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**HOUSE BILL NO. 287**

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-609, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1101.1, 4.1-1105.1, 4.1-1107 through 4.1-1110, 4.1-1112, 4.1-1302, 4.1-1500, 54.1-2519, 54.1-2521, 54.1-2522.1, as it is currently effective and as it shall become effective, 54.1-2903, 54.1-3408.3, and 54.1-3442.5, through 54.1-3442.8 of the Code of Virginia, relating to cannabis.

Patron—Adams, D.M.

Committee Referral Pending

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-609, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1101.1, 4.1-1105.1, 4.1-1107 through 4.1-1110, 4.1-1112, 4.1-1302, 4.1-1500, 54.1-2519, 54.1-2521, 54.1-2522.1, as it is currently effective and as it shall become effective, 54.1-2903, 54.1-3408.3, and 54.1-3442.5 through 54.1-3442.8 of the Code of Virginia are amended and reenacted as follows:

**§ 4.1-600. Definitions.**

As used in this subtitle, unless the context requires a different meaning:

"Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction that is calculated to induce sales of retail ~~marijuana~~ cannabis, retail ~~marijuana~~ cannabis products, ~~marijuana~~ cannabis plants, or ~~marijuana~~ cannabis seeds, including any written, printed, graphic, digital, electronic, or other material, billboard, sign, or other outdoor display, publication, or radio or television broadcast.

"Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

"Board" means the Board of Directors of the Virginia Cannabis Control Authority.

"Cannabis" means any part of a plant of the genus *Cannabis*, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Cannabis" does not include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*. "Cannabis" does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

"Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this subtitle.

"Cannabis cultivation facility" means a facility licensed under this subtitle to cultivate, label, and package retail cannabis; to purchase or take possession of cannabis plants and seeds from other cannabis cultivation facilities; to transfer possession of and sell retail cannabis, immature cannabis plants, and cannabis seeds to cannabis wholesalers and cannabis dispensing facilities; to transfer possession of and sell retail cannabis, cannabis plants, and cannabis seeds to other cannabis cultivation facilities; to transfer possession of and sell retail cannabis to cannabis manufacturing facilities; and to sell immature cannabis plants and cannabis seeds to consumers for the purpose of cultivating cannabis at home for personal use.

"Cannabis dispensing facility" means a facility licensed under this subtitle to purchase or take possession of retail cannabis, retail cannabis products, immature cannabis plants, or cannabis seeds from a cannabis cultivation facility, cannabis manufacturing facility, or cannabis wholesaler and to sell retail cannabis, retail cannabis products, immature cannabis plants, or cannabis seeds to consumers.

"Cannabis establishment" means a cannabis cultivation facility, a cannabis testing facility, a cannabis manufacturing facility, a cannabis wholesaler, or a cannabis dispensing facility.

"Cannabis manufacturing facility" means a facility licensed under this subtitle to manufacture, label, and package retail cannabis and retail cannabis products; to purchase or take possession of retail cannabis from a cannabis cultivation facility or another cannabis manufacturing facility; and to transfer possession of and sell retail cannabis and retail cannabis products to cannabis wholesalers, cannabis

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59 dispensing facility, or other cannabis manufacturing facilities.

60 "Cannabis paraphernalia" means all equipment, products, and materials of any kind that are either  
61 designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting,  
62 manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,  
63 packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing  
64 into the human body cannabis.

65 "Cannabis products" means (i) products that are composed of cannabis and other ingredients and  
66 are intended for use or consumption, ointments, and tinctures or (ii) cannabis concentrate.

67 "Cannabis testing facility" means a facility licensed under this subtitle to develop, research, or test  
68 cannabis, cannabis products, and other substances.

69 "Cannabis wholesaler" means a facility licensed under this subtitle to purchase or take possession of  
70 retail cannabis, retail cannabis products, immature cannabis plants, and cannabis seeds from a cannabis  
71 cultivation facility, a cannabis manufacturing facility, or another cannabis wholesaler and to transfer  
72 possession and sell or resell retail cannabis, retail cannabis products, immature cannabis plants, and  
73 cannabis seeds to a cannabis cultivation facility, cannabis manufacturing facility, cannabis dispensing  
74 facility, or another cannabis wholesaler.

75 "Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

76 "Child-resistant" means, with respect to packaging or a container, (i) specially designed or  
77 constructed to be significantly difficult for a typical child under five years of age to open and not to be  
78 significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more  
79 than a single use or that contains multiple servings, resealable.

80 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing,  
81 grading, trimming, or other similar processing of ~~marijuana cannabis~~ for use or sale. "Cultivation" or  
82 "cultivate" does not include manufacturing or testing.

83 "Edible ~~marijuana cannabis~~ product" means a ~~marijuana cannabis~~ product intended to be consumed  
84 orally, including ~~marijuana cannabis~~ intended to be consumed orally or ~~marijuana cannabis~~ concentrate  
85 intended to be consumed orally.

86 "Immature ~~cannabis~~ plant" means a nonflowering ~~marijuana cannabis~~ plant that is no taller than eight  
87 inches and no wider than eight inches, is produced from a cutting, clipping, or seedling, and is growing  
88 in a container.

89 "Licensed" means the holding of a valid license granted by the Authority.

90 "Licensee" means any person to whom a license has been granted by the Authority.

91 "Manufacturing" or "manufacture" means the production of ~~marijuana cannabis~~ products or the  
92 blending, infusing, compounding, or other preparation of ~~marijuana cannabis~~ and ~~marijuana cannabis~~  
93 products, including ~~marijuana cannabis~~ extraction or preparation by means of chemical synthesis.  
94 "Manufacturing" or "manufacture" does not include cultivation or testing.

95 "Marijuana" means any part of a plant of the genus *Cannabis*, whether growing or not, its seeds or  
96 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,  
97 its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include the mature  
98 stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant,  
99 unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*.  
100 "Marijuana" does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person  
101 registered pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in  
102 § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived  
103 from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with  
104 state or federal law.

105 "Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more  
106 active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a  
107 marijuana plant is a concentrate for purposes of this subtitle.

108 "Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and  
109 package retail marijuana; to purchase or take possession of marijuana plants and seeds from other  
110 marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana  
111 plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession  
112 of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation  
113 facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to  
114 sell immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating  
115 marijuana at home for personal use.

116 "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a  
117 marijuana manufacturing facility, a marijuana wholesaler, or a retail marijuana store.

118 "Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label,  
119 and package retail marijuana and retail marijuana products; to purchase or take possession of retail  
120 marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to

transfer possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or other marijuana manufacturing facilities.

"Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana.

"Marijuana products" means (i) products that are composed of marijuana and other ingredients and are intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

"Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test marijuana, marijuana products, and other substances.

"Marijuana wholesaler" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana store, or another marijuana wholesaler.

"Non-retail marijuana *cannabis*" means marijuana *cannabis* that is not cultivated, manufactured, or sold by a licensed marijuana *cannabis* establishment.

"Non-retail marijuana *cannabis* products" means marijuana *cannabis* products that are not manufactured and sold by a licensed marijuana *cannabis* establishment.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the cultivation, manufacture, sale, or testing of retail marijuana *cannabis* or retail marijuana *cannabis* products shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Retail marijuana *cannabis*" means marijuana *cannabis* that is cultivated, manufactured, or sold by a licensed marijuana *cannabis* establishment.

"Retail marijuana *cannabis* products" means marijuana *cannabis* products that are manufactured and sold by a licensed marijuana *cannabis* establishment.

"Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale; peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, retail marijuana *cannabis* or retail marijuana *cannabis* products.

"Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has designated as a law-enforcement officer pursuant to this subtitle.

"Testing" or "test" means the research and analysis of marijuana *cannabis*, marijuana *cannabis* products, or other substances for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or manufacturing.

#### **§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.**

A. The General Assembly has determined that there exists in the Commonwealth a need to control the possession, sale, transportation, distribution, and delivery of retail marijuana *cannabis* and retail marijuana *cannabis* products in the Commonwealth. Further, the General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial branches of state government, to be known as the Virginia Cannabis Control Authority. The Authority's exercise of powers and duties conferred by this subtitle shall be deemed the performance of an essential governmental function and a matter of public necessity for which public moneys may be spent.

B. The Board of Directors of the Authority is vested with control of the possession, sale, transportation, distribution, and delivery of retail marijuana *cannabis* and retail marijuana *cannabis*

182 products in the Commonwealth, with plenary power to prescribe and enforce regulations and conditions  
183 under which retail ~~marijuana~~ *cannabis* and retail ~~marijuana~~ *cannabis* products are possessed, sold,  
184 transported, distributed, and delivered, so as to prevent any corrupt, incompetent, dishonest, or  
185 unprincipled practices and to promote the health, safety, welfare, convenience, and prosperity of the  
186 people of the Commonwealth. The exercise of the powers granted by this subtitle shall be in all respects  
187 for the benefit of the citizens of the Commonwealth and for the promotion of their safety, health,  
188 welfare, and convenience. No part of the assets or net earnings of the Authority shall inure to the  
189 benefit of, or be distributable to, any private individual, except that reasonable compensation may be  
190 paid for services rendered to or for the Authority affecting one or more of its purposes, and benefits  
191 may be conferred that are in conformity with said purposes, and no private individual shall be entitled to  
192 share in the distribution of any of the corporate assets on dissolution of the Authority.

193 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings;**  
194 **compensation and expenses; duties.**

195 A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an  
196 advisory council to the Board. The purpose of the Advisory Council is to assess and monitor public  
197 health issues, trends, and impacts related to ~~marijuana~~ *cannabis* and ~~marijuana~~ *cannabis* legalization and  
198 make recommendations regarding health warnings, retail ~~marijuana~~ *cannabis* and retail ~~marijuana~~ *cannabis*  
199 products safety and product composition, and public health awareness, programming, and  
200 related resource needs.

201 B. The Advisory Council shall have a total membership of 21 members that shall consist of 14  
202 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the  
203 Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and  
204 geographic diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as  
205 follows: four to be appointed by the Senate Committee on Rules, one of whom shall be a representative  
206 from the Virginia Foundation for Healthy Youth, one of whom shall be a representative from the  
207 Virginia Chapter of the American Academy of Pediatrics, one of whom shall be a representative from  
208 the Medical Society of Virginia, and one of whom shall be a representative from the Virginia  
209 Pharmacists Association; six to be appointed by the Speaker of the House of Delegates, one of whom  
210 shall be a representative from a community services board, one of whom shall be a person or health  
211 care provider with expertise in substance use disorder treatment and recovery, one of whom shall be a  
212 person or health care provider with expertise in substance use disorder prevention, one of whom shall be  
213 a person with experience in disability rights advocacy, one of whom shall be a person with experience  
214 in veterans health care, and one of whom shall be a person with a social or health equity background;  
215 and four to be appointed by the Governor, subject to confirmation by the General Assembly, one of  
216 whom shall be a representative of a local health district, one of whom shall be a person who is part of  
217 the cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, and  
218 one of whom shall be a registered medical cannabis patient.

219 The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of  
220 Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer  
221 Services, the Director of the Department of Health Professions, the Director of the Department of  
222 Forensic Science, and the Chief Executive Officer of the Virginia Cannabis Control Authority, or their  
223 designees, shall serve ex officio with voting privileges. Ex officio members of the Advisory Council  
224 shall serve terms coincident with their terms of office.

225 After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of  
226 four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired  
227 terms. Vacancies shall be filled in the same manner as the original appointments. All members may be  
228 reappointed.

229 The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his  
230 designee. The Advisory Council shall select a vice-chairman from among its membership. A majority of  
231 the members shall constitute a quorum. The Advisory Council shall meet at least two times each year  
232 and shall meet at the call of the chairman or whenever the majority of the members so request.

233 The Advisory Council shall have the authority to create subgroups with additional stakeholders,  
234 experts, and state agency representatives.

235 C. Members shall receive no compensation for the performance of their duties but shall be  
236 reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as  
237 provided in §§ 2.2-2813 and 2.2-2825.

238 D. The Advisory Council shall have the following duties, in addition to duties that may be necessary  
239 to fulfill its purpose as described in subsection A:

240 1. To review multi-agency efforts to support collaboration and a unified approach on public health  
241 responses related to ~~marijuana~~ *cannabis* and ~~marijuana~~ *cannabis* legalization in the Commonwealth and  
242 to develop recommendations as necessary.

243 2. To monitor changes in drug use data related to ~~marijuana~~ *cannabis* and ~~marijuana~~ *cannabis*

legalization in the Commonwealth and the science and medical information relevant to the potential health risks associated with such drug use, and make appropriate recommendations to the Department of Health and the Board.

3. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Advisory Council no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

#### **§ 4.1-604. Powers and duties of the Board.**

The Board shall have the following powers and duties:

1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-606;

2. Control the possession, sale, transportation, and delivery of *marijuana cannabis* and *marijuana cannabis* products;

3. Grant, suspend, and revoke licenses for the cultivation, manufacture, distribution, sale, and testing of *marijuana cannabis* and *marijuana cannabis* products as provided by law;

4. Determine the nature, form, and capacity of all containers used for holding *marijuana cannabis* products to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;

5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

6. Establish standards and implement an online course for employees of *retail marijuana stores cannabis dispensing facilities* that trains employees on how to educate consumers on the potential risks of *marijuana cannabis* use;

7. Establish a plan to develop and disseminate to *retail marijuana store cannabis dispensing facility* licensees a pamphlet or similar document regarding the potential risks of *marijuana cannabis* use to be prominently displayed and made available to consumers;

8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters related to diversity, equity, and inclusion standards in the *marijuana cannabis* industry;

9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish to possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship plan, and an approval process and requirements for implementation of such plans; (ii) be responsible for conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned businesses and veteran-owned businesses interested in participating in the *marijuana cannabis* industry and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with business planning for potential *marijuana cannabis* establishment licensees; (iv) spread awareness of business opportunities related to the *marijuana cannabis* marketplace in areas disproportionately impacted by *marijuana cannabis* prohibition and enforcement; (v) provide technical assistance in navigating the administrative process to potential *marijuana cannabis* establishment licensees; and (vi) conduct other outreach initiatives in areas disproportionately impacted by *marijuana cannabis* prohibition and enforcement as necessary;

10. Establish a position for an individual with professional experience in a health related field who shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the Office of the Secretary of Health and Human Resources and relevant health and human services agencies and organizations, and perform other duties as needed.

11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and the Director of Diversity, Equity, and Inclusion to promote and encourage participation in the *marijuana cannabis* industry by people from communities that have been disproportionately impacted by *marijuana cannabis* prohibition and enforcement and to positively impact those communities;

12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

13. Adopt, use, and alter at will a common seal;

14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;

15. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including

305 agreements with any person or federal agency;

306 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial  
307 experts, investment bankers, superintendents, managers, and such other employees and special agents as  
308 may be necessary and fix their compensation to be payable from funds made available to the Authority.  
309 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5  
310 (§ 2.2-500 et seq.) of Title 2.2;

311 17. Receive and accept from any federal or private agency, foundation, corporation, association, or  
312 person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive  
313 and accept from the Commonwealth or any state and any municipality, county, or other political  
314 subdivision thereof or from any other source aid or contributions of either money, property, or other  
315 things of value, to be held, used, and applied only for the purposes for which such grants and  
316 contributions may be made. All federal moneys accepted under this section shall be accepted and  
317 expended by the Authority upon such terms and conditions as are prescribed by the United States and as  
318 are consistent with state law, and all state moneys accepted under this section shall be expended by the  
319 Authority upon such terms and conditions as are prescribed by the Commonwealth;

320 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its  
321 business shall be transacted and the manner in which the powers of the Authority shall be exercised and  
322 its duties performed. The Board may delegate or assign any duty or task to be performed by the  
323 Authority to any officer or employee of the Authority. The Board shall remain responsible for the  
324 performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where  
325 appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated.  
326 Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such  
327 delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance  
328 of the duties and tasks;

329 19. Conduct or engage in any lawful business, activity, effort, or project consistent with the  
330 Authority's purposes or necessary or convenient to exercise its powers;

331 20. Develop policies and procedures generally applicable to the procurement of goods, services, and  
332 construction, based upon competitive principles;

333 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of  
334 Title 2.2;

335 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,  
336 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the  
337 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest  
338 therein, at such annual rental and on such terms and conditions as may be determined by the Board;  
339 lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest  
340 therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual  
341 rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey  
342 any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired  
343 or held by the Authority on such terms and conditions as may be determined by the Board; and occupy  
344 and improve any land or building required for the purposes of this subtitle;

345 23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be  
346 considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying,  
347 blending, and processing plants;

348 24. Appoint every agent and employee required for its operations, require any or all of them to give  
349 bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the  
350 services of experts and professionals;

351 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the  
352 production of records, memoranda, papers, and other documents before the Board or any agent of the  
353 Board, and administer oaths and take testimony thereunder. The Board may authorize any Board  
354 member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take  
355 testimony thereunder, and decide cases, subject to final decision by the Board, on application of any  
356 party aggrieved. The Board may enter into consent agreements and may request and accept from any  
357 applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a  
358 license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may  
359 include an admission or a finding of a violation. A consent agreement shall not be considered a case  
360 decision of the Board and shall not be subject to judicial review under the provisions of the  
361 Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future  
362 disciplinary proceedings;

363 26. Make a reasonable charge for preparing and furnishing statistical information and compilations to  
364 persons other than (i) officials, including court and police officials, of the Commonwealth and of its  
365 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal  
366 interest in obtaining the information requested if such information is not to be used for commercial or

trade purposes;

27. Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this subtitle;

30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with applications for such permits;

31. Develop and make available on its website guidance documents regarding compliance and safe practices for persons who cultivate *marijuana cannabis* at home for personal use, which shall include information regarding cultivation practices that promote personal and public safety, including child protection, and discourage practices that create a nuisance;

32. Develop and make available on its website a resource that provides information regarding (i) responsible *marijuana cannabis* consumption; (ii) health risks and other dangers associated with *marijuana cannabis* consumption, including inability to operate a motor vehicle and other types of transportation and equipment; and (iii) ancillary effects of *marijuana cannabis* consumption, including ineligibility for certain employment opportunities. The Board shall require that the web address for such resource be included on the label of all retail *marijuana cannabis* and retail *marijuana cannabis* product as provided in § 4.1-1402; and

33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

#### § 4.1-606. Regulations of the Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and to prevent the illegal cultivation, manufacture, sale, and testing of *marijuana cannabis* and *marijuana cannabis* products. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended, or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Govern the outdoor cultivation of *marijuana cannabis* by a *marijuana cannabis* cultivation facility licensee, including security requirements to include lighting, physical security, and alarm requirements, provided that such requirements do not prohibit the cultivation of *marijuana cannabis* outdoors or in a greenhouse;

2. Establish requirements for securely transporting *marijuana cannabis* between *marijuana cannabis* establishments;

3. Establish sanitary standards for retail *marijuana cannabis* product preparation;

4. Establish a testing program for retail *marijuana cannabis* and retail *marijuana cannabis* products pursuant to Chapter 14 (§ 4.1-1400 et seq.);

5. Establish an application process for licensure as a *marijuana cannabis* establishment pursuant to this subtitle in a way that, when possible, prevents disparate impacts on historically disadvantaged communities;

6. Establish requirements for health and safety warning labels to be placed on retail *marijuana cannabis* and retail *marijuana cannabis* products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle;

7. Establish a maximum tetrahydrocannabinol level for retail *marijuana cannabis* products, which shall not exceed (i) five milligrams per serving for edible *marijuana cannabis* products and where practicable an equivalent amount for other *marijuana cannabis* products or (ii) 50 milligrams per package for edible *marijuana cannabis* products and where practicable an equivalent amount for other *marijuana cannabis* products. Such regulations may include other product and dispensing limitations on tetrahydrocannabinol;

8. Establish requirements for the form, content, and retention of all records and accounts by all licensees;

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and offsite storage;

10. Establish (i) criteria by which to evaluate new licensees based on the density of retail *marijuana stores cannabis dispensing facilities* in the community and (ii) metrics that have similarly shown an association with negative community-level health outcomes or health disparities. In promulgating such regulations, the Board shall coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at

the address on record with the Board by certified mail, return receipt requested, and by regular mail;

12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to subsection C of § 4.1-1002;

13. Establish criteria by which to evaluate social equity license applicants, which shall be an applicant who has lived or been domiciled for at least 12 months in the Commonwealth and is either (i) an applicant with at least 66 percent ownership by a person or persons who have been convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to ~~marijuana~~ *cannabis*; (ii) an applicant with at least 66 percent ownership by a person or persons who is the parent, child, sibling, or spouse of a person who has been convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to ~~marijuana~~ *cannabis*; (iii) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the past five years in a jurisdiction that is determined by the Board after utilizing census tract data made available by the United States Census Bureau to have been disproportionately policed for ~~marijuana~~ *cannabis* crimes; (iv) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the last five years in a jurisdiction determined by the Board after utilizing census tract data made available by the United States Census Bureau to be economically distressed; or (v) an applicant with at least 66 percent ownership by a person or persons who graduated from a historically black college or university located in the Commonwealth;

14. For the purposes of establishing criteria by which to evaluate social equity license applicants, establish standards by which to determine (i) which jurisdictions have been disproportionately policed for ~~marijuana~~ *cannabis* crimes and (ii) which jurisdictions are economically distressed;

15. Establish standards and requirements for (i) any preference in the licensing process for qualified social equity applicants, (ii) what percentage of application or license fees are waived for a qualified social equity applicant, and (iii) a low-interest business loan program for qualified social equity applicants;

16. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal cultivation of ~~marijuana~~ *cannabis* that promote personal and public safety, including child protection, and discourage personal cultivation practices that create a nuisance, including a nuisance caused by odor;

17. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail ~~marijuana~~ *cannabis* or retail ~~marijuana~~ *cannabis* products, not inconsistent with the provisions of this chapter, so that such advertising displaces the illicit market and notifies the public of the location of ~~marijuana~~ *cannabis* establishments. Such regulations shall be promulgated in accordance with § 4.1-1404;

18. Establish restrictions on the number of licenses that a person may be granted to operate a ~~marijuana~~ *cannabis* establishment in single locality or region; and

19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have been granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure all licensees have an equal and meaningful opportunity to participate in the market. Such regulations may limit the amount of products cultivated or manufactured by the pharmaceutical processor or industrial hemp processor that such processor may offer for sale in its ~~retail marijuana stores~~ *cannabis dispensing facilities*.

C. The Board may promulgate regulations that:

1. Limit the number of licenses issued by type or class to operate a ~~marijuana~~ *cannabis* establishment; however, the number of licenses issued shall not exceed the following limits:

a. ~~Retail marijuana stores~~ *Cannabis distribution facilities*, 400;

b. ~~Marijuana Cannabis~~ wholesalers, 25;

c. ~~Marijuana Cannabis~~ manufacturing facilities, 60; and

d. ~~Marijuana Cannabis~~ cultivation facilities, 450.

In determining the number of licenses issued pursuant to this subdivision, the Board shall not consider any license granted pursuant to subsection C of § 4.1-805 to (i) a pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or (ii) an industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-1003 and 4.1-1004, including method of filing a return, information required on a return, and form of payment.

3. Limit the allowable square footage of a ~~retail marijuana store~~ *cannabis dispensing facility*, which shall not exceed 1,500 square feet.

4. Allow certain persons to be granted or have interest in a license in more than one of the following license categories: ~~marijuana~~ *cannabis* cultivation facility license, ~~marijuana~~ *cannabis* manufacturing facility license, ~~marijuana~~ *cannabis* wholesaler license, or ~~retail marijuana store~~ *cannabis dispensing*



facility license. Such regulations shall be drawn narrowly to limit vertical integration to small businesses and ensure that all licensees have an equal and meaningful opportunity to participate in the market.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6, 7, 10, or 16, and shall not promulgate any such regulation that has not been approved by a majority of the members of the Cannabis Public Health Advisory Council.

G. With regard to regulations governing licensees that have been issued a permit by the Board of Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act, the Board shall make reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board of Pharmacy that establish health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated pursuant to this subtitle such pharmaceutical processors and cannabis dispensing facilities that have been found to be in compliance with regulations promulgated by the Board of Pharmacy that mirror or are more extensive in scope than similar regulations promulgated pursuant to this subtitle.

H. The Board's power to regulate shall be broadly construed.

**§ 4.1-609. Background investigations of Board members and Chief Executive Officer.**

All members of the Board and the Chief Executive Officer shall be fingerprinted before, and as a condition of, appointment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a national criminal history records search and to the Department of State Police for a Virginia criminal history records search. The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted pursuant to this section. No person shall be appointed to the Board or appointed by the Board who (i) has defrauded or attempted to defraud any federal, state, or local government or governmental agency or authority by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a false representation of a material fact; (ii) has willfully deceived or attempted to deceive any federal, state, or local government or governmental agency or governmental authority by making or maintaining business records required by statute or regulation that are false and fraudulent; or (iii) has been convicted of (a) a felony or a crime involving moral turpitude or (b) a violation of any law applicable to the manufacture, transportation, possession, use, or sale of ~~marijuana~~ *cannabis* within the five years immediately preceding appointment.

**§ 4.1-611. Seed-to-sale tracking system.**

To ensure that no retail ~~marijuana~~ *cannabis* or retail ~~marijuana~~ *cannabis* products grown or processed by a ~~marijuana~~ *cannabis* establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and maintain a seed-to-sale tracking system that tracks retail ~~marijuana~~ *cannabis* from either the seed or immature plant stage until the retail ~~marijuana~~ *cannabis* or retail ~~marijuana~~ *cannabis* product is sold to a customer at a ~~retail marijuana~~ *store cannabis dispensing facility*.

**§ 4.1-614. Disposition of moneys collected by the Board.**

A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as required by § 2.2-1802.

All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred in the administration of this subtitle.

B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller to the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with the administration of this subtitle and to provide for the depreciation on the buildings, plants, and equipment owned, held, or operated by the Board. After accounting for the Authority's expenses as provided in subsection A, net profits shall be appropriated in the general appropriation act as follows:

1. Forty percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;
2. Thirty percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.8;
3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which shall distribute such appropriated funds to community services boards for the purpose of administering substance use disorder prevention and treatment programs; and

4. Five percent to public health programs, including public awareness campaigns that are designed to prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform the public of other potential risks.

C. As used in this section, "net profits" means the total of all moneys collected by the Board, less local ~~marijuana~~ *cannabis* tax revenues collected under § 4.1-1004 and distributed pursuant to § 4.1-614 and all costs, expenses, and charges authorized by this section.

D. All local tax revenues collected under § 4.1-1004 shall be paid into the state treasury as provided in subsection A and credited to a special fund, which is hereby created on the Comptroller's books under the name "Collections of Local ~~Marijuana Cannabis~~ Taxes." The revenues shall be credited to the account of the locality in which they were collected. If revenues were collected from a ~~marijuana~~ *cannabis* establishment located in more than one locality by reason of the boundary line or lines passing through the ~~marijuana~~ *cannabis* establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall provide to the Comptroller any records and assistance necessary for the Comptroller to determine the locality to which tax revenues are attributable.

On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each locality entitled to the return of its tax revenues, and such payments shall be charged to the account of each such locality under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.

**§ 4.1-621. Certain information not to be made public.**

Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records required pursuant to this subtitle; (ii) the purchase orders and invoices for retail ~~marijuana~~ *cannabis* or retail ~~marijuana~~ *cannabis* products filed with the Board by ~~marijuana~~ *cannabis* wholesaler licensees; (iii) taxes collected from, refunded to, or adjusted for any person; or (iv) information contained in the seed-to-sale tracking system maintained by the Board pursuant to § 4.1-611. The provisions of § 58.1-3 shall apply, mutatis mutandis, to taxes collected pursuant to this subtitle and to purchase orders and invoices for retail ~~marijuana~~ *cannabis* or retail ~~marijuana~~ *cannabis* products filed with the Board by ~~marijuana~~ *cannabis* wholesaler licensees.

Nothing contained in this section shall prohibit the use or release of such information or documents by the Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee, nor shall this section prohibit the Board or its employees from compiling and disseminating to any member of the public aggregate statistical information pertaining to (a) tax collection, as long as such information does not reveal or disclose tax collection from any identified licensee; (b) the total amount of retail ~~marijuana~~ *cannabis* or retail ~~marijuana~~ *cannabis* products sales in the Commonwealth by ~~marijuana~~ *cannabis* wholesaler licensees collectively; or (c) the total amount of purchases or sales submitted by licensees, provided that such information does not identify the licensee.

**§ 4.1-1100. Possession, etc., of cannabis and cannabis products by persons 21 years of age or older lawful; penalties.**

A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person 21 years of age or older may lawfully possess on his person or in any public place not more than one ounce of ~~marijuana~~ *cannabis* or an equivalent amount of ~~marijuana~~ *cannabis* product as determined by regulation promulgated by the Board.

B. Any person who possesses on his person or in any public place ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25. The penalty for any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

C. With the exception of a licensee in the course of his duties related to such licensee's ~~marijuana~~ *cannabis* establishment, any person who possesses on his person or in any public place more than one pound of ~~marijuana~~ *cannabis* or an equivalent amount of ~~marijuana~~ *cannabis* product as determined by regulation promulgated by the Board is guilty of a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or both.

D. The provisions of this section shall not apply to members of federal, state, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of ~~marijuana~~ *cannabis* is necessary for the performance of their duties.

**§ 4.1-1101. Home cultivation of cannabis for personal use; penalties.**

A. Notwithstanding the provisions of subdivision c of § 18.2-248.1, a person 21 years of age or older may cultivate up to four ~~marijuana~~ *cannabis* plants for personal use at their place of residence; however, at no point shall a household contain more than four ~~marijuana~~ *cannabis* plants. For purposes of this section, a "household" means those individuals, whether related or not, who live in the same

house or other place of residence.

A person may only cultivate ~~marijuana~~ *cannabis* plants pursuant to this section at such person's main place of residence.

B. A person who cultivates ~~marijuana~~ *cannabis* for personal use pursuant to this section shall:

1. Ensure that no ~~marijuana~~ *cannabis* plant is visible from a public way without the use of aircraft, binoculars, or other optical aids;

2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

3. Attach to each ~~marijuana~~ *cannabis* plant a legible tag that includes the person's name, driver's license or identification number, and a notation that the ~~marijuana~~ *cannabis* plant is being grown for personal use as authorized under this section.

C. A person shall not manufacture ~~marijuana~~ *cannabis* concentrate from home-cultivated ~~marijuana~~ *cannabis*. The owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to manufacture ~~marijuana~~ *cannabis* concentrate from home-cultivated ~~marijuana~~ *cannabis* within or on that property or land.

D. The following penalties or punishments shall be imposed on any person convicted of a violation of this section:

1. For possession of more than four ~~marijuana~~ *cannabis* plants but no more than 10 ~~marijuana~~ *cannabis* plants, (i) a civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2 misdemeanor for a third and any subsequent offense;

2. For possession of more than 10 but no more than 49 ~~marijuana~~ *cannabis* plants, a Class 1 misdemeanor;

3. For possession of more than 49 but no more than 100 ~~marijuana~~ *cannabis* plants, a Class 6 felony; and

4. For possession of more than 100 ~~marijuana~~ *cannabis* plants, a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or both.

#### **§ 4.1-1101.1. Adult sharing of cannabis.**

A. For the purposes of this section, "adult sharing" means transferring ~~marijuana~~ *cannabis* between persons who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i) ~~marijuana~~ *cannabis* is given away contemporaneously with another reciprocal transaction between the same parties; (ii) a gift of ~~marijuana~~ *cannabis* is offered or advertised in conjunction with an offer for the sale of goods or services; or (iii) a gift of ~~marijuana~~ *cannabis* is contingent upon a separate reciprocal transaction for goods or services.

B. Notwithstanding the provisions of § 18.2-248.1, no civil or criminal penalty may be imposed for adult sharing of an amount of ~~marijuana~~ *cannabis* that does not exceed one ounce or of an equivalent amount of ~~marijuana~~ *cannabis* products.

#### **§ 4.1-1105.1. Possession of cannabis or cannabis products unlawful in certain cases; venue; exceptions; penalties; treatment and education programs and services.**

A. No person younger than 21 years of age shall consume or possess, or attempt to consume or possess, any ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products, except by any federal, state, or local law-enforcement officer or his agent when possession of ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of consumption of ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products.

B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused.

C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

D. Any such substance abuse treatment or education program to which a person is ordered pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services or (ii) a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services agency, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

**§ 4.1-1107. Using or consuming cannabis or cannabis products while in a motor vehicle being driven upon a public highway; penalty.**

A. For the purposes of this section:

"Open container" means any vessel containing ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products, except the originally sealed manufacturer's container.

"Passenger area" means the area designed to seat the driver of any motor vehicle, any area within the reach of the driver, including an unlocked glove compartment, and the area designed to seat passengers. "Passenger area" does not include the trunk of any passenger vehicle; the area behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle or any similar vehicle; the living quarters of a motor home; or the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, including a bus, taxi, or limousine, while engaged in the transportation of such persons.

B. It is unlawful for any person to use or consume ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products while driving a motor vehicle upon a public highway of the Commonwealth or while being a passenger in a motor vehicle being driven upon a public highway of the Commonwealth.

C. A judge or jury may make a permissive inference that a person has consumed ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products in violation of this section if (i) an open container is located within the passenger area of the motor vehicle, (ii) the ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products in the open container have been at least partially removed and (iii) the appearance, conduct, speech, or other physical characteristic of such person, excluding odor, is consistent with the consumption of ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products. Such person may be prosecuted either in the county or city in which the ~~marijuana~~ *cannabis* was used or consumed, or in the county or city in which the person exhibits evidence of physical indicia of use or consumption of ~~marijuana~~ *cannabis*.

D. Any person who violates this section is guilty of a Class 4 misdemeanor.

**§ 4.1-1108. Consuming cannabis or cannabis products, or offering to another, in public place; penalty.**

A. No person shall consume ~~marijuana~~ *cannabis* or a ~~marijuana~~ *cannabis* product or offer ~~marijuana~~ *cannabis* or a ~~marijuana~~ *cannabis* product to another, whether accepted or not, at or in any public place.

B. Any person who violates this section is subject to a civil penalty of no more than \$25 for a first offense. A person who is convicted under this section of a second offense is subject to a \$25 civil penalty and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. A person convicted under this section of a third or subsequent offense is guilty of a Class 4 misdemeanor.

**§ 4.1-1109. Consuming or possessing cannabis or cannabis products in or on public school grounds; penalty.**

A. No person shall possess or consume any ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* product in or upon the grounds of any public elementary or secondary school during school hours or school or student activities.

B. In addition, no person shall consume and no organization shall serve any ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products in or upon the grounds of any public elementary or secondary school after school hours or school or student activities.

C. Any person convicted of a violation of this section is guilty of a Class 2 misdemeanor.

**§ 4.1-1110. Possessing or consuming cannabis or cannabis products while operating a school bus; penalty.**

Any person who possesses or consumes ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products while operating a school bus and transporting children is guilty of a Class 1 misdemeanor. For the purposes of this section, "school bus" has the same meaning as provided in § 46.2-100.

**§ 4.1-1112. Limitation on carrying cannabis or cannabis products in motor vehicle transporting passengers for hire; penalty.**

The transportation of ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products in any motor vehicle that is being used, or is licensed, for the transportation of passengers for hire is prohibited, except when carried in the possession of a passenger who is being transported for compensation at the regular rate and fare charged other passengers.

**§ 4.1-1302. Search without warrant; odor of cannabis.**

A. No law-enforcement officer, as defined in § 9.1-101, may lawfully stop, search, or seize any person, place, or thing and no search warrant may be issued solely on the basis of the odor of ~~marijuana~~ *cannabis* and no evidence discovered or obtained pursuant to a violation of this subsection, including evidence discovered or obtained with the person's consent, shall be admissible in any trial, hearing, or other proceeding.

B. The provisions of subsection A shall not apply in any airport as defined in § 5.1-1 or if the

violation occurs in a commercial motor vehicle as defined in § 46.2-341.4.

**§ 4.1-1500. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"CDFI" means a community development financial institution that provides credit and financial services for underserved communities.

"Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.

"Funding" means loans made from the Fund.

"Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.

"Social equity qualified cannabis licensee" means a person or business who meets the criteria in § 4.1-606 to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined by the Board, a license to operate a ~~marijuana~~ *cannabis* establishment.

**§ 54.1-2519. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by (i) a practitioner or, under the practitioner's direction, his authorized agent or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Bureau" means the Virginia Department of State Police, Bureau of Criminal Investigation, Drug Diversion Unit.

"Controlled substance" means a drug, substance or immediate precursor in Schedules I through VI of the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of this title.

"Covered substance" means all controlled substances included in Schedules II, III, and IV; controlled substances included in Schedule V for which a prescription is required; naloxone; and all drugs of concern that are required to be reported to the Prescription Monitoring Program, pursuant to this chapter. "Covered substance" also includes *medical* cannabis products dispensed by a pharmaceutical processor in Virginia.

"Department" means the Virginia Department of Health Professions.

"Director" means the Director of the Virginia Department of Health Professions.

"Dispense" means to deliver a controlled substance to an ultimate user, research subject, or owner of an animal patient by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

"Dispenser" means a person or entity that (i) is authorized by law to dispense a covered substance or to maintain a stock of covered substances for the purpose of dispensing, and (ii) dispenses the covered substance to a citizen of the Commonwealth regardless of the location of the dispenser, or who dispenses such covered substance from a location in Virginia regardless of the location of the recipient.

"Drug of concern" means any drug or substance, including any controlled substance or other drug or substance, where there has been or there is the potential for abuse and that has been identified by the Board of Pharmacy pursuant to § 54.1-3456.1.

"Prescriber" means a practitioner licensed in the Commonwealth who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance or a practitioner licensed in another state to so issue a prescription for a covered substance.

"Recipient" means a person who receives a covered substance from a dispenser and includes the owner of an animal patient.

"Relevant health regulatory board" means any such board that licenses persons or entities with the authority to prescribe or dispense covered substances, including the Board of Dentistry, the Board of Medicine, the Board of Veterinary Medicine, and the Board of Pharmacy.

**§ 54.1-2521. Reporting requirements.**

A. The failure by any person subject to the reporting requirements set forth in this section and the Department's regulations to report the dispensing of covered substances shall constitute grounds for disciplinary action by the relevant health regulatory board.

B. Upon dispensing a covered substance, a dispenser of such covered substance shall report the following information:

1. The recipient's name and address.

2. The recipient's date of birth.

3. The covered substance that was dispensed to the recipient.

4. The quantity of the covered substance that was dispensed.

5. The date of the dispensing.

6. The prescriber's identifier number and, in cases in which the covered substance is a *medical* cannabis product, the expiration date of the written certification.

7. The dispenser's identifier number.

8. The method of payment for the prescription.

9. Any other non-clinical information that is designated by the Director as necessary for the implementation of this chapter in accordance with the Department's regulations.

10. Any other information specified in regulations promulgated by the Director as required in order for the Prescription Monitoring Program to be eligible to receive federal funds.

C. Except as provided in subdivision 7 of § 54.1-2522, in cases where the ultimate user of a covered substance is an animal, the dispenser shall report the relevant information required by subsection B for the owner of the animal.

D. The reports required herein shall be made to the Department or its agent within 24 hours or the dispenser's next business day, whichever comes later, and shall be made and transmitted in such manner and format and according to the standards and schedule established in the Department's regulations.

**§ 54.1-2522.1. (Effective until July 1, 2022) Requirements of prescribers.**

A. Any prescriber who is licensed in the Commonwealth to treat human patients and is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered with the Prescription Monitoring Program by the Department of Health Professions.

B. A prescriber registered with the Prescription Monitoring Program or a person to whom he has delegated authority to access information in the possession of the Prescription Monitoring Program pursuant to § 54.1-2523.2 shall, at the time of initiating a new course of treatment to a human patient that includes the prescribing of opioids anticipated at the onset of treatment to last more than seven consecutive days, request information from the Director for the purpose of determining what, if any, other covered substances are currently prescribed to the patient. In addition, any prescriber who holds a special identification number from the Drug Enforcement Administration authorizing the prescribing of controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the patient, request information from the Director for the purpose of determining what, if any, other covered substances the patient is currently being prescribed. Nothing in this section shall prohibit prescribers from making additional periodic requests for information from the Director as may be required by routine prescribing practices.

C. A prescriber shall not be required to meet the provisions of subsection B if:

1. The opioid is prescribed to a patient currently receiving hospice or palliative care;

2. The opioid is prescribed to a patient during an inpatient hospital admission or at discharge;

3. The opioid is prescribed to a patient in a nursing home or a patient in an assisted living facility that uses a sole source pharmacy;

4. The Prescription Monitoring Program is not operational or available due to temporary technological or electrical failure or natural disaster; or

5. The prescriber is unable to access the Prescription Monitoring Program due to emergency or disaster and documents such circumstances in the patient's medical record.

D. Prior to issuing a written certification for the use of *medical* cannabis oil in accordance with § 54.1-3408.3, a practitioner shall request information from the Director for the purpose of determining what, if any, other covered substances have been dispensed to the patient.

**§ 54.1-2522.1. (Effective July 1, 2022) Requirements of practitioners.**

A. Any prescriber who is licensed in the Commonwealth to treat human patients and is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered with the Prescription Monitoring Program by the Department of Health Professions.

B. Prescribers registered with the Prescription Monitoring Program shall, at the time of initiating a new course of treatment to a human patient that includes the prescribing of benzodiazepine or an opiate anticipated at the onset of treatment to last more than 90 consecutive days, request information from the Director for the purpose of determining what, if any, other covered substances are currently prescribed to the patient. In addition, any prescriber who holds a special identification number from the Drug Enforcement Administration authorizing the prescribing of controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the patient, request information from the Director for the purpose of determining what, if any, other covered substances the patient is currently being prescribed. Nothing in this section shall prohibit prescribers from making additional periodic requests for information from the Director as may be required by routine prescribing practices.

C. The Secretary of Health and Human Resources may identify and publish a list of benzodiazepines or opiates that have a low potential for abuse by human patients. Prescribers who prescribe such identified benzodiazepines or opiates shall not be required to meet the provisions of subsection B. In addition, a prescriber shall not be required to meet the provisions of subsection B if the course of treatment arises from pain management relating to dialysis or cancer treatments.

D. Prior to issuing a written certification for the use of *medical* cannabis oil in accordance with § 54.1-3408.3, a practitioner shall request information from the Director for the purpose of determining what, if any, other covered substances have been dispensed to the patient.

**§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

Signing a birth or death certificate, or signing any statement certifying that the person so signing has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation or designation, or other language that identifies the type of practice for which he is licensed. No person regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in § 18.2-247, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this subsection shall prevent a person from including in any advertisement that such person is registered with the Board of Pharmacy to issue written certifications for the use of *medical* cannabis products, as defined in § 54.1-3408.3.

**§ 54.1-3408.3. Certification for use of cannabis oil for treatment.**

A. As used in this section:

*"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.*

*"Botanical Medical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.*

*"Medical cannabis dispensing facility" has the same meaning as set forth in § 54.1-3442.5.*

*"Cannabis Medical cannabis oil" means any formulation of processed Cannabis plant extract, which may include oil from industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or tetrahydrocannabinolic acid (THC-A) and no more than 10 20 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis Medical cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been acquired and formulated with cannabis plant extract by a pharmaceutical processor.*

*"Cannabis Medical cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of medical cannabis oil or botanical medical cannabis.*

*"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.*

*"Pharmaceutical processor" has the same meaning as set forth in § 54.1-3442.5.*

*"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.*

*"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.*

*"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.*

B. A practitioner in the course of his professional practice may issue a written certification for the use of *medical* cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his

professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology. If a practitioner determines it is consistent with the standard of care to dispense ~~botanical~~ *medical* cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for ~~botanical~~ *medical* cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a certification for the use of *medical* cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board and shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients. The Board shall not limit the number of patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.

F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and shall register such patient with the Board. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or *medical* cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or *medical* cannabis dispensing facility maintains an electronic copy of the written certification.

G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving *medical* cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

H. Upon delivery of *medical* cannabis oil by a pharmaceutical processor or *medical* cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications, may accept delivery of the *medical* cannabis oil on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the *medical* cannabis oil to the patient or resident as necessary.

I. The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in an appropriate timeframe; ~~and~~ (iii) a prohibition ~~for the patient to be issued on issuance of~~ a written certification ~~for the patient~~ by more than one practitioner during any given time period; ~~and~~ (iv) *provisions for issuance of documentation sufficient to constitute evidence of status as a registered agent, which shall include provisions for issuance of such documentation in an electronic format and issuance of such documentation in the form of a document or card. Such regulations shall include a fee for the issuance of documentation sufficient to constitute evidence of status as a registered agent, which shall not exceed \$10 for issuance of such documentation by electronic means or \$25 for issuance of such documentation in the form of a document or card.*

J. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv)



a pharmaceutical processor or *medical* cannabis dispensing facility involved in the treatment of a registered patient, or (v) a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such registered patient.

*K. No person receiving services from a designated caregiver facility shall be denied his usual or regular medications as a result of obtaining a medical cannabis certification or medical cannabis products as part of a medical cannabis program.*

#### **§ 54.1-3442.5. Definitions.**

As used in this article:

"~~Botanical~~ *Medical* cannabis," "*medical* cannabis oil," "*medical* cannabis product," and "usable cannabis" have the same meanings as specified in § 54.1-3408.3.

"~~Cannabis~~ *Medical* cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to § 54.1-3442.6; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses *medical* cannabis products produced by a pharmaceutical processor to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Designated caregiver facility" has the same meaning as defined in § 54.1-3408.3.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § 54.1-3408.3 and (ii) cultivates Cannabis plants intended only for the production of *medical* cannabis oil, ~~botanical~~ *medical* cannabis, and usable cannabis, produces *medical* cannabis products, and dispenses *medical* cannabis products to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Practitioner" has the same meaning as specified in § 54.1-3408.3.

"Registered agent" has the same meaning as specified in § 54.1-3408.3.

#### **§ 54.1-3442.6. Permit to operate pharmaceutical processor or medical cannabis dispensing facility.**

A. No person shall operate a pharmaceutical processor or a *medical* cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's dispensing area or *medical* cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five *medical* cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and *medical* cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and *medical* cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling, including (a) the ~~potency of each botanical cannabis product~~ *specific amount of delta-9-tetrahydrocannabinol and other cannabinoids per unit dose and total content of delta-9-tetrahydrocannabinol and other cannabinoids and terpenes per package of all medical cannabis products sold* and the amounts recommended by the practitioner or dispensing pharmacist, and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person *medical* cannabis products to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for *medical* cannabis oil that provide that each dispensed dose of *medical* cannabis oil not exceed ~~40~~ 20 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of usable cannabis, ~~botanical~~ *medical* cannabis, *medical* cannabis oil, and *medical* cannabis products between pharmaceutical processors, between a pharmaceutical processor and a *medical* cannabis dispensing facility, and between *medical* cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection M; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or *medical* cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring oil from industrial hemp extract and formulating such oil extract with Cannabis plant extract into allowable dosages of *medical* cannabis oil; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue

1043 written certifications and registered patients. The Board shall also adopt regulations for pharmaceutical  
1044 processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants  
1045 intended for producing *medical* cannabis products, (b) the secure disposal of agricultural waste, and (c) a  
1046 process for registering *medical* cannabis oil products.

1047 D. The Board shall require that, after processing and before dispensing any *medical* cannabis  
1048 products, a pharmaceutical processor shall make a sample available from each batch of *medical* cannabis  
1049 product for testing by an independent laboratory located in Virginia meeting Board requirements. A  
1050 valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix,  
1051 analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of  
1052 individual units for dispensing or distribution from each homogenized batch of *medical* cannabis oil is  
1053 required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be  
1054 determined by the certified testing laboratory, from each batch of ~~botanical~~ *medical* cannabis is required  
1055 to achieve a representative ~~botanical~~ *medical* cannabis sample for analysis. ~~Botanical~~ *Medical* cannabis  
1056 products shall only be tested for the following: total cannabidiol (CBD); total tetrahydrocannabinol  
1057 (THC); terpenes; pesticide chemical residue; heavy metals; mycotoxins; moisture; and microbiological  
1058 contaminants. Testing thresholds shall be consistent with generally accepted *medical* cannabis industry  
1059 thresholds. The pharmaceutical processor may remediate *medical* cannabis oil that fails any quality  
1060 testing standard. Following remediation, all remediated *medical* cannabis oil shall be subject to  
1061 laboratory testing and approved upon satisfaction of testing standards applied to *medical* cannabis oil  
1062 generally. If the batch fails retesting, it shall be considered usable *medical* cannabis and may be  
1063 processed into *medical* cannabis oil, unless the failure is related to pesticide requirements, in which case  
1064 the batch shall not be considered usable *medical* cannabis and shall not be processed into *medical*  
1065 cannabis oil. Stability testing shall not be required for any *medical* cannabis oil product with an  
1066 expiration date assigned by the pharmaceutical processor of six months or less from the date of  
1067 packaging.

1068 E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances  
1069 registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the  
1070 Board in regulation.

1071 F. Every pharmaceutical processor's dispensing area or *medical* cannabis dispensing facility shall be  
1072 under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor  
1073 or *medical* cannabis dispensing facility. The pharmaceutical processor shall ensure that security measures  
1074 are adequate to protect the *medical* cannabis from diversion at all times, and the pharmacist-in-charge  
1075 shall have concurrent responsibility for preventing diversion from the dispensing area.

1076 Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation  
1077 and production areas of the pharmaceutical processor and shall provide such information to the Board.  
1078 The Board shall direct all communications related to enforcement of requirements related to cultivation  
1079 and production of *medical* cannabis oil products by the pharmaceutical processor to such designated  
1080 person.

1081 G. The Board shall require the material owners of an applicant for a pharmaceutical processor or  
1082 *medical* cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive  
1083 information to be forwarded along with his fingerprints through the Central Criminal Records Exchange  
1084 to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information  
1085 regarding the applicant's material owners. The cost of fingerprinting and the criminal history record  
1086 search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results  
1087 of the criminal history background check to the Board or its designee, which shall be a governmental  
1088 entity. A pharmaceutical processor shall maintain evidence of criminal background checks for all  
1089 employees and delivery agents of the pharmaceutical processor. Criminal background checks of  
1090 employees and delivery agents may be conducted by any service sufficient to disclose any federal and  
1091 state criminal convictions.

1092 H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ  
1093 individuals who may have less than two years of experience (i) to perform cultivation-related duties  
1094 under the supervision of an individual who has received a degree in a field related to the cultivation of  
1095 plants or a certification recognized by the Board or who has at least two years of experience cultivating  
1096 plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree  
1097 in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and  
1098 (iii) to perform duties at the pharmaceutical processor and *medical* cannabis dispensing facility upon  
1099 certification as a pharmacy technician.

1100 I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to  
1101 five *medical* cannabis dispensing facilities for the dispensing of *medical* cannabis products that have  
1102 been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board.  
1103 Each *medical* cannabis dispensing facility shall be located within the same health service area as the  
1104 pharmaceutical processor.

J. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or *medical* cannabis dispensing facility.

K. Every pharmaceutical processor or *medical* cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical processor's dispensing area and the *medical* cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's dispensing area or *medical* cannabis dispensing facility.

M. A pharmaceutical processor may acquire industrial hemp extract processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may process and formulate such extract with cannabis plant extract into an allowable dosage of *medical* cannabis oil. Industrial hemp extract acquired by a pharmaceutical processor is subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before industrial hemp extract may be acquired.

N. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board of Pharmacy shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board of Pharmacy shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

O. The Board shall register all cannabis products that meet testing, labeling, and packaging standards.

**§ 54.1-3442.7. Dispensing medical cannabis products; report.**

A. A pharmaceutical processor or *medical* cannabis dispensing facility shall dispense or deliver *medical* cannabis products only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia as made evident to the Board, has been issued a valid written certification, and is registered with the Board pursuant to § 54.1-3408.3; (ii) such patient's registered agent; or (iii) if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or temporarily resides in Virginia as made evident to the Board and is registered with the Board pursuant to § 54.1-3408.3. A companion may accompany a registered patient into a pharmaceutical processor's dispensing area or *medical* cannabis dispensing facility. Prior to the initial dispensing of *medical* cannabis oil pursuant to each written certification, a pharmacist or pharmacy technician employed by the pharmaceutical processor or *medical* cannabis dispensing facility shall make and maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view, in person or by audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of the practitioner and the corresponding patient, registered agent, parent, or legal guardian. Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated caregiver facility. Prior to any subsequent dispensing of *medical* cannabis oil pursuant to each written certification, an employee or delivery agent shall view a current photo identification of the patient, registered agent, or legal guardian and the current board registration issued to the patient, registered agent, parent, or legal guardian. No pharmaceutical processor or *medical* cannabis dispensing facility shall dispense more than a 90-day supply of a *medical* cannabis product, as determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period; however, a pharmaceutical processor or *medical* cannabis dispensing facility may dispense more than one *medical* cannabis product to a patient at one time. No more than four ounces of ~~botanical~~ *medical* cannabis shall be dispensed for each 30-day period for which ~~botanical~~ *medical* cannabis is dispensed. A pharmaceutical processor or *medical* cannabis dispensing facility may dispense less than a 90-day supply. In determining the appropriate amount of a *medical* cannabis product to be dispensed to a patient, a pharmaceutical processor or *medical* cannabis dispensing facility shall consider all *medical* cannabis products dispensed to the patient and adjust the amount dispensed accordingly.

1166 B. A pharmaceutical processor or *medical* cannabis dispensing facility shall dispense only *medical*  
1167 cannabis products produced on the premises of a pharmaceutical processor permitted by the Board or  
1168 *medical* cannabis oil that has been formulated with oil from industrial hemp acquired by a  
1169 pharmaceutical processor from a registered industrial hemp dealer or processor pursuant to §  
1170 54.1-3442.6. A pharmaceutical processor may begin cultivation upon being issued a permit by the  
1171 Board.

1172 C. The Board shall report annually by December 1 to the Chairmen of the House Committee for  
1173 Health, Welfare and Institutions and the Senate Committee on Education and Health on the operation of  
1174 pharmaceutical processors and *medical* cannabis dispensing facilities issued a permit by the Board,  
1175 including the number of practitioners, patients, registered agents, and parents or legal guardians of  
1176 patients who have registered with the Board and the number of written certifications issued pursuant to  
1177 § 54.1-3408.3.

1178 D. The concentration of delta-9-tetrahydrocannabinol in any *medical* cannabis product on site may be  
1179 up to 10 percent greater than or less than the level of delta-9-tetrahydrocannabinol measured for  
1180 labeling. A pharmaceutical processor and *medical* cannabis dispensing facility shall ensure that such  
1181 concentration in any *medical* cannabis product on site is within such range. A pharmaceutical processor  
1182 producing *medical* cannabis products shall establish a stability testing schedule of *medical* cannabis  
1183 products.

1184 **§ 54.1-3442.8. Criminal liability; exceptions.**

1185 No agent or employee of a pharmaceutical processor or *medical* cannabis dispensing facility shall be  
1186 prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250 for  
1187 possession or manufacture of marijuana or for possession, manufacture, or distribution of *medical*  
1188 cannabis products, subject to any civil penalty, denied any right or privilege, or subject to any  
1189 disciplinary action by a professional licensing board if such agent or employee (i) possessed or  
1190 manufactured such marijuana for the purposes of producing *medical* cannabis products in accordance  
1191 with the provisions of this article and Board regulations or (ii) possessed, manufactured, or distributed  
1192 such *medical* cannabis products that are consistent with generally accepted cannabis industry standards in  
1193 accordance with the provisions of this article and Board regulations.