant the application.

**7.1.4** The VMR shall send the applicant a copy of any criminal history record obtained by the VMR. An applicant who is denied a caregiver registry identification card due to his or her criminal history record and shall be notified by the VMR of the right to appeal the accuracy and completeness of the records in accordance with Section 13 of these rules.

**7.2** **Dispensary criminal history record:** Prior to acting on an application, the VMR shall obtain the applicant’s Vermont, out-of-state, and Federal Bureau of Investigation criminal records. Each applicant shall consent to release of criminal records and submit a complete set of fingerprints to the Department on Department-approved forms. Criminal history records shall be obtained annually at the time of renewal.

**7.2.1** **Criteria:** The VMR shall deny an application or request for registry identification card for a principal officer, board member, and employee of a registered dispensary who has a conviction or pending charge for a violation of any of the following offenses:

- Drug-related offenses;
- Aggravated stalking as defined in 13 V.S.A. § 1063(a)(3) or (4);
- First degree aggravated domestic assault as defined in 13 V.S.A. § 1043;
- Second degree aggravated domestic assault as defined in 13 V.S.A. § 1044;

- Sexual assault as defined in 13 V.S.A. § 3252 or its predecessor as it was defined in 13 V.S.A. § 3201 or 3202;
- Aggravated sexual assault as defined in 13 V.S.A. § 3253;
- Lewd or lascivious conduct as defined in 13 V.S.A. § 2601;
- Lewd or lascivious conduct with a child as defined in 13 V.S.A. § 2602;
- Murder as defined in 13 V.S.A. § 2301;
- Aggravated murder as defined in 13 V.S.A. § 2311;
- Manslaughter as defined in 13 V.S.A. § 2304;
- Aggravated assault as defined in 13 V.S.A. § 1024;
- Assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);
- Arson causing death as defined in 13 V.S.A. § 501;
- Assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);
- Maiming as defined in 13 V.S.A. § 2701;
- Kidnapping as defined in 13 V.S.A. § 2405 or its predecessor as it was defined in 13 V.S.A. § 2401;
- Unlawful restraint in the second degree as defined in 13 V.S.A. § 2406;
- Unlawful restraint in the first degree as defined in 13 V.S.A. § 2407;
- Second or subsequent violation of abuse prevention order as defined in 13 V.S.A. § 1030
- Operating vehicle under the influence of intoxicating liquor or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(e) and (f);
- Careless or negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);
- Leaving the scene of an accident with serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c);
- Burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c);
- The attempt to commit any of the offenses listed above;
- Aggravated sexual assault of a child in violation of 13 V.S.A. § 3253a;
- Human trafficking in violation of 13 V.S.A. § 2652;
- Aggravated human trafficking in violation of 13 V.S.A. § 2653;
- Sexual exploitation of children in violation of 13 V.S.A. Chapter 64.
- An equivalent offense in another jurisdiction for any of the offense listed in this section.

**7.2.2 Criminal history records:** The Department shall send the applicant and the dispensary a copy of any criminal history record obtained by the Department or inform the applicant that no record exists, and shall notify the applicant of the right to appeal the accuracy and completeness of the records in accordance with Section 13 of these rules. For purposes of this section, “pending charge” means that a judicial officer has found probable cause and that the case has not been dismissed or adjudicated to completion.

**7.2.3** The VMR may deny an application if the applicants criminal history record indicates that the person’s association with a dispensary would pose a threat to public safety. If an applicant has been convicted of an offense not listed in Section 7.2.1, the VMR shall consider the nature of the offense and whether the applicant has been rehabilitated.

## **Section 8: FEES**

- 8.1 Fees:** All fees submitted are nonrefundable and shall be made payable to the *Vermont Department of Public Safety*. All fees shall be deposited into a fund used for administrating the Vermont Marijuana Registry, as specified by 18 V.S.A. Chapter 86.
- 8.2 Registration fees:** Applicants applying for a registry identification card shall submit the following fees:
- 8.2.1 Application fee:** \$50.00
- 8.2.2 Renewal fee:** \$50.00 submitted annually
- 8.3 Dispensary application fees:** Applicants applying for a dispensary registration certificate shall submit the following fee:
- 8.3.1 Application fee:** \$2,500.00
- 8.4 Dispensary registration fees:** Applicants approved for an active operating registration certificate shall submit the following fee:
- 8.4.1 Initial registration fee:** \$20,000.00
- 8.4.2 Renewal registration fee:** \$25,000.00 submitted annually
- 8.5 Criminal history record fees:** A registered dispensary shall bear the burden of all costs related to obtaining a fingerprint supported criminal history record for affiliated individuals applying for a registry identification card.
- 8.6 Processing fees:** A \$25.00 fee shall be charged by the Department to cardholders for reissuing a lost or stolen registry identification card and for changes of information contained on a registry identification card.
- 8.7 Laboratory testing fees:** Registered dispensaries are responsible for the cost of laboratory testing that may be required by these rules.

## **Section 9: REGISTRY IDENTIFICATION CARD**

- 9.1 Registry identification card requirements:** Cardholders must possess a valid registry identification card issued by the Department. Registry identification cards are non-transferable.
- 9.1.1** A Department issued registry identification card shall include:
- 9.1.1.1** Cardholder's legal name;
  - 9.1.1.2** Date of birth;
  - 9.1.1.3** Random identification number unique to the cardholder;
  - 9.1.1.4** Registration classification;
  - 9.1.1.5** Photograph;
  - 9.1.1.6** Issuance date;
  - 9.1.1.7** Expiration date;
  - 9.1.1.8** State of issuance;
  - 9.1.1.9** Name of designated or affiliated dispensary; and,
  - 9.1.1.10** Physical identifying information.
- 9.1.2** Valid registry identification cards are required on-site for registered dispensary cardholders while functioning in an official capacity at a registered dispensary.
- 9.1.3** Registered patients and caregivers are required to present his or her designated dispensary with a valid registry identification card at the time of an appointment and at the time of delivery.
- 9.2 Department determination:** The Department shall verify the information contained in the Department-approved applications for a registry identification card and shall approve or deny all Department-approved applications within 30 days from receipt of a completed initial or renewal application submitted with the required documentation and fee.
- 9.3 Expiration date:** Registry identification cards shall expire no more than one year after the date of issuance. A registry identification card shall expire at 11:59 p.m. on the expiration date displayed on the card. Upon expiration of a registered patient's identification card, the identification card of the corresponding registered caregiver shall also be considered null and void, until which time the patient again obtains a valid card. Similarly, upon expiration of a dispensary registration certificate, if the dispensary has not submitted a timely application for renewal, or if such a request has been denied and can no longer be appealed, all registry identification card(s) of persons affiliated with that registered dispensary shall also be considered null and void.
- 9.4 Annual renewal:** A cardholder may renew his or her registry identification card with the VMR by submitting a completed Department-approved application at least 30 days before the expiration date. The application of a cardholder who has previously been issued a registry identification card shall be considered a renewal, provided that less than three years have elapsed since the expiration date of that previous card.

- 9.5 Reissued card:** The Department shall issue a cardholder a new registry identification card with a new random identification number when a replacement or updated registry identification card is required. Written documentation and the processing fee shall be submitted.
- 9.6 De-designated caregiver:** In the event that a registered patient de-designates a caregiver, the Department shall notify the de-designated caregiver within 10 business days of the Department's receipt of the registered patient's written notification of de-designation.
- 9.6.1** The de-designated caregiver shall surrender the registry identification card by returning it to the Department. The card must be received by the Department within 10 business days of the date of notice.
- 9.7 Dispensary registry identification cards:** A registered dispensary cardholder shall surrender his or her registry identification card to the Department when separating from a registered dispensary. Upon separation, the registry identification card of a registered dispensary cardholder will immediately expire and shall be deemed null and void. A registered dispensary shall notify the Department when the status of a registered dispensary cardholder changes, as required by Section 6.1.13 of these rules.
- 9.8 Federal law notice:** The Department shall provide a notice informing registered dispensary cardholders that under federal law it is unlawful for any person to knowingly or intentionally manufacture, dispense, possess, and distribute marijuana, and any person who engages in such activity may be subject to federal prosecution.
- 9.9 Educational and safety information:** The Department shall provide educational and safety information developed by the Vermont Department of Health to each registered patient and caregiver upon issuance of a registry identification card.



## **Section 10: CONFIDENTIALITY**

- 10.1 Patient applications:** Applications and supporting information received by the Department in accordance with these rules, including information regarding registered caregivers and health care professionals are confidential.
- 10.2 Caregiver applications:** Applications and supporting information received by the Department in accordance with these rules are confidential.
- 10.3 Health Care Professionals:** All information received by the Department in accordance with these rules are confidential, including identifying information pertaining to a health care professional.
- 10.4 Appeals:** All records relating to an appeal are confidential.
- 10.5 Dispensaries applications and other information:** Applications, supporting information and other information regarding a registered dispensary are confidential. Applications, supporting information, and other information regarding dispensary applicants are confidential. Information that is contained within a registered dispensary that identifies a registered patient, the registered patient's health care professional and/or the registered patient's caregiver is also confidential. Information pertaining to a registered dispensary and cardholders of a registered dispensary is confidential and shall only be released in accordance with Section 10.6. Nothing contained in these rules shall prevent a registered dispensary from providing information pertaining to a registered dispensary or cardholders to the VMR.
- 10.6 Department records:** Records maintained and information received by the Department are confidential and may not be disclosed except:
- 10.6.1** To Department employees who are responsible for carrying out these rules;
  - 10.6.2** Pursuant to a court order;
  - 10.6.3** With the written permission of the applicant, cardholder, health care professional, or registered dispensary to disclose their respective record;
  - 10.6.4** For prosecution for false swearing under 13 V.S.A. § 2904 and in response to person-specific or property-specific inquiry by a law enforcement officer or agency made in the course of a bona fide investigation or prosecution. The records of all persons registered under these rules shall be maintained in a secure database accessible by authorized Department employees only. The Department shall maintain a separate secure electronic database accessible to law enforcement personnel 24 hours a day that uses a unique identifier system to allow law enforcement to verify a person or entity is a cardholder or registered dispensary. The VMR shall periodically audit access to the secure electronic database for compliance;
  - 10.6.5** To a registered patient's treating or consulting health care professional and to a registered patient's caregiver for the purpose of carrying out these rules.
- 10.7 Not prohibited:** The Department may disclose data for statistical or research purposes in such a manner that individuals cannot be identified.

## **Section 11: ENFORCEMENT**

- 11.1 Denial of application:** The effective date of denial of an application for a registry identification card or dispensary registration certificate is the date shown on the Department's written notice of denial. Notice shall be sent to the applicant's last known address. The Department may deny an application for a registry identification card or dispensary registration certificate for reasons including but not limited to the following:
- 11.1.1** The applicant's failure to comply with the application requirements set out in these rules, including the applicant's failure to provide the required information;
  - 11.1.2** The Department's determination that the information provided was materially inaccurate or incomplete;
  - 11.1.3** The Department determination that an applicant's criminal history record indicates that the person would pose a demonstrable threat to public.
- 11.2 Reapplication:** When an application is denied, a person may reapply for a registry identification card. To do so, the person must demonstrate compliance with these rules, including those provisions that were the basis for the denial. To reapply, a person shall submit a completed Department-approved application, all required documentation, and required fee. A cardholder of a registered dispensary whose card has been permanently revoked by the Department is disqualified and may not reapply for a registry identification card.
- 11.3 Revocation of registry identification card:** The Department may temporarily or permanently revoke a registry identification card held by a registered dispensary cardholder or registered caregiver, as described in Section 11.4 of these rules. The severity and origin of the violation will be assessed when determining disciplinary and corrective actions. Past violations will also be considered. Upon completion of review, the Department shall send written notice in accordance with Section 11.11 of these rules.
- 11.3.1** A cardholder found to have violated Section 11.4 of these rules may have his or her registry identification card immediately revoked.
  - 11.3.2** A registry identification card revoked by the Department on the grounds contained in Section 11.4.2 of these rules may reapply when eligible, in accordance with Section 7.2.2 of these rules.
- 11.4 Grounds for revocation of registry identification card:** A registered dispensary cardholder or a registered caregiver may have a registry identification card revoked by the Department. Grounds for revocation of a registry identification card include the following:
- 11.4.1** A registered dispensary cardholder is convicted of selling, furnishing, or giving marijuana to a person who is not allowed to possess marijuana for symptom relief in accordance with these rules;

- 11.4.2 A registered caregiver or a registered dispensary cardholder is convicted of a disqualifying offense under Section 7 of these rules;
  - 11.4.3 A registered caregiver or a registered dispensary cardholder knowingly violates the confidentiality of information protected by these rules;
  - 11.4.4 A registered dispensary cardholder found to have dispensed, delivered, or otherwise transferred marijuana to a person other than a registered patient who has designated the dispensary; or a registered dispensary cardholder is convicted of dispensing, delivering, or otherwise transferring marijuana to a person other than a registered patient's caregiver;
  - 11.4.5 A registered dispensary cardholder found to have knowingly violated Section 6.3 of these rules.
- 11.5 Suspended dispensary registration certificate:** The Department may suspend a dispensary's registration certificate for violating of these rules or posing a threat to the health or physical safety of a person or the public. If a principal officer, board member, or employee of a dispensary has been convicted or has a pending charge for an offense listed in Section 7.2.1 of these rules or a criminal offense directly involving the operation of the dispensary, the Department may suspend the dispensary's registration certificate if the Department has substantial grounds to believe that the charge indicates that the operation of the dispensary may pose a threat to the health or safety of a person or the public. Any suspension beyond 30 days requires a hearing as provided by 3 V.S.A. Chapter 25 and Section 11.6 of these rules. For purposes of this section, "pending charge" means that a judicial officer has found probable cause and that the case has not been dismissed or adjudicated to completion.
- 11.6 Revocation of dispensary registration certificate:** The Department may revoke a dispensary registration certificate in accordance with 3 V.S.A. Chapter 25, Administrative Procedure, for violating these rules. No actions shall be taken without a hearing as outlined in 3 V.S.A. Chapter 25. A registered dispensary who has exhausted all administrative remedies within the Department and who is aggrieved by the final decision may appeal the decision to the supreme court in accordance with 3 V.S.A. § 815.
- 11.7 Grounds for suspension or revocation of dispensary registration certificate:** Grounds for revocation of a dispensary's registration certificate include the following:
- 11.7.1 Failure to cooperate with required inspections;
  - 11.7.2 Violations of any of these rules governing the operation of a registered dispensary;
  - 11.7.3 Committing, permitting, aiding or abetting any illegal practices in the operation of the registered dispensary;
  - 11.7.4 Conduct or practices that are detrimental to the safety and welfare of registered patients or caregivers;
  - 11.7.5 Providing information that is materially inaccurate or incomplete;

- 11.7.6 Acquiring, possessing, cultivating, manufacturing, transferring, transporting, supplying, selling, or dispensing marijuana for any purpose except as permitted by these rules;
  - 11.7.7 Acquiring usable marijuana or marijuana plants from a source not permitted by these rules;
  - 11.7.8 Dispensing more than two ounces of usable marijuana to a registered patient or caregiver during a 30-day period;
  - 11.7.9 Dispensing an amount of usable marijuana to a registered patient or caregiver that the registered dispensary cardholder knows would cause the recipient to possess more marijuana than permitted under these rules;
  - 11.7.10 Dispensing marijuana to a person other than a registered patient or caregiver who has designated the dispensary.
- 11.8 Voiding a registry identification card:** A voided registry identification card is inactive and no longer valid.
- 11.9 Grounds to void registration identification card:** The registry identification card is voided by the Department when any of the following occur:
- 11.9.1 A new card or a new random identification number is issued to a cardholder and the superseded card is not surrendered to the Department;
  - 11.9.2 A registered caregiver is de-designated by his or her registered patient;
  - 11.9.3 A person is no longer employed by or affiliated with a registered dispensary;
  - 11.9.4 The Department is informed that a registered patient is no longer a resident of Vermont, and the registered patient fails to provide sufficient proof of Vermont residency;
  - 11.9.5 A registered patient's verifying health care professional notifies the Department in writing to void a registered patient's registry identification card.
- 11.10 Notice of Department action – application:** When an application is denied the Department shall issue a written notice, including the following information:
- 11.10.1 Basis of denial;
  - 11.10.2 Right to appeal the Department's action in accordance with Section 12 of these rules; and
  - 11.10.3 Date of the Department's determination.
- 11.11 Notice of Department action - registry identification card:** When a registry identification card is voided or revoked, the Department shall issue a written notice. The Department's written notice will be sent to the cardholder's last known address and to the registered dispensary, if applicable. The notice of the Department's action shall include the following information:

- 11.11.1 Nature of the violation and the rules violated;
  - 11.11.2 Any stipulated disciplinary and/or corrective actions;
  - 11.11.3 Date the Department's action takes effect; and
  - 11.11.4 Right to appeal the Department's action in accordance with Section 12 of these rules.
- 11.12 Notice of Department action – dispensary registration certificate:** When a dispensary's registration certificate is suspended or revoked, the Department shall issue a written notice, including the following information:
- 11.12.1 Type of notice. The Department may issue a notice of non-compliance or violation depending upon the severity, magnitude, and cause of the violation.
    - 11.12.1.1 A notice of non-compliance may be issued for minor violations of these rules and may result in suspension of a dispensary registration certificate.
    - 11.12.1.2 A notice of violation may be issued for any violation of these rules, with consideration of past violations, public safety, and intent. A notice of violation may result in revocation or suspension of a dispensary registration certificate.
  - 11.12.2 The nature of the violation and the rules violated;
  - 11.12.3 Grounds for suspension or revocation;
  - 11.12.4 Any stipulated disciplinary and/or corrective actions. When a registration certificate is suspended, the length of suspension shall be included;
  - 11.12.5 Date the Department's action takes effect; and
  - 11.12.6 The right to appeal the Department's action in accordance with Section 12 of these rules.
- 11.13 Criminal prosecution for false information:** A person, who knowingly gives false information to any law enforcement officer to avoid arrest or prosecution, or to assist another in avoiding arrest or prosecution, shall be imprisoned for not more than one year or fined not more than \$1,000 or both. This penalty shall be in addition to any other penalties that may apply for possession or use of marijuana.
- 11.14 Criminal prosecution for false swearing:** A person of whom an oath is required by law, who willfully swears falsely in regard to any matter or thing respecting which such oath is required, shall be guilty of perjury and shall be imprisoned not more than 15 years and fined not more than \$10,000.00, or both.

## **Section 12: MARIJUANA FOR SYMPTOM RELIEF OVERSIGHT COMMITTEE**

- 12.1** There is established a Marijuana for Symptom Relief Oversight Committee. The committee shall meet at least twice a year for the purpose of evaluating and making recommendations to the general assembly regarding:
- 12.1.1** The ability of registered patients and caregivers in all areas of the state to obtain timely access to marijuana for symptom relief.
  - 12.1.2** The effectiveness of the registered dispensaries individually and together in serving the needs of registered patients and caregivers, including the provision of educational and support services.
  - 12.1.3** Sufficiency of the regulatory and security safeguards contained in 18 V.S.A. Chapter 86, subchapter 2 and rules adopted by the Department to ensure that access to and use of cultivated marijuana is provided only to cardholders authorized for such purposes.
- 12.2** The VMR is responsible for organizing the meetings and for providing administrative support for the Oversight Committee.
- 12.3** The Oversight Committee shall elect a chair to conduct their meetings. The chair shall call the meeting to order; conduct opening procedures; provide a motion to approve any minutes, review any reports, unfinished business, new business, and adjournment.
- 12.4** The Oversight Committee shall provide an annual report, on or before January 1 of each year, to the Department, the House Committee on Human Services, the Senate Committee on Health and Welfare, the House and Senate Committees on Judiciary, and the House and Senate Committees on Government Operations on its findings.
- 12.5** The Oversight Committee shall not compromise the confidentiality of cardholders or registered dispensaries.

## **Section 13: APPEALS**

**13.1 Patient applicant appeal process:** An individual whose application to register as a patient has been denied may appeal this decision. An individual appealing a decision shall submit his or her Notice of Appeal to the VMR within seven days of the date on the Notice of Denial. If the Notice of Appeal is submitted by mail, it shall be considered submitted on the date that it is postmarked. The review shall be limited to the information submitted by the patient with his or her application, the information contained in the Notice of Appeal, and consultation with the patient's treating or consulting health care professional. An appeal shall be decided by majority vote of the members of the Marijuana Review Board. The Marijuana Review Board shall prepare its findings and notify the VMR and appellant of said findings.

**13.1.1 Marijuana Review Board:** Three physicians licensed in Vermont and appointed by the Vermont Medical Practice Board constitute the Marijuana Review Board. The Board shall review appeals submitted by patient applicants. Members of the board serve three-year terms. Board members are entitled to per diem compensation authorized under 32 V.S.A. § 1010. The Board shall meet periodically to review studies, data, and any other information relevant to the use of marijuana for symptom relief. The Board may make recommendations to the general assembly for adjustments and changes to 18 V.S.A. Chapter 86. The VMR will provide administrative and financial support, as needed, for the Board.

**13.2 Criminal record appeal:** An individual whose application was denied based on his or her criminal record may appeal the accuracy and completeness of the record. All appeals shall be made and decided in accordance with the applicable Vermont Criminal Information Center rules. An appeal shall be submitted within seven days from the date of the Department's notice. If the appeal is submitted by mail, it shall be considered submitted on the date that it is postmarked. The Director's findings will be sent to the appellant and VMR.

**13.3 Suspension or revocation appeal:** A registered dispensary or cardholder whose status on the registry has been suspended or revoked, under Section 11 of these rules, may appeal the decision. The appeal shall be made in writing and addressed to the Director of the Vermont Crime Information Center. The written appeal shall include the following; appellant's name, contact information, date of birth, violations in dispute, reason for dispute, and any and all other information the appellant considers relevant. An appeal shall be submitted with seven days from the date of the Department's notice of suspension or revocation. If the appeal is submitted by mail, it shall be considered submitted on the date that it is postmarked. The Director's determination will be sent to the appellant and VMR.

**STATUTORY AUTHORITY**

18 V.S.A. Chapter 86, subchapter 2. Marijuana for Medical Symptom Use By Persons With Severe Illness

EFFECTIVE DATE: November 30, 2015