



Vermont and Medical Marijuana

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http://www.necn.com/06/05/11/Vermont-to-open-marijuana-centers/landing_health.html?blockID=532558&feedID=4210

In 2004, the Vermont Legislature passed Act 135, “An Act Relating to Marijuana Use by Persons With Severe Illness.” Vermont’s medical marijuana law is one of only a handful that was passed by the full legislature, rather than by voter initiative. The Department of Public of Safety began implementing the law in October 2004.

The program allows a registered patient or caregiver to be exempt from arrest or prosecution under state law for possession of a specified amount of useable marijuana or marijuana plants. It is still illegal under federal law for individuals, including patients, to obtain, possess, or cultivate cannabis for any purpose, including medical treatment.

The law allows patients with “debilitating medical conditions” to apply to the program. The only patients who fit this definition are those:

1. Receiving end-of-life care for cancer or AIDS, or;
2. Having been diagnosed with cancer, AIDS, positive status for HIV, or multiple sclerosis, or being treated for these diseases/conditions,
 - a. the condition results in severe, persistent, and intractable symptomsand
 - b. in the context of the specific condition, reasonable medical efforts have been made over a reasonable amount of time without success in relieving the symptoms.

State residents who desire to use marijuana therapeutically must apply to the state for registration in the program. To become a registered patient, applicants must have been diagnosed with a “debilitating medical condition” by a physician who has a “bona fide physician-patient relationship” with the applicant.

The definition of a “bona fide physician-patient relationship” is “a treating or consulting relationship of not less than six months duration, in the course of which a physician has completed a full assessment of the registered patient’s medical history and current medical condition, including a personal physical examination.”

The application process is complicated and involves several key steps:

- The patient's doctor must fill out a three-page Health Care Professional Verification form that details the nature of the patient's debilitating condition and verifies that the doctor has provided care to the patient for at least the past six months.
- The patient is required to fill out a separate, five-page Registered Patient Application form that spells out the rules for participating patients, detailing everything from the quantity of marijuana they can possess legally at any time to where they can ingest the drug and how to keep the plant secure.
- The applicant then provides the two documents to the state Marijuana Registry, a part of the Vermont Criminal Information Center connected to the Public Safety Department.
- Registry staff consult the doctor in every case and, if all the information on the two documents checks out, the person receives an identification card that allows him or her to obtain medical marijuana.

The card, which carries a \$50 fee, must be renewed each year.

Once approved, participants in the medical marijuana program receive a registration card which includes the patient's name and photograph, and a unique identifier for law enforcement verification. This card expires one year after its issue date, but can be renewed via reapplication under the above process.

Caregivers are also eligible to register with the Vermont program. A registered caregiver must be at least 21 years old, never convicted of a drug-related crime, and responsible for managing the use of marijuana for symptom relief of a registered patient. To apply, caregivers submit an application, stating that they have never been convicted of a drug-related crime and that they agree to care for only one registered patient. As with registered patients, registered caregivers receive a card including the same information, and are subject to the same registration fees.

The statute limits where, and under what circumstances, a patient may use marijuana. Collectively, registered patients and their caregivers may legally possess no more than 4 mature marijuana plants and 2 ounces of usable marijuana (defined as the dried leaves and flowers, not the seeds, stalks, and roots). In addition, registered patients and caregivers who grow marijuana must do so in a single, secure indoor facility and transport it only a locked container.

Patients are not exempt from arrest and prosecution if they are under the influence of marijuana while operating any motorized vehicles, boats, vessels, heavy equipment or other dangerous instruments. The exemption does not apply to marijuana intoxication in a workplace or place of employment, such as a physician's office, clinic or hospital. Furthermore, patients may not smoke marijuana in any public place, which would include hospitals, clinics and nursing homes. Individuals, such as home health aides or visiting nurses, however, will not be subject to arrest or prosecution simply for being in the presence of a registered patient who is using marijuana.

As of April 2014, there were 1,182 Vermonters approved and now enrolled in the state's medical-marijuana registry.

Until licenses for dispensaries were created and legalized in 2011, registered patients were allowed to grow limited amounts of the plant, but concerns over security and social stigma made that an unpalatable option for many.

Dispensaries

Medical marijuana advocates cheered a new Vermont law that will make it easier for seriously ill residents to get the drug.

Vermont Gov. Peter Shumlin signed a bill into law in June 2011 that allows the establishment of up to four dispensaries to sell marijuana and marijuana-related products to patients registered in the state's medical-marijuana program.

"It's a compassionate and smart thing to do," said Gov. Peter Shumlin, D-Vermont.

Vermont already had a law authorizing patients with chronic pain or other conditions to use marijuana to ease their sickness. But if they struggled to grow it on their own, they couldn't legally buy it. Now, the state has okayed the creation of up to four non-profit dispensaries, so users don't need to get medicinal pot on the streets anymore.

Finding the medicine on the black market proved to be harrowing for many.

Dispensaries can't come soon enough for people like Ian Rhein, a St. Johnsbury father of two with a bullet lodged in his back. "Countless" surgeries and medical procedures have failed to quell the pain, and the opiate painkillers prescribed by his doctor, he says, aren't nearly as effective as the marijuana that his Department-of-Safety-issued registration card allows him to possess legally.

"It really is a medicine to me," the Gulf War veteran told lawmakers. "It truly is a medicine that works for both the treatment of pain in my back as well as the post-traumatic stress disorder which I was diagnosed with nearly eight years ago."

Not only was he unsure about the strain and quality of street cannabis, he says it was nearly impossible for a straight-edged guy like himself to find a willing seller.

"It is difficult to go to the black market because not only is it illegal, it's also unsafe and unregulated," said 23-year-old Max Thayer, of East Wallingford, Vt.

Thayer uses marijuana to counter nausea from medications he needs following his kidney transplant. "There is a stigma attached to the use of cannabis in this state and a lot of states, and I think this (new law) goes a long way to alleviating that," Thayer explained.

His mother Sue even faced the threat of criminal prosecution: felony charges for admittedly growing marijuana for her child. "You know you're breaking a law," Sue Thayer said, "But your son is having so much benefit."

In 2006 and 2007, Sue Thayer planted a plot of marijuana in a secluded area of her yard because her younger son Max found it allowed him to eat, put some weight on his reed-like frame and have sufficient energy to attend high school. Max, who suffered from renal disease since infancy, tried marijuana because Tristan, his older brother, benefited from it during his losing battle with leukemia.

In 2007, before the family could harvest their second crop, police found the garden in a helicopter flyover, Sue Thayer said. Because she had more than 25 plants, she was charged with a felony. She tried to argue she grew the plants out of necessity, but the Vermont Supreme Court ruled she had another option.

Since 2004, Vermont has allowed individuals with certain chronic and debilitating conditions to register with the Department of Public Safety and grow limited quantities of marijuana indoors to ease symptoms such as nausea and pain.

In 2007, the Legislature expanded the list of conditions and increased the number of plants a registered patient could possess -- two mature marijuana plants, seven immature plants, and two ounces of usable marijuana.

Max Thayer wasn't a registered patient when his mother's garden was found because he hadn't qualified until the list of conditions was expanded.

Vermont's public safety department will now issue permits to people running the dispensaries, but the state itself won't operate them. The plan has drawn concern from some members of law enforcement, including Vermont's top federal prosecutor. Tris Coffin wrote the state's public safety director this spring, saying "Individuals who elect to operate marijuana cultivation facilities will be doing so in violation of federal law."

"The Department of Justice remains firmly committed to enforcing the Controlled Substances Act in all states," Coffin's letter continued. He added that ill Vermonters are unlikely to be the focus of investigations.

Shumlin counters that Vermont has been careful to ensure the marijuana will go only to the couple hundred Vermonters registered to buy it and not to unauthorized users.

Police didn't support allowing dispensaries, but Lamoille County Sheriff Roger Marcoux said law enforcement won inclusion of important restrictions. The total number of patients who may be served by dispensaries was capped at 1,000, the number of dispensaries was limited to four and the fees dispensary operators pay are high -- \$2,500 to apply, \$20,000 for the first year license and \$30,000 for subsequent annual licenses.

"We would rather not see any legalized marijuana," Marcoux said. Now that dispensaries are legal, he said, their management will be key, "so criminal enterprises can't get a foothold."

Nationwide, 20 states and the District of Columbia allow the medical use of marijuana, with Rhode Island, Maine and Vermont among 8 that have laws permitting the establishment of dispensaries.

Vermont joins Maine and Rhode Island as the only New England states that have approved legislation to set up dispensaries to sell marijuana legally.

But the way the three states are moving forward is very different. In Rhode Island, Governor Chafee has refused to issue licenses to three dispensaries in Providence, Warwick and Portsmouth that the Health Department selected in April. He supports the medical-marijuana program, but he's wary of a threat from Peter F. Neronha, the U.S. Attorney for Rhode Island, who delivered him a letter, saying that anyone affiliated with the three centers could be prosecuted on federal drug-trafficking charges.

The U.S. Attorneys in Maine and Vermont issued similar threats, but at least two dispensaries have opened in Maine and Vermont plans to have its centers open for business soon.

Maine plans on eventually having eight dispensaries.

In Rhode Island and Maine, the medical-marijuana and dispensary programs are overseen by the state Health Department. That is not the case in Vermont.

There, the Department of Public Safety, which oversees the state police, fire safety and other law enforcement-related agencies, is in charge of the medical-marijuana program. It will be responsible for oversight of the application process and background checks of those interested in opening dispensaries.

The bill signed into law in Vermont allows dispensaries to grow and possess up to 28 mature marijuana plants, 98 immature marijuana plants and 28 ounces of usable marijuana. If a dispensary has more than 14 registered patients, the dispensary may grow or possess two mature plants, seven immature plants and two ounces of marijuana for every registered patient.

In Rhode Island, the dispensaries can grow 12 mature plants for each registered patient. That means a facility with 500 patients could grow 6,000 marijuana plants. Rhode Island currently has 3,580 patients in its growing medical-marijuana program.

Vermont currently has just under 1,200 licensed patients, according to the state Department of Public Safety, and Max Thayer is one of those on the state's marijuana registry.

Dispensaries Opened

In June 2013, two medical marijuana dispensaries opened in Vermont after the Legislature passed a law allowing the drug to be dispensed to patients with chronic illness or intractable pain.

State law allowed for four dispensaries.

Champlain Valley Dispensary is now open in Burlington and the Vermont Patients Alliance is open in Montpelier. A third facility is planned in Brandon, and in November 2013, a fourth and final dispensary was agreed to be licensed in Brattleboro.

Only registered patients and their caregivers will be allowed to enter the Brattleboro dispensary. Dispensaries are permitted to sell a registered patient two ounces of medical marijuana per month.

There are 106 registered patients in Windham County, which is the second highest number in the state after Chittenden County, according to the Vermont Department of Public Safety.

Dispensaries are required to grow their own marijuana in a secure environment. Customers must be qualified to buy the drug and show proof of that from the state. They then make an appointment to pick up the drug.

The dispensary also must consider what marijuana is selling for on the black market when it sets a price.

"We have to be concerned about the black market price. We can't undercut that price, because that might cause someone to resell it," said Shayne Lynn, proprietor of the Burlington dispensary, said.

The Burlington dispensary does offer a sliding scale to patients who can't pay the full price, he said.

"We're hoping by the end of the year to have 150-200 patients and that I think would help keep us viable," Lynn said.

Lynn and his small staff are growing about eight different varieties of marijuana, each directed for different medical conditions. Per ounce, his prices range from \$225 to \$450, depending on its quality.

The overall industry in Vermont will be quite small. The state allows just four medical marijuana dispensaries, and all must grow their own cannabis – meaning there won't be separate cultivation operations. The market size is also limited. About 800 residents have registered with the Vermont medical marijuana program, but just 258 have signed up to buy cannabis from dispensaries. The state's law caps the number of patients who can register with dispensaries at 1,000.