



To: Cannabis Control Board
From: Jill Sudhoff-Guerin, Vermont Medical Society, Vermont Psychiatric Association, American Academy of Pediatrics VT Chapter, and the Vermont Academy of Family Physicians
Date: December 28, 2023
RE: Comments on Proposed Act 65 Recommendations

The physician and physician assistant members of the Vermont Medical Society (VMS), the Vermont Psychiatric Association (VPA), the American Academy of Pediatrics Vermont Chapter (AAPVT) and the Vermont Academy of Family Physicians (VTAFP) submit these comments to the Cannabis Control Board (CCB) in response to the recommendations included in the [CCB's Draft Report to the Vermont Legislature](#). Many of these comments and concerns were also shared in the four Act 65 Medical Cannabis Registry meetings by our organizational representatives.

Scope of the Report

The initial goals of the Act 65 Medical Cannabis Registry Study to determine the symptoms best treated by cannabis, along with the best strains, dosing for each symptom, and appropriate treatment protocols, have been at the heart of debate since Vermont's Medical Cannabis Registry began, and the focus of multiple studies across the nation.

With only four meetings, largely made up by the general public, along with the newness of cannabis legalization, and a dearth of meaningful cannabis research, these outcomes were too broad in scope for the CCB's Act 65 study. Rather the goals that emerged from the study focused more on:

- the future of Vermont's Medical Cannabis program after Vermont's commercial cannabis market has caused a decline in patients;
- the ability for patients on the medical cannabis registry to continue to access their preferred products;
- how decisions regarding qualifying conditions should be reviewed; and,
- how to best provide patients on the medical cannabis registry with cannabis treatment information.

Vermont currently has five medical cannabis dispensaries and 51 non-medical adult use (recreational) dispensaries. With little over a year of legal adult use sales, the demand for medical cannabis has decreased and reportedly, upended the viability of the Medical Cannabis dispensaries. According to the CCB, as of June 13, 2022 there were 4,302 patients. According to this [October, 2023 Brattleboro Reformer article](#), "Vermont went from having 155 to 141 caregivers and 3,172 to 3,088 patients in the last month." When Vermont's medical dispensaries were created in 2004, safe, discreet access was the primary objective. Now that customers and patients have access through the adult use dispensaries, the ability to maintain these two business models for so few patients is in question.

Recommendation 1: Modify Process for Adding New Qualifying Conditions

VMS opposes the first option recommended in the CCB Report, to “Authorize a health care professional (7 V.S.A. § 951) with specialized cannabis medical education to recommend access to the Vermont Medical Cannabis Registry for a patient in their care.”

It is unclear to what extent this would open the registry to any medical condition. VMS has long opposed opening the registry to any patient and only believes the registry should be available for conditions for which peer-reviewed, scientific research demonstrates that cannabis is safe and effective. Slide 15 of the report says 11 states allow *healthcare provider discretion* in determining whether a patient qualifies to be on their state’s medical cannabis registry. Yet, of the states listed, California, Massachusetts, Michigan, Oklahoma, and Virginia all require a patient to be diagnosed with specific qualifying conditions in order for a health care professional to recommend them to their medical cannabis registry.¹

In terms of “specialized cannabis medical education,” who would determine what is included in this education? Would it go through the Board of Medical Practice? Or the Office of Professional Regulation? Or the CCB? VMS does not believe that current research or education is developed enough to justify this change. Vermont healthcare professionals would be put in the difficult position of making decisions on very little education, or evidence-based research.

The VMS supports the CCB’s recommendation authorizing a non-legislative entity to recommend / approve new qualifying conditions. This could be very similar to the previous “Cannabis for Symptom Relief Oversight Committee,” or the “Marijuana Review Board.” The legislature established the Review Board to review denials of applications by patients as well as to “meet periodically to review studies, data, and any other information relevant to the use of cannabis for symptom relief.” VMS believes a Review Board could alleviate the current legislative burden of making determinations on qualifying conditions and could be used to review the most up to date, evidence-based data on the use of cannabis for symptom relief, as well as make decisions regarding THC potency caps, and clinically appropriate dosing limits. VMS supports having a Review Board housed at the Vermont Department of Health, like many other states have done. Understanding the capacity of Vermont departments, it could also be a Sub-Committee of the [Substance Misuse Prevention Council](#).

The composition of the Review Board would need to represent the needs of medical patients and their caregivers, along with providing for a data-driven medical cannabis program. The VMS recommends membership to include health care professionals who have knowledge of the use of cannabis for symptom relief and have treated cannabis use disorder, accidental ingestions and hyperemesis. We recommend including, at a minimum, specialists in: emergency medicine, psychiatry, and addiction medicine

Recommendation 2 to create a medical endorsement for adult-use retail establishments that would allow patients to utilize them tax free. With only 3,088 patients statewide, VMS understands the pressure on the medical dispensaries and the patients currently using them. However, VMS has concerns with many of the questions of how this endorsement would be implemented. We strongly suggest subsequent rule-making to clarify the details of what this endorsement would mean and how all dispensaries would meet necessary standards such as: protecting patient confidentiality, protecting patient health information, and the provision of individual consultation/education to patients about using cannabis and cannabis products.

It is unclear to VMS how many patients actually need access to specific medical cannabis products or services that are not currently available in the adult use dispensaries, and therefore which regulations need to be changed in this endorsement process. According to the responses in the 2023 CCB Medical Program Survey, included in [this meeting video](#), very few patients reported they need access to specialty products like high-potency THC

¹ Ensuring that there is a bona fide practitioner-patient relationship is also integral to regulation that allows more provider discretion; for example, the [District of Columbia](#) lists 9 criteria, including board certification, for health care practitioners who recommend cannabis.

concentrates, and or delivery or curbside pick-up, as currently allowed for medical dispensaries, but not commercial sales. VMS does strongly recommend the approach of an endorsement with sufficient safeguards over opening access to specialty products, including high-potency THC concentrates, and or delivery, for all adult use cannabis sales.

Recommendation 3 to improve access to medical products and services.

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- **Ulcerative Colitis** - VMS would urge the CCB to develop a new protocol and review process for adding conditions before adding ulcerative colitis. That being said, many symptoms of ulcerative colitis already fall under: “a medical condition, or its treatment that is chronic, debilitating, and produces one or more of the following intractable symptoms: chronic pain and severe nausea” and VMS does not support it being added separately to the list of conditions.
- **Extending Renewal for Chronic Pain** – The VMS opposes this recommendation. Patients managing chronic conditions of all kinds are not granted prescription renewals without having an appointment with a provider and being issued a new prescription each year. There are very good reasons for this, including changes in medical history, new medications other providers may have prescribed, and changes in symptoms that may mean medication is no longer necessary or something more serious needs to be evaluated. Especially with a complex, multi-faceted condition like chronic pain cannabis should not be extended beyond other listed conditions.
- **Delivery License** – There was very little discussion of a delivery license during the Act 65 meetings and the VMS is neutral on this recommendation, but will offer in the 2023 CCB Medical Program Survey, of the 351 respondents that indicated they need special services to access their cannabis products, only 45% indicated they need delivery services.
- The VMS is also neutral on lowering dispensary fees and subsidizing the cost of testing medical cannabis.

VMS Strongly Opposes Removing THC Potency Caps

VMS has commented since the consideration and passage of S. 54 in 2019 that potency limits are an important factor to protect public health. The risks of physical dependence and addiction increase with exposure to high concentrations of THC, and higher doses of THC are more likely to produce anxiety, agitation, paranoia, suicidality, psychosis and uncontrollable vomiting.² There is also [increasing evidence](#) that chronic pain is best managed with products with THC potency that is <10-15%, yet the adult use promotion on high-THC products is actually putting medical patients more at risk of acute intoxication or long-term side effects.

The VMS does not support removing all THC potency caps in order to provide access to these specialty products for a very small subset of Vermonters who may currently be using these products on the medical side. Of the 645 medical patient survey respondents who indicated which cannabis products they use, the majority of patients reported using smokable flower and edibles. Only approximately 15% said they use solid concentrates above 60% THC potency, which makes up roughly 1 percent of Vermonters. The public health risk does not correlate with the needs of the tiny subset of medical patients, especially when Vermont has the highest past 30-day cannabis use among those 18 to 25 years old of 41% compared to 23% of people in the U.S. between the ages of 18 and 25 reported using cannabis in the past 30 days.³ According to an American Academy of Pediatrics 2019 study, cannabis concentrate use is also common in adolescents (prevalence = 24%).⁴

Tuesday, Dec. 26, 2023, the [Substance Misuse Prevention Council \(SMPC\)](#) submitted their annual report that also recommends maintaining Vermont's current potency caps:

²<https://pubmed.ncbi.nlm.nih.gov/26213314/>

³ <https://www.healthvermont.gov/sites/default/files/document/DSU-CannabisDataReport2023.pdf>

⁴ <https://publications.aap.org/pediatrics/article/144/3/e20190338/38413/Cannabis-Concentrate-Use-in-Adolescents>

1. *Maintain the THC potency cap for all cannabis concentrates. The SMPC supports the potency cap for cannabis concentrates due to the negative public health implications of high potency THC products. The SMPC developed [a report](#) with more information to support this recommendation. An executive summary that accompanies this report can be found in Appendix B of this report and a full presentation can be found [here](#). This supports the SMPC's Goal #2.*

Currently, we know the Cannabis industry, with the [Vermont Grower's Association](#), are pushing the CCB to remove Vermont's potency caps on solid concentrates because these products are a big dollar generator. This [2020 Cannabis Market Study](#) shows that they are roughly 19% of the market in Massachusetts.

According to [a report](#) produced in 2020 by the Washington State Prevention Research Subcommittee "higher potency cannabis, on average in the U.S., used at cannabis initiation was associated with over four times the risk of Cannabis Use Disorder (CUD)." States where they have legal commercial cannabis markets with no THC limits citizens are experiencing [acute mental health and public health impacts](#). The SPMC report emphasizes that contrary to what the CCB has previously claimed, "multiple published studies show a link between psychosis and frequent and high potency cannabis use."

Which is why states like CO and WA are seeking legislation to put THC potency limits in now:

- [Colorado passed a recent bill](#) limiting the daily THC purchase of high potency concentrates because of the public health crisis.
- [Washington State has a bill to reduce their legal THC potency limit for concentrates to 30%](#)
- [Washington State also has a bill to place a 65% tax on cannabis products with over 35% THC potency](#)⁵

Removing THC potency caps for 1 percent of our population to access these products does not make sense. Please maintain these public health protections for all Vermonters.

Recommendation 4 to improve patient and provider education.

The VMS supports a data-driven, evidence-based medical cannabis program and supports patient and practitioner education. Regarding patient information, we do not have a position on obtaining a "Cannify-US" license, but do support accurate, evidence-based patient education. The VMS also supports the development of more robust cannabis education for dispensary employees and healthcare practitioners. In order for this to be meaningful, it must be voluntary and not required for the community health care practitioner. The education should be kept up to date regularly, developed by cannabis research experts with no conflicts of interest in the cannabis industry, and address not only potential uses or benefits of cannabis, but also risks. As an example of high-quality education VMS would recommend, see the Vermont Area Health Education Center Academic Detailing topic on Cannabis.

Thank you for your consideration,
The Vermont Medical Society

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⁵ See additional coverage at Politico, ["The cannabis industry's next war: How strong should its weed be?"](#)