

COMMITTEE ON HEALTH, HOSPITALS, AND
HUMAN SERVICES

12/20/2018-REPORTED OUT TO THE FLOOR

12/17/2018-AMENDED AND REPORTED OUT TO THE COMMITTEE ON RULES AND
JUDICIARY

11/27/2018-AMENDED AND HELD IN COMMITTEE

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

10/12/2018-SPECIAL ORDERED

BILL NO. 32-0135

Thirty-Second Legislature of the Virgin Islands

July 26, 2017

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

PROPOSED BY: Senators Positive T. A. Nelson, Tregenza A. Roach, and
Dwayne M. DeGraff

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

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

8 **WHEREAS**, the purpose of enacting this legislation is to legalize the medicinal
9 use of cannabis to protect patients with medical conditions, their physicians and primary

1 care givers from local arrest, criminal prosecution and other penalties. It is also the intent
2 of this act to regulate and protect supporting industries involved in the medical marijuana
3 growth, processing, packaging, labeling and distribution process; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 **SECTION 1.** Title 19 Virgin Islands Code, part III is amended by adding chapter
13 34 that reads:

14 **Chapter 34. Medicinal Cannabis**

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

17 **§775. Purpose**

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

21 **§776. Definitions**

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

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

- 1 (1) 4.0 ounces of cannabis for residents and 3.0 ounces for nonresidents;
- 2 (2) The quantity of cannabis products as established by Virgin Islands
3 Office of Cannabis Regulation (OCR) regulation;
- 4 (3) If the cardholder has a registry identification card allowing
5 cultivation, any combination of 12 plants, mature or immature; and
- 6 (4) If the cardholder has a registry identification card allowing
7 cultivation, the amount of cannabis and cannabis products that were produced from
8 the cardholder’s allowable plants, if the cannabis and cannabis products are
9 possessed at the same property where the plants were cultivated.
- 10 (b) “Bona fide practitioner-patient relationship” means:
- 11 (1) a practitioner and patient have a treatment or consulting relationship,
12 during the course of which the practitioner has completed an assessment of the
13 patient's medical history and current medical condition, including an appropriate
14 in-person physical examination;
- 15 (2) The practitioner has consulted with the patient with respect to the
16 patient's debilitating medical condition; and
- 17 (3) The practitioner is available to or offers to provide follow-up care
18 and treatment to the patient, including, but not limited to, patient examinations.
- 19 (c) “Bona fide Virgin Islands resident” means an individual who has maintained
20 permanent residency in the Virgin Islands for a minimum of two years prior to submitting
21 any application pursuant to this chapter.
- 22 (d) “Cannabis” means all parts of the cannabis plant, growing or not; the seeds
23 thereof; the resin extracted from any part of the plant; and every compound,
24 manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

1 It does not include the mature stalks of the plant, fiber produced from the stalks, oil or
2 cake made from the seeds of the plant, any other compound, manufacture, salt,
3 derivative, mixture, or preparation of the mature stalks, except the resin extracted
4 therefrom, fiber, oil or cake, or the sterilized seed of the plant which is incapable of
5 germination. It includes “marijuana”, a colloquial term associated with the cannabis
6 plant.

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

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

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

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

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

4 (j) "Debilitating medical condition" means:

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

11 (2) a chronic or debilitating disease or medical condition or its treatment
12 that produces one or more of the following: cachexia or wasting syndrome; severe,
13 debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms,
14 including, the characteristics of multiple sclerosis;

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

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

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

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

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

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

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

5 (m) "Disqualifying felony offense" means:

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

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

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

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

17 (n) "Edible cannabis products" means products that:

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

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

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

22 (o) "Enclosed, locked facility" means a closet, room, greenhouse, building, or
23 other enclosed area that is equipped with locks or other security devices that permit access

1 only by the cardholders allowed to cultivate the plants. Two or more cardholders who
2 reside in the same dwelling may share one enclosed, locked facility for cultivation.

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

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

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

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

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

18 (1) the cultivation of cannabis by a nonresident cardholder;

19 (2) the cultivation of cannabis by a cardholder who is not designated as
20 being allowed to cultivate on the cardholder's registry identification card; or

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

23 (u) "Nonresident cardholder" means a person who:

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

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

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

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

13 (v) “Nonresident in-patient cardholder” means a person who:

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

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

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

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

3 (w) "Practitioner" means a person who is licensed and in good standing in the
4 Virgin Islands as a medical doctor, osteopath, naturopath, homeopath, chiropractor,
5 physician's assistant, or nurse practitioner.

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

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

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

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

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

1 (b) The Governor shall appoint a nine member Virgin Islands Cannabis
2 Advisory Board (“the Board”) with advise and consent of the Legislature comprised of:
3 one representative of the Department of Health; one representative of the Department of
4 Agriculture; one representative of the Department of Licensing and Consumer Affairs; one
5 farmer appointed by the Commissioner of Agriculture; two healthcare practitioners
6 knowledgeable in cannabis medicine appointed by the Board of Medical Examiners; one
7 disability advocate; one representative from the University of the Virgin Islands
8 Cooperative Extension Service; one economist or person in expertise in finance; and the
9 Director of the OCR who serves as an ex officio voting member.

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

12 (d) Members of the Board who are employed by the Government are
13 not entitled to a per diem for their service on the Board, but non-governmental
14 members are entitled to a \$75 per day per diem or a proportionate amount of \$75
15 for hours worked, if less than an eight-hour day.

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

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

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

1 (3) the effectiveness of the cannabis testing facilities;

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

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

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

10 (e) Notwithstanding anything provided herein to the contrary, the Board shall
11 further establish:

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

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

19 (3) education and certification requirements for medical cannabis
20 establishment applicants and licensees, their agents and employees; medical
21 practitioners; and medical cannabis related businesses including, vendors,
22 transporters, security companies, etc.;

23 (4) an approved list of medical cannabis establishment vendors;

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

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

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

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

22 (h) The Director shall submit an annual report to the Commissioner of
23 Department of Licensing and Consumer Affairs (DCLA); the Legislature of the Virgin
24 Islands, Committee on Health; and the VI Cannabis Advisory Board. The annual report

1 must comprehensively outline compiled data on the program, accomplishments, challenges
2 and recommended regulation changes.

3 (i) Upon passage of this chapter, the OCR shall receive a loan in the amount of
4 \$500,000 from the General Fund in order to pay the start-up costs of the program, which
5 loan must be re-paid not later than two years after the date of commencement of the
6 program.

7

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

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

16 **§778. Cannabis Advisory Board to issue regulations for OCR**

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

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

23 (2) governing the manner in which the OCR shall consider petitions
24 from the public to add debilitating medical conditions or treatments to the list of

1 debilitating medical conditions set forth in section 776(i), including public notice of
2 and an opportunity to comment in public hearings on the petitions;

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

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

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

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

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

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

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

22 (5) governing medical cannabis establishments with the goals of
23 ensuring the health and safety of qualifying patients and preventing diversion and

1 theft without imposing an undue burden or compromising the confidentiality of
2 cardholders, including:

3 (A) oversight requirements;

4 (B) recordkeeping requirements;

5 (C) security requirements, including lighting, physical security,
6 and alarm requirements;

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

9 (E) standards for the manufacture of cannabis products and both
10 the indoor and outdoor cultivation of cannabis by cultivation facilities;

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

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

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

19 (I) restrictions on the advertising, signage, and display of
20 medical cannabis, but the restrictions may not prevent appropriate signs on
21 the property of a dispensary, listings in business directories, including
22 phone books, listings in cannabis-related or medical publications, or the
23 sponsorship of health or not-for-profit charity or advocacy events;

1 (J) requirements and procedures for safe, accurate and
2 appropriately childproofed packaging and labeling of medical cannabis; and

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

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

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

12 (A) the length of time it typically takes for a product to take
13 effect;

14 (B) disclosing ingredients and possible allergens;

15 (C) a nutritional fact panel; and

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

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

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

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

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

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

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

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

16 (i) Cultivation License:

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

18 (b) Level II - Not to exceed 500 plants: \$2,500.00, \$2,000.00 for
19 existing farmers

20 (c) Level III - Not to exceed 1,000 plants: \$5,000.00, \$4,500.00 for
21 existing farmers

22 (ii) Dispensary License: \$5,000.00

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

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

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

2 (B) Unsuccessful applicants shall receive a reimbursement in an amount
3 equal to 50 percent of the application fee.

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

6 (D) Approval to Operate Certificate Fees:

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

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

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

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

21 **§ 779. Protections for the medical use of cannabis**

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

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

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

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

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

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

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

16 (b) A nonresident cardholder is not subject to arrest, prosecution, or penalty in
17 any manner, or denied any right or privilege, including, but not limited to, civil penalty or
18 disciplinary action by a business or occupational or professional licensing board or entity,
19 for the transporting, purchasing, possessing, or using medical cannabis pursuant to this
20 chapter if the nonresident cardholder does not possess more than 4.0 ounces of cannabis or
21 the quantity of cannabis products established by OCR regulation.

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

1 the allowable amount of cannabis. The presumption may be rebutted by evidence that
2 conduct related to cannabis was not for the purpose of treating or alleviating a qualifying
3 patient's debilitating medical condition or symptoms associated with the qualifying
4 patient's debilitating medical condition.

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

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

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

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

21 (f) Individuals who are properly registered and licensed under this chapter are
22 not subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege,
23 including any civil penalty or disciplinary action by a court or occupational or professional
24 licensing board or bureau, for:

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

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

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

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

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

14 (1) possess, transport, and store cannabis and cannabis products;

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

17 (3) purchase or otherwise acquire cannabis from cultivation facilities or
18 dispensaries, and cannabis products from cannabis product manufacturing facilities
19 or dispensaries; or

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

23 (h) A cultivation facility or a cultivation facility agent is not subject to
24 prosecution, search, or inspection, except by the OCR pursuant to section 789, seizure, or

1 penalty in any manner, and may not be denied any right or privilege, including civil penalty
2 or disciplinary action by a court or business licensing board or entity, for acting pursuant
3 to this chapter and rules authorized by this chapter to:

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

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

8 (3) purchase or otherwise acquire cannabis from cultivation facilities;

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

12 (5) deliver, sell, supply, transfer, or transport cannabis, cannabis
13 paraphernalia, and related supplies and educational materials to cultivation
14 facilities and dispensaries.

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

21 (1) purchase or otherwise acquire cannabis from cultivation facilities,
22 and cannabis products or cannabis from cannabis product manufacturing facilities
23 and, to a limited extent, from an authorized patient or caregiver;

1 (2) possess, produce, process, manufacture, compound, convert,
2 prepare, pack, repack, and store cannabis and cannabis products;

3 (3) deliver, transfer, or transport cannabis, cannabis products, cannabis
4 paraphernalia, and related supplies and educational materials to dispensaries and
5 cannabis product manufacturing facilities;

6 (4) deliver, transfer, or transport cannabis to testing facilities and
7 compensate testing facilities for services provided; or

8 (5) deliver, sell, supply, transfer, or transport cannabis, cannabis
9 products, cannabis paraphernalia, and related supplies and educational materials to
10 cannabis product manufacturing facilities or dispensaries.

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

16 (1) acquire, possess, transport, and store cannabis and cannabis
17 products obtained from cardholders, nonresident cardholders, and medical cannabis
18 establishments;

19 (2) return the cannabis and cannabis products to the cardholders,
20 nonresident cardholders, and medical cannabis establishment from whom it was
21 obtained;

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

24 (4) receive compensation for those services.

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

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

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

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

18 (o) No law enforcement officer employed by an agency that receives territorial
19 funds may expend any territorial resources, including the officer's time, to effect any arrest
20 or seizure of cannabis, or conduct any investigation, on the sole basis of activity the officer
21 believes to constitute a violation of the federal Controlled Substances Act if the officer has
22 reason to believe that the activity is in compliance with the Virgin Islands medical cannabis
23 laws, nor may any the officer expend any territorial resources, including the officer's time,

1 to provide any information or logistical support related to the activity to any federal law
2 enforcement authority or prosecuting entity.

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

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

12 (a) Nothing in this chapter requires:

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

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

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

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

23 (c) Nothing in this chapter prevents a dispensary from providing appropriate
24 space within the dispensary facility where patients may consume medical cannabis

1 products, if it complies with any regulations adopted by the Board in reference to the
2 consumption.

3 **§ 781. Limitations**

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

7 (1) undertaking any task under the influence of cannabis, when doing
8 so would constitute negligence or professional malpractice;

9 (2) possessing cannabis or otherwise engaging in the medical use of
10 cannabis in any correctional facility;

11 (3) smoking cannabis:

12 (A) on any form of public transportation; or

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

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

20 **§ 782. Discrimination prohibited**

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

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

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

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

- 16 (1) any interaction with a person's employer;
- 17 (2) drug testing by a person's employer; or
- 18 (3) drug testing required by any territorial agency or government
19 official.

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

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

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

11 **§ 783. Addition of debilitating medical conditions**

12 Any resident of the Virgin Islands may petition the OCR to add serious medical
13 conditions or their treatments to the list of debilitating medical conditions listed in section
14 776(i)(1). The OCR shall consider petitions in the manner required by OCR regulation,
15 including public notice and hearing. The OCR shall approve or deny a petition not later
16 than 180 days after its submission. If the Petition is denied, the Petitioner may file an
17 administrative appeal, as more fully described herein, and provided a notice of appeal has
18 been filed with the OCR not later than 30 days after the denial. The approval or denial of
19 any timely filed appeal is a final decision of the OCR, subject to judicial review.
20 Jurisdiction and venue are vested in the Superior Court of the Virgin Islands.

21 **§ 784. Issuance and denial of registry identification cards**

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

1 (1) written certification issued by a practitioner no less than 90 days
2 immediately preceding the date of an application;

3 (2) the application or renewal fee;

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

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

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

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

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

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

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

22 (1) Verify the information contained in an application or renewal
23 submitted pursuant to this chapter and approve or deny an application not later than

1 15 days or renewal not later than five days after receiving a completed application
2 or renewal application;

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

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

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

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

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

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

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

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

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

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

23 (2) previously had a registry identification card revoked; or

24 (3) provided false information.

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

3 (1) the designated caregiver does not meet the requirements of section
4 776;

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

6 (3) the designated caregiver previously had a registry identification card
7 revoked; or

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

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

12 (i) Denial of an application or renewal is considered a final OCR action, subject
13 to administrative appeal, as more fully described herein. Denial of the administrative
14 appeal is subject to judicial review. Jurisdiction and venue for judicial review are vested in
15 the Superior Court of the Virgin Islands.

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

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

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

4 (m) Until 25 days after the OCR makes applications available, the following is
5 considered a designated caregiver registry identification card:

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

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

11 **§ 785. Contents of registry identification cards**

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

13 (1) the name of the cardholder;

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

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

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

20 (5) if each cardholder is a designated caregiver, the random
21 identification number of the qualifying patient the designated caregiver will assist;

22 (6) a clear indication of whether the cardholder has been designated to
23 cultivate cannabis plants for the qualifying patient’s medical use;

24 (7) a photograph of the cardholder; and

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

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

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

7 **§786. Verification system**

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

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

18 (1) whether the identification card is valid;

19 (2) the name of the cardholder;

20 (3) whether the cardholder is a qualifying patient or a designated
21 caregiver;

22 (4) whether the cardholder is permitted to cultivate cannabis plants;

23 (5) the registry identification number of any affiliated registered
24 qualifying patient; and

1 (6) the registry identification of the qualifying patient's dispensary or
2 dispensaries, if any.

3

4 **§ 787. Notifications to OCR and responses; Civil penalties**

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

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

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

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

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

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

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

22 (c) When a cardholder notifies the OCR of items listed in subsection (a), but
23 remains eligible under this chapter, the OCR shall issue the cardholder a new registry
24 identification card with a new random 10-digit alphanumeric identification number not

1 later than 10 days after receiving the updated information and a fee in accordance with
2 OCR rule. If the person notifying the OCR is a registered qualifying patient, the OCR shall
3 also issue his registered designated caregiver, if any, a new registry identification card not
4 later than 10 days after receiving the updated information.

5 (d) If the registered qualifying patient's certifying practitioner notifies the OCR
6 in writing that either the registered qualifying patient has ceased to suffer from a
7 debilitating medical condition or that the practitioner no longer believes the patient would
8 receive therapeutic or palliative benefit from the medical use of cannabis, the card becomes
9 void. However, the registered qualifying patient has 10 days to return the cannabis to a
10 licensed dispensary for disposal.

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

13 **§ Section 788. Affirmative defense and dismissal for medical cannabis**

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

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

1 (2) the person was in possession of not more than 4.0 ounces of
2 cannabis, the amount of cannabis products allowed by OCR regulation, 12 cannabis
3 plants, and the cannabis produced by those plants;

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

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

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

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

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

19 (c) Registered cardholders must carry the card at all times, when in possession
20 or cannabis.

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

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

3 (2) forfeiture of any interest in or right to any property other than
4 cannabis.

5 **§ 789. Registration of medical cannabis establishments**

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

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

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

14 (B) An application, including:

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

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

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

24 (iv) any additional information requested by the OCR.

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

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

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

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

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

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

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

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

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

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

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

5 (2) is under the age of 21.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **§ 791. Violations**

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

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

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

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

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

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

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

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

15 **§ 792. Suspension and revocation**

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

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

1 (c) A medical cannabis establishment may continue to possess cannabis during
2 a suspension, but it may not dispense, transfer, or sell cannabis. A cultivation facility may
3 continue to cultivate and possess cannabis plants during a suspension, but it may not
4 dispense, transfer, or sell cannabis.

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

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

12 (f) Revocation is a final decision of the OCR, subject to administrative appeal,
13 as provided herein. A final decision of the administrative appeal is subject to judicial
14 review in Superior Court of the Virgin Islands in which the standard of proof is that the
15 decision was arbitrary or capricious.

16 **§ 793. Confidentiality**

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

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

- 1 (c) Data kept or maintained by the OCR may be disclosed as necessary for:
- 2 (1) the verification of registration certificates and registry identification
- 3 cards pursuant to section 786;
- 4 (2) submission of the annual report required by section 777;
- 5 (3) notification of territorial law enforcement of apparent criminal
- 6 violations of this chapter;
- 7 (4) notification of territorial law enforcement about falsified or
- 8 fraudulent information submitted for purposes of obtaining or renewing a registry
- 9 identification card; or
- 10 (5) notification of the Virgin Islands Medical Board if there is reason to
- 11 believe that a practitioner provided a written certification, if the OCR has reason to
- 12 believe the practitioner otherwise violated the standard of care for evaluating
- 13 medical conditions.
- 14 (d) Any information kept or maintained by medical cannabis establishments
- 15 must identify cardholders by their registry identification numbers and may not contain
- 16 names or other personally identifying information.
- 17 (e) At the cardholder's request, the OCR may confirm the cardholder's status
- 18 as a registered qualifying patient or a registered designated caregiver to a third party, such
- 19 as a landlord, school, medical professional, or court.
- 20 (f) Any OCR hard drives or other data-recording media that are no longer in
- 21 use and that contain cardholder information must be destroyed.

22 **§ 794. Business Expenses Deductions**

23 Unless otherwise prohibited by law, in computing net income for medical cannabis

24 establishments pursuant to Virgin Islands law, there is allowed as a deduction from all the

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

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

5 Excise fees on the cultivation of medical cannabis and consumption fees on the sale
6 of medical cannabis must be levied, as follows:

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

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

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

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

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

- 1 (iii) 12.5 percent to the Department of Licensing and Consumer Affairs, Office
2 of Cannabis Regulations to defray operating costs of the licensing program;
- 3 (iv) 5 percent for Virgin Islands law enforcement agencies for education and
4 training on medical cannabis;
- 5 (v) 10 percent to the Department of Agriculture for the development of the
6 Agriculture Depot Program;
- 7 (vi) 5 percent to the Department of Labor working jointly with the Department
8 of Education for the development of an apprenticeship program;
- 9 (vii) 10 percent to the Department of Sports, Parks and Recreation for the sports
10 development, training and travel;
- 11 (viii) 10 percent to the Department of Public Works for infrastructure
12 maintenance and improvement of government owned building in the
13 territory;
- 14 (ix) 5% to the Department of Planning and Natural Resources for the Council
15 of the Arts for performing arts programs;
- 16 (x) after the loans has been repaid, 10% of the proceeds that goes to the
17 General Fund must be disbursed to the Government Employees Retirement
18 System.

19 **§ 796. Annual report**

- 20 (a) The Board shall report annually to the Legislature on the findings and
21 recommendations of the Board, the number of applications for registry identification cards
22 received, the number of qualifying patients and designated caregivers approved, the
23 number of registry identification cards revoked, the number of each type of medical

1 cannabis establishment that are registered, and the expenses incurred and revenues
2 generated from the medical cannabis program.

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

5 **§ 797. Severability**

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

9 **BILL SUMMARY**

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

- 14 • MCPCA protects patients, caregivers, cultivators, producers, dispensaries,
15 and others, from criminal prosecution provided that they are validly enrolled in
16 MCPCA.
- 17 • MCPCA provides for criminal sanctions against participants who
18 intentionally violate the Act.
- 19 • MPCPA provides that patients and their caregivers can grow a small
20 quantity of medical cannabis plants for their own use.
- 21 • MPCPA provides licenses for cultivators from a family farm (100 plants) to
22 the larger commercial grows allowing up to 1,000 plants.
- 23 • MPCPA provides licenses for medical cannabis product manufacturing
24 facilities to process the plant through extract and infusing the same into products

1 that may be safely consumed as a smokeless alternative (salves, tinctures, edibles,
2 etc.).

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

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

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

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

22 • MPCPA will provide hundreds of new, good paying jobs, and will generate
23 tens of millions of dollars in economic activity and new tax revenues and fees

1 within five (5) years of full implementation. The jobs created cannot be exported
2 outside the Virgin Islands, and the industry is environmentally clean.

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

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

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

19 • MPCPA will closely regulate the medical cannabis industry by providing
20 on-line “seed-to-sale” oversight that will allow it to track medical cannabis from
21 seed through cultivation, processing and sale. The rules will ensure appropriate
22 security including video camera surveillance 24/7 and cultivation will occur
23 outdoors surrounded by fences that restrict public view.

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

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

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17 **BR17-0099/ January 18, 2017/**18 [..\..\..\AMENDS\32nd Legislature\32nd Legislature\DWAYNE DEGRAFF\32-899](#)19 [..\..\..\AMENDS\32nd Legislature\32nd Legislature\POSITIVE NELSON\32-](#)20 [907\32-907- Nelson.docx](#)21 [..\..\..\AMENDS\32nd Legislature\32nd Legislature\POSITIVE NELSON\32-892\32-](#)22 [892 Drafted.docx](#)

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