

**Drafted & Reviewed  
By Legal Counsel**

**s/AWCJR**

**AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BILL NO. 34-0345**

Offered by: Senators Janelle K. Sarauw, Donna A. Frett-Gregory,  
Novelle E. Francis, Jr., Marvin A. Blyden, Angel L. Bolques, Jr.,  
Samuel Carrion, Alma Francis-Heyliger, Javan E. James, Sr.,  
Franklin D. Johnson, Carla J. Joseph, and Genevieve R. Whitaker

Bill No. 34-0345 is amended as follows:

(a) By striking all the “Whereas Clauses” and inserting new “Whereas Clauses”

that reads as follows:

**“WHEREAS**, the use of Cannabis for medicinal purposes was previously legalized  
by the Legislature of the Virgin Islands and signed into law by the Governor;

**WHEREAS**, expanding the use of Cannabis provides an opportunity to generate  
needed tax revenues;

**WHEREAS**, expansion of the Cannabis industry provides additional opportunities  
including, increasing business ownership and employment opportunities for Virgin  
Islands residents;

**WHEREAS**, the legalization of Cannabis can alleviate social injustices  
experienced by persons subjected to the criminal justice system for activities related to  
the cultivation, sale and possession of Cannabis that this Act now declares legal;

**WHEREAS**, the closed economies of our relatively small islands limits economic  
opportunities of its residents, many of whom have been impacted by the prior prohibitions  
on cultivation, possession and sale of Cannabis;

**WHEREAS**, the Government of the Virgin Islands has a legitimate and compelling  
reason to bring restorative justice and social equity to those who have been impacted by

the prior criminalization of the cultivation, sale and possession of Cannabis, and to provide economic opportunities to the residents of the Virgin Islands;

**WHEREAS**, it is also appropriate to recognize certain cultural and sacramental uses of Cannabis within the Virgin Islands;

**WHEREAS**, the agencies of the Federal Government have allowed for the regulated transport of Cannabis within a State or Territory; and

**WHEREAS**, the regulated transport of Cannabis within the Virgin Islands would expand economic opportunities for residents; Now Therefore:”

(b) By striking all the language after the enactment clause and inserting new language that reads as follows:

“**SECTION 1.** Title 19 Virgin Islands Code, chapter 34 is amended and substituted in its entirety to read as follows:

**CHAPTER 34. THE VIRGIN ISLANDS CANNABIS USE ACT**

**§ 774 – Short Title**

This Act may be cited as “The Virgin Islands Cannabis Use Act”.

**§ 775 – Purpose**

This chapter establishes a regulated system for the cultivation, manufacture, and sale of Cannabis for adult, medical, and sacramental use. By establishing a regulated system, these provisions provides oversight of the cannabis industry to protect public safety, improve public health, and create economic opportunities for the Virgin Islands and its residents.

The intent of these provisions is to establish control over the commercial cultivation, manufacture, and sale of Cannabis as a business, which shall be maintained by residents of the Virgin Islands pursuant to law and regulations. Any attempts to circumvent this intent will be

deemed null and void as a matter of public policy and any agreement attempting circumvention is non-enforceable.

It is the intent of these provisions that qualified individuals who seek to use Cannabis for medicinal purposes, be afforded the opportunity to utilize certified medical cannabis authorization, with all the rights and protections contained therein.

### **§ 776 – Definitions**

As used in this chapter, the following words, terms, and phrases have the following meaning:

(a) **“Advertising”** or **“Advertisement”** means the act of providing consideration for the publication, dissemination, solicitation, or circulation of visual, oral, or written communications that induce any person to patronize a place of sale or purchase Cannabis items. “Advertising” does not include packaging and labeling, consumer education materials, or branding. “Advertising” proposes a commercial transaction or otherwise constitutes commercial speech.

(b) **“Adult Use Lounge”** means a business, pursuant to an issued permit, wherein individuals over the age of 21 may use Cannabis, commercial Cannabis products, or commercial Cannabis accessories. Said space may be public or private and may be owned by an individual, corporation, partnership, association, trust, government or entity, or any combination thereof.

(c) **“Applicant”** means a person who has applied for a Medical Cannabis Patient Card, Medical Cannabis Caregiver Card, Cannabis License, or Cannabis Permit, renewal, change of ownership, or change of location of a Cannabis License pursuant to this chapter, which application has been accepted for review but has not been approved or

denied by the OCR.

(d) **“Auto-Expungement”** means the review of criminal records of individuals convicted of Cannabis related crimes and expunging qualifying records, as determined by the Auto-Expungement report and subsequent amendments issued by the OCR.

(e) **“Bona fide Practitioner-Patient Relationship”** means:

(1) A practitioner and patient have a treatment or consulting relationship, during the course of which the practitioner has completed an assessment of the patient’s medical history and current medical condition, including an appropriate in-person physical examination;

(2) The practitioner has consulted with the patient with respect to the patient’s debilitating medical condition; and

(3) The practitioner is available or offers to provide follow-up care and treatment to the patient, including, but not limited to, patient examinations.

(f) **“Branding”** means the promotion of a business’s brand through publicizing a Cannabis business by name, logo, or distinct design features of the brand.

(g) **“Business Entity”** means a legal entity incorporated pursuant to title 13 of the Virgin Islands Code or formed under title 26 of the Virgin Islands Code, whose shareholders, officers, directors, members, partners, or owners are each resident of the Virgin Islands as required by section 786(a) and that is not publicly traded. A business entity and each of the persons who are its shareholders, officers, directors, members, partners, or owners are owners.

(h) **“Cannabis”** means all parts of the plant of the genus Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every

compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including cannabis concentrate. “Cannabis” does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with Cannabis to prepare topical or oral administrations, food, drink, or other product. “Cannabis” or does not include “Hemp” or “Industrial Hemp” as specifically defined by the United States Department of Agriculture.

(i) **“Cannabis Business”** means a Cannabis Licensee or Micro-Cultivation Permittee.

(j) **“Cannabis Business Representative”** means an owner, employee, or agent of a Cannabis Business and shall not include a Contractor or a Consultant.

(k) **“Cannabis Concentrate”** means a specific subset of Cannabis Items that were produced by extracting cannabinoids, through a solvent or non-solvent manufacturing process, from Cannabis or by combining extracted cannabinoids with Cannabis or other ingredients and are intended for use by smoking or vaporizing.

(l) **“Cannabis Cultivation License”** or **“Cannabis Cultivation Licensee”** means a person licensed pursuant to this chapter to operate a business as described in section 792 that cultivates Cannabis for sale to Cannabis Licensees.

(m) **“Cannabis Dispensary License”** or **“Cannabis Dispensary Licensee”** means a person licensed pursuant to this chapter to operate a business as described in section 794 that sells Cannabis Items.

(n) **“Cannabis Infused Product”** means any product that is comprised of Cannabis Concentrate or Cannabis Flower and other ingredients and is intended for use

or consumption other than by smoking or vaporizing, including edible Cannabis-Infused Products, Topical Cannabis-Infused Products, Transdermal Cannabis-Infused Products, and Transmucosal Cannabis-Infused Products. An extract of Cannabis that does not include any other non-cannabis ingredients but includes activated cannabinoids intended for oral administration are considered an Edible Cannabis-Infused Product.

(o) **“Cannabis Item”** means Cannabis plant material, Cannabis Concentrate, and Cannabis Infused Product.

(p) **“Cannabis Manufacturing License”** means a person licensed pursuant to this chapter to operate a business as described in section 793 that manufactures Cannabis Items for sale to other Cannabis Licensees.

(q) **“Cannabis Paraphernalia”** means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing Cannabis, or for ingesting, inhaling, or otherwise introducing Cannabis into the human body.

(r) **“Cannabis Permit”, “Cannabis Permittee”, “Permit” or “Permittee”** means a person permitted pursuant to this chapter to engage in a Cannabis related activity, unless specific provisions or context provides otherwise. Cannabis Permittees include Micro-Cultivation Permittees, Adult Use Lounge Permittee, Cannabis Use Permittee, Temporary Cannabis Use Permittee, and Onsite Consumption Permittee.

(s) **“Cannabis Product”** means concentrated Cannabis products and Cannabis products that are comprised of Cannabis and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

(t) **“Cannabis Research and Development License”** or **“Cannabis Research and Development Licensee”** means a person licensed pursuant to this chapter to operate a business as described in section 795 that engages in research and development around Cannabis testing, genetics, seed manufacturing, plant tissue cultivation and manufacturing, with the intention of developing new products and technologies.

(u) **“Cannabis Testing Facility License”** or **“Cannabis Testing Facility Licensee”** means the holder of a license issued by the OCR to perform testing on Cannabis items.

(v) **“Cannabis Use Permit”** or **“Cannabis Use Permittee”** means a person permitted pursuant to this chapter to operate a business that allows for the consumption of Cannabis in a designated area, subject to applicable regulations.

(w) **“Cardholder”** means a Qualified Patient or a Designated Caregiver who has been issued and possesses a valid Medical Cannabis Registry Card issued by the OCR.

(x) **“Child-Resistant”** means special packaging that is:

(1) Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995);

(2) Opaque so that the packaging does not allow the product to be seen without opening the packaging material; and

(3) Resealable for any product intended for more than a single-use or containing multiple servings.

(y) **“Consultant”** means a person who visits the Licensed Premises of a Cannabis Licensee on a temporary basis to perform a service related to advising a Cannabis Licensee on the cultivation, curing, processing, internal-testing, storing, packaging, labeling, manufacturing, transportation, transfer, purchase, and sale of Cannabis Items.

(z) **“Consumer Education Materials”** means any informational materials that seek to educate consumers about rules and regulations within the Cannabis industry generally, including, but not limited to, education regarding the safe consumption of Cannabis, regulated Cannabis Concentrate, or regulated Cannabis Products, provided it is not distributed or made available to individuals under 21 years of age.

(aa) **“Container”** means the sealed package in which Cannabis are placed for sale.

(bb) **“Contractor”** means a person other than a Cannabis Business Representative who visits the Licensed Premises of the Cannabis Business on a temporary basis to perform a service, maintenance, or repair in a manner that does not qualify the person as a Consultant.

(cc) **“Crime of Violence”** has the same meaning as defined in title 23, section 451(g) of the Virgin Islands Code.

(dd) **“Cultivation Facility”** means an entity registered with the OCR pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers,



transports, supplies, or sells Cannabis and related supplies to Cannabis establishments.

(ee) **“Deliver”** means the commercial transfer of Cannabis Items from a Cannabis Dispensary, up to an amount determined by the OCR, to a Qualified Patient. “Delivery” also includes the use of any technology platform that enables Qualified Patients to arrange for or facilitate the commercial transfer by a Cannabis Dispensary of Cannabis Items. All deliveries shall comply with federal laws and regulations.

(ff) **“Designated Caregiver”** means an individual identified in writing, pursuant to the provisions of title 19, chapter 11, sections 779 and 780 of the Virgin Islands Code, and who also:

- (1) is at least 21 years of age;
- (2) has been designated in writing by the Qualifying Patient or the parent or legal guardian of the Qualified Patient, and who may possess, purchase, or administer Cannabis to a Qualified Patient
- (3) has agreed to assist with a Qualified Patient’s medicinal use of Cannabis;
- (4) has not been convicted of a Disqualifying Felony Offense; and
- (5) assists no more than three Qualifying Patients, including him or herself, with their medicinal use of cannabis, unless the Designated Caregiver’s Qualifying Patients each reside in or is admitted to a health care facility or residential care facility where the Designated Caregiver is employed.

(gg) “**Designated Consumption Area**” means a designated area where adults, 21 years of age or older, are expressly permitted to consume Cannabis or Cannabis Items.

(hh) “**Disqualifying Felony Offense**” means a crime that was classified as a felony in the jurisdiction where the person was convicted, not including an offense for which the sentence was completed, including any term of probation, or supervised release, that consisted of conduct for which this chapter would likely have prevented a conviction, but the conduct either occurred prior to the enactment of this chapter or was prosecuted by an authority other than the Virgin Islands.

(ii) “**Edible Cannabis Product**” means a Cannabis-Infused Product that is intended to be taken by mouth, swallowed, and is primarily absorbed through the gastrointestinal tract. Edible cannabis-infused products may be psychoactive when used as intended. Without limitation, edible cannabis-infused products may be in the form of food, beverage, capsule, or tablet.

(jj) “**Female-operated Entity**” means a Virgin Islands entity that is owned and controlled by females who are citizens of the United States and residents of the Virgin Islands, in which not less than 51% of the ownership interest is held by females and the management and daily business operations of which are controlled by one or more females, or, in the case of a corporation that has issued stock, of which not less than 51% of the capital stock is owned by one or more females.

(kk) “**Financial Interest**” means any right or entitlement to any portion of revenue or profit from the sales of a Cannabis Business, including a Reasonable Royalty or Permitted Interest. A Financial Interest does not include an Indirect

Interest. Except as otherwise provided by this chapter, a Financial Interest holder may not exercise control over the Cannabis Business. A holder of the Financial Interest may not be a publicly traded company or consist of any other multipart corporate structure that, in the discretion of the OCR, renders it impracticable or impossible for the OCR to conduct its background investigation on all relevant parties and beneficiaries of the applicant or that limits or prevents full and direct transparency to underlying direct or indirect ownership, beneficial or otherwise.

(ll) **“Financial Interest Holder”** means any person entitled to a Financial Interest pursuant to this chapter, including a Reasonable Royalty Holder and a Permitted Interest Holder. A Financial Interest Holders is not an Unaffiliated Third Party.

(mm) **“Flowering Canopy”** means the total square feet of all Flowering Cannabis Plants on the Licensed Premises of a Cannabis Cultivation Licensee.

(nn) **“Flowering Cannabis Plant”** means a Cannabis plant in a light cycle intended to stimulate the production of flowers, trichomes, and cannabinoids characteristic of cannabis.

(oo) **“Immature Cannabis Plant”** means a Cannabis plant that is its initial vegetative stage, and has not yet entered flowering stage

(pp) **“Immediate Family Member”** means a spouse, parent, or child.

(qq) **“Indirect Interest”** means any interest in a Cannabis Business License that does not rise to the level of a Financial Interest. An Indirect Interest may include but is not limited to a person’s right to receive commercially reasonable rent payments on a fixed basis pursuant to a bona fide lease agreement, secured or

unsecured loans, or security interest in fixtures or equipment with a direct nexus to the cultivation, manufacture, sale, transportation, or testing of Cannabis, a consulting fee on a fixed basis for services that are allowed under this chapter, or a person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is based on a written incentive/bonus program that is standard and customary for the services rendered. Except as otherwise provided by these rules, an Indirect Interest holder shall neither exercise control of nor be positioned to enable the exercise of control over the Cannabis Business or Cannabis Business Licensee. A holder of an Indirect Interest is not an Unaffiliated Third Party.

(rr) **“Interest”** means any Financial Interest or Indirect Interest in a Cannabis Business or Cannabis Business License. A holder of an Interest is not an Unaffiliated Third Party.

(ss) **“Inventory Tracking System”** means an electronic tracking system approved by the OCR pursuant to section 791 that all licensees are required to utilize, that tracks Cannabis Items from either the seed or immature plant stage until the Cannabis Item is sold to a retail user or is destroyed. Cannabis Business Licensees may utilize a third-party seed-to-sale tracking system if s the system is approved by the OCR and is able to transmit the required information to the “Inventory Tracking System”.

(tt) **“Licensee” or “License”** means a person licensed pursuant to this chapter. Cannabis Licensees include Cannabis Cultivation Licensees, Cannabis Manufacturing Licensees, Cannabis Testing Facility Licensees, and Medical Cannabis Dispensary Licensees.

(uu) “**Licensed Premises**” means the premises specified in an application for a license under this chapter, which are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, or sell Cannabis Items in accordance with this chapter.

(vv) “**Limited Access Area**” means a building, room, or other contiguous areas upon the Licensed Premises where Cannabis Items are cultivated, manufactured, stored, weighed, packaged, sold, or processed for sale under control of the Licensee.

(ww) “**Majority Ownership**” or **Majority Owner**” means a person or group of persons who are owners of, or control more than 51% of the equity interest, voting rights, and profits interest in a Cannabis Business on a fully diluted basis.

(xx) “**Manager**” means any person who is not an owner or holder of a Financial Interest and to whom a licensed Cannabis Business has delegated discretionary authority to organize, direct, carry on or supervise day to day operations.

(yy) “**Medical Cannabis Patient Card**” means a document or card issued by the OCR that identifies a person as a registered Qualified Patient or registered Designated Caregiver; or documentation that is deemed a Medical Cannabis Patient Card pursuant to section 780.

(zz) “**Medical Cannabis Certification**” means a Medical Cannabis Registry Form signed by a licensed practitioner, certifying that in the practitioner’s professional opinion, the patient has a Qualified Medical Condition.

(aaa) “**Medical Cannabis Registry Form**” means a form created by the OCR for the

purposes of a practitioner certifying an individual as a Qualified Patient.

(bbb) **“Medicinal Use”** includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of Cannabis or paraphernalia relating to the administration of Cannabis to treat or alleviate a registered Qualified Patient’s debilitating medical condition or symptoms associated with the patient’s debilitating medical condition. The term does not include: the cultivation of Cannabis by a nonresident cardholder; the cultivation of Cannabis by a cardholder who is not designated as being allowed to cultivate on the cardholder’s Medical Cannabis Patient Card; or the extraction of resin from Cannabis by solvent extraction unless the extraction is done by a Cannabis product manufacturing facility.

(ccc) **“Merit-Based Application Process”** means the process, as described in sections 777 and 787, by which the OCR awards Cannabis Licenses.

(ddd) **“Micro - Cultivation Permit”** or **“Micro -Cultivation Permittee”** means an individual, or group of individuals, authorized pursuant to this chapter to operate a business at a specific location as described in section 794 that allows for the small-scale cultivation of Cannabis for commercial sale to a Cannabis Licensee.

(eee) **“Micro - Cultivation Site”** means the specific location within an address, as designated by a Micro-Cultivation Permittee, where the small-scale cultivation of Cannabis for commercial sale to a Cannabis Licensee is permitted to occur.

(fff) **“Minority Ownership”** or **“Minority Owner”** means a person who is an owner or controls less than 50% of a Cannabis Business or on a fully diluted basis.

(ggg) **“Modification of Licensed Premises”** means the substantial change in the use or structure of a Cannabis Licensee’s Licensed Premises as described in sections 790-796.

(hhh) **“Non-resident Cannabis Fee”** means a fee charged to non-resident customers of a Cannabis Dispensary as described in section 802.

(iii) **“Nonresident Medical Cannabis Patient Card”** means valid documentation that exempts the individual from criminal prosecution for the purchase, possession, and use of Cannabis for medicinal purposes under the laws of the issuing state or jurisdiction, and indicates all the following:

(1) The issuance of the card is conditioned upon a practitioner advising the individual that the medicinal use of cannabis may mitigate symptoms or effects of the person’s medical condition;

(2) The card has an expiration date or requires periodic re-evaluations, the period of required re-evaluation has not passed, and the card has not yet expired;

(3) The designated cardholder has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other person with authority to consent to the medicinal treatment of a person who has been diagnosed with a debilitating medical condition;

(4) The designated cardholder is not a resident of the Virgin Islands or who has been a resident of the Virgin Islands for less than 45 days;

(5) The card issued is currently valid and is similar to the Virgin Islands Medical Cannabis Card or the equivalent of a Medical Cannabis Card registered and authorized by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medicinal purposes in the jurisdiction of issuance;

(6) The cardholder has submitted any documentation required by the OCR and has received confirmation of registration; and

(7) The cardholder is otherwise a Qualified Patient as defined in this chapter.

(jjj) **“Office of Cannabis Regulation (“OCR”)”** means the government agency charged with implementing this chapter and administering its provisions and regulations.

(kkk) **“Onsite Consumption Permit”** means a permit issued to a Cannabis Licensee authorizing limited onsite consumption of Cannabis at the Licensed Premises.

(lll) **“Owner”** means a natural person or business entity that owns any share of stock or membership interest in a Cannabis License, including but not limited to, the officers, directors, members, or partners of the Cannabis Licensee, and any person in receipt of or who has the right to receive any share of the revenues or profits derived from the Cannabis Business that is not a Financial Interest approved by the OCR. “Owner” includes all types of legal entities, individually or as a group, that may be formed as comingled or derivative ownership structures for the purpose of being an owner or participating, in any manner, in the rights and/or privileges typically reserved for Owners. “Owner” for purposes of this chapter does not include an owner who holds the License or shares or any other interests in any entity, for which he or she is not the actual beneficial owner.

(mmm) **“Permitted Interest”** means a right to obtain an ownership interest, right to control, or share of profits or revenues in a Cannabis License pursuant to a Permitted Interest Agreement where the holder of such Permitted Interest is a natural person who is a lawful U.S. citizen whose right to ownership in the Cannabis License is contingent on the Permitted Interest Holder’s qualification, approval by the OCR, and licensure as an Owner. A “Permitted Interest” is a Financial Interest.



(nnn) **“Permitted Interest Agreement”** means the agreement between the Permitted Interest Holder and Cannabis Licensee setting forth the terms and conditions upon which the Permitted Interest Holder has a right to obtain ownership interest, right to control, or share of profits or revenues in a Cannabis License. A Permitted Interest Agreement may be in the form of a convertible debt option, option agreement, warrant or any other agreement as defined by the OCR.

(ooo) **“Permitted Interest Holder”** means the holder of a Permitted Interest. A “Permitted Interest Holder” is a Financial Interest Holder and must be a natural person who is a lawful U.S. citizen.

(ppp) **“Person”** means a natural person, partnership, association, company, corporation, limited liability company, organization, trust or similar entity, estate, joint venture, or a Manager, agent, owner, director, servant, officer, or employee thereof; except that “Person” does not include any governmental organization.

(qqq) **“Pesticide”** means (1) a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. For the purposes of this chapter, the definition includes herbicides regulated under Federal Insecticide, Fungicide and Rodenticide Act.

(rrr) **“Practitioner”** means a person who is licensed and in good standing in the Virgin Islands as a medical doctor, osteopath, naturopath, homeopath, chiropractor, practitioner’s assistant who maintains, in good standing, a license to practice medicine issued by the Virgin Islands or with respect to any non-resident medical cannabis card, any practitioner or other person qualified under the laws of the jurisdiction of residence of any non-resident to prescribe

Cannabis.

(sss) **“Qualifying Medical Condition”** means:

1. Cancer;
2. Glaucoma;
3. Positive status for Human Immunodeficiency Virus (HIV);
4. Acquired Immune Deficiency Syndrome (AIDS);
5. Hepatitis C;
6. Amyotrophic Lateral Sclerosis (ALS);
7. Crohn’s Disease;
8. Parkinson's Disease;
9. Post-Traumatic Stress Disorder;
10. Multiple Sclerosis;
11. Severe nausea;
12. Autism;
13. Any condition for which a practitioner would prescribe an opiate for pain; or
14. Any other conditions as certified in writing by a practitioner that, in the

professional opinion of the practitioner, the potential benefits of the medicinal use of cannabis would likely outweigh the health risks for the Qualified Patient.

(ttt) **“Qualified Patient”** means (1) an individual 21 years of age or older with legal responsibility for their own medical decisions and who possesses a valid, signed Medical Cannabis Certification Form or Nonresident Medical Cannabis Card, or (2) an individual less than 21 years of age or who otherwise is not legally responsible for their own medical decisions, with a valid, signed Medical Cannabis Certification Form or

Nonresident Medical Cannabis Patient Card and consent of their legal parent or guardian for the above Medical Cannabis Patient Cards.

(uuu) **“Reasonable Royalty”** means a right to a royalty payment for the use of licensed Intellectual property in the form of technology, brands, trade secrets, trademarks, copyrights, or other intellectual property approved by the OCR related to the production, sale, or distribution of Cannabis or Cannabis Items based on the value of gross revenue generated from the manufacturing or processing of Cannabis or Cannabis Products. While no specific percentage of such revenue can be deemed reasonable for purposes of this section, whether a rate is reasonable is subject to the discretion of the OCR pursuant to factors set forth by the OCR in accordance Virgin Islands law, and in no event shall the OCR approve an agreement for a Reasonable Royalty where the agreements transfer more than 30% of the gross wholesale revenue of the Cannabis Business derived from the use of the licensed intellectual property to the Reasonable Royalty Holder.

(vvv) **“Reasonable Royalty Holder”** means any person who receives a Reasonable Royalty in exchange for a Licensee’s use of the Reasonable Royalty Holder’s intellectual property. A Reasonable Royalty Holder may not exercise control over the Cannabis Business unless the holder is also an owner. Notwithstanding anything herein to the contrary, provisions in licensing agreements whereby the Reasonable Royalty Holder imposes reasonable requirements to protect its intellectual property, standard and customary in the agreements, may not be considered evidence of control over a Cannabis Business. The provisions include, but are not limited to, quality controls and regulations governing marketing and advertising. A Reasonable Royalty Holder is a Financial Interest Holder.

(www) **“Resealable”** means that the package continues to function within the

effectiveness specifications, which are established by the OCR similar to the federal “Poison Prevention Packaging Act of 1970”, 15 U.S.C. sec. 1471 *et seq.*, for the number of openings and closings customary for its size and contents.

(xxx) **“Resident”** means any natural person who currently resides in the Territory and has resided in the Territory for 10 of the last 15 years prior to applying for any license or permit, or who qualifies under title 29, section 1003(9)(c) of the Virgin Islands Code, in addition to and including those who would have graduated from a high school in the Virgin Islands but for a temporary re-location due to a natural disaster; and who maintains residency in the Territory and who is subject to personal income tax in the Territory for the entire period such person holds title to a license or permit.

(yyy) **“Resident-Owned Business”** means a business enterprise owned by an individual who is, or by a majority number of individuals, who meets the definition of Resident.

(zzz) **“Restricted Access Area”** means a designated and secure area within a Licensed Premises where Cannabis and Retail Cannabis Products are sold, possessed for sale, and displayed for sale, and where no one under the age of 21 is permitted.

(aaaa) **“Sacramental Usage” or “Sacramental Use”** means lawful use and means of production, transport, and location of use by persons over the age of 21 who are members of an organized religion or faith that is incorporated under title 13 of the Virgin Islands Code who use Cannabis in the sincere exercise of their religion or faith as may be prescribed by the OCR.

(bbbb) **“Sale” or “Sell”** means to exchange for remuneration, to solicit or receive, and order through a Licensee licensed under this chapter, to deliver for value in any way other than gratuitously, to peddle or possess with intent to sell, or to traffic in for any consideration.

(cccc) **“School”** means a child-care or day-care facility, public or private preschool, or

a public or private elementary, middle, junior high, or high school.

(dddd) **“Service-Disabled Veteran”** means a veteran who is a citizen of the United States and resident of the Virgin Islands pursuant to 29 V.I.C. §1003(9), with a service-connected disability as determined by the United States Department of Veterans Affairs or who has been terminated from military service by reason of disability by the United States Department of Defense.

(eeee) **“Service-Disabled Veteran-Operated Entity”** means a Virgin Islands entity that is owned and controlled by service-disabled veterans in which not less than 51% of the ownership interest is held by service-disabled veterans and the management and daily business operations of which are controlled by one or more service-disabled veterans, and whose majority ownership also meets the Residency requirement in § 786(a)(7) or, in the case of a corporation that has issued stock, of which not less than 51% of the capital stock is owned by one or more service-disabled veteran, on a fully diluted basis.

(ffff) **“Shipping Container”** means any container or wrapping used solely for the transport of Cannabis Items in bulk to other Cannabis Licensees.

(gggg) **“Smoking”** means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains Cannabis. Smoking does not include vaporization, sublimation, or any other chemical.

(hhhh) **“Temporary Cannabis Use Permit”** or **“Temporary Cannabis Use Permittee”** means a person permitted to organize and operate an event that allows for the consumption of Cannabis in a designated area, subject to applicable regulations

(iiii) **“Transportation Manifest”** means a document created by the Inventory Tracking System that enables a Cannabis Licensee to transport Cannabis Items and designates

the time, the quantity of Cannabis Items, and receipt of Cannabis Items.

(jjjj) **“Unaffiliated Third Party”** means, in the case of a Cannabis Dispensary or Cannabis Production Licensee, a person who has no ownership or financial interest, direct or indirect, in that Cannabis Dispensary or Cannabis Manufacturing Licensee and, in the case of a Cannabis Dispensary, a person who has no ownership or financial interest, direct or indirect, in that Cannabis Dispensary or Cannabis Manufacturing business. A Financial Interest Holder or a person who holds an Indirect Interest is not an Unaffiliated Third Party.

(kkkk) **“Unreasonably Impracticable”** means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a Cannabis Business establishment is not worthy of being carried out in practice by a reasonably prudent business person.

(llll) **“Written Certification”** means a document dated and signed by a practitioner, stating that in the practitioner’s professional opinion the patient is likely to receive therapeutic or palliative benefit from the medicinal use of Cannabis to treat or alleviate the patient’s debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification must affirm that it is made during a bona fide practitioner-patient relationship and must specify the Qualified Patient’s Qualifying Medical Condition.

#### **§777. Office of Cannabis Regulation.**

(a) There is created, the Office of Cannabis Regulation (“OCR”), as part of the Department of Licensing and Consumer Affairs, with the executive authority to implement this chapter and administer the provisions including, but not limited to, rulemaking authority. The OCR shall exercise its powers and perform its respective duties and functions as specified in this chapter and shall have full and exclusive authority to:

(1) Promulgate rules and regulations related to the cultivation, manufacture, sale, dispensary, testing, licensing, and use of Cannabis, prescriptive use of Cannabis, and Sacramental Use being necessary for efficient administration of its duties, as set forth in this chapter not later than 180 days of enactment of this chapter; and may include any amendments to such regulations from time to time. No regulation adopted by the OCR, shall make it unreasonably impracticable to operate or issue any licenses or permits;

(2) Establish reasonable production limits governing the cultivation of Cannabis, in the interest of preventing oversaturation within the Territory;

(3) Establish defined geographical zones within which Cannabis cultivation, manufacturing, production, dispensing, consumption, and related business activities may occur as a means of facilitating control and enforcement;

(4) Promulgate rules and regulations related to the inter-island transport of Cannabis Items between Cannabis Licensees under this chapter. Before enacting any rules and regulations on inter-island transport of Cannabis items, the OCR shall seek formal and legal approval from all relevant local and federal entities.

(5) Grant or refuse licenses for the commercial cultivation, manufacture, distribution, and sale of Cannabis as provided by law;

(6) Establish the form and content of registration and renewal applications submitted under this chapter and to establish license, permit and application fees;

(7) Grant or refuse Permits for the Micro-Cultivation of Cannabis as provided by law;

(8) Establish a Merit-Based Application Process to evaluate competing Cannabis Business applicants that includes an analysis of:

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

(B) the character, veracity, background, qualifications, and relevant experience of applicants, owners, investors, officers and any other relevant proposed Cannabis Business Representatives;

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

(D) the business plan proposed by the applicant, which, in the case of cultivation facilities and dispensaries must include the ability to maintain an adequate supply of Cannabis, plans to ensure safety and security of patrons, and the protection of the community, as well as procedures to be used to prevent diversion of Cannabis products, and any plan for making Cannabis available to low-income registered Qualified Patients;

(E) the participation of Female-operated Entities, service-disabled veteran-operated entities, and individuals or groups who have been adversely impacted by the criminal justice system for activities that this chapter now declares legal.

(9) Establish procedures governing Cannabis Businesses with the goals of ensuring the health and safety of all users and preventing diversion and theft from the businesses without imposing an undue burden or compromising the confidentiality of users, including:

(A) oversight requirements;

(B) recordkeeping requirements;

(C) security requirements, including lighting, physical security, and alarm



requirements;

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

(E) standards for the manufacture of Cannabis products, and both the indoor and outdoor cultivation of Cannabis by cultivation facilities;

(F) requirements for the transportation and storage of Cannabis by Cannabis Businesses; including requirements that transportation manifests be kept for all transportation of medicinal Cannabis;

(G) requirements for banking and transportation of cash deposits;

(H) employment and training requirements, including requiring that each Cannabis establishment create an identification badge for each agent;

(I) standards for the safe manufacture of Cannabis products, including extracts and concentrates;

(J) restrictions on the advertising, signage, and display of Cannabis Dispensaries, but the restrictions may not prevent appropriate signs on the property of a Cannabis Dispensary, listings in business directories, including phone books, listings in Cannabis-related or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events;

(K) requirements and procedures for safe, accurate and appropriately childproofed packaging and labeling of Cannabis products; and

(L) certification standards for testing facilities, including requirements for independence from Cannabis Businesses whose products are tested by such testing facilities, and equipment and qualifications for personnel;

(10) Establish the social equity plan as described in section 799.

(11) Establish labeling requirements for Cannabis and Cannabis Products, including requiring that edible Cannabis Products be clearly identifiable, when practicable, with a standard symbol indicating that it contains cannabis, and requiring that Cannabis Products' labels include the following, where applicable:

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

(B) warnings to limit additional consumption while waiting for edible cannabis to enter the bloodstream and be fully absorbed;

(C) disclosure of ingredients and possible allergens;

(D) a nutritional or supplement fact panel;

(E) date of expiration; and

(F) name and address of the manufacturer.

(12) Suspend, fine, restrict, or revoke the licenses or permits upon a violation of this chapter or any rule promulgated pursuant to this chapter;

(13) Impose any penalty authorized by this chapter or any rule promulgated pursuant to this chapter; and

(b) The OCR shall be governed by an eleven-member board known as the Virgin Islands Cannabis Advisory Board ("the Board"), appointed by the Governor with advice and consent of the Legislature.

(1) The Board must be comprised of: one representative of the Department of Health; one representative of the Department of Agriculture; one representative of the Department of Licensing and Consumer Affairs; one farmer recommended by the Commissioner of Agriculture who is unaffiliated with any Cannabis Business Licensees

or Permittees or Practitioners; two healthcare practitioners knowledgeable in Cannabis medicine recommended by the Board of Medical Examiners, a member of the business community who is unaffiliated with any Cannabis Business Licensees or Permittees or Practitioners, one disability advocate; one representative from the University of the Virgin Islands; one economist or person with expertise in finance; one representative from the Department of Tourism; and the Director of the OCR who serves as an *ex officio* voting member. The term of each member's appointment shall be three years and shall serve and be enabled to vote and be qualified to meet a quorum until a successor is appointed and qualified.

(2) The Board shall meet no less than six times per year for the purpose of providing oversight and establishing policies to be carried out by the OCR.

(3) Members of the Board who are employed by the Government are not entitled to a per diem for their service on the Board, but non-governmental members are entitled to a \$75 per day per diem.

(4) The Board shall establish a program of regular collaboration with the Industrial Hemp Commission established under title 7 Virgin Islands Code, chapter 13, subchapter III, section 207 for discussion on areas of related regulation.

(5) Quorum for meetings and proceedings of the Board shall be established by the presence of six or more members.

(c) Notwithstanding anything provided herein to the contrary, the Board shall further establish:

(1) a Virgin Islands Cannabis Testing Facility on each of the three major islands—St. Croix, St. Thomas and St. John—initially operated by private entities

awarded annual contracts using the Government of the Virgin Islands' Request for Proposal process, with the Board retaining the authority to establish and direct construction of its own Cannabis Testing facilities at a later date;

(2) educational and certification requirements for Cannabis Business applicants, Licensees, Cannabis Business Representatives, Practitioners; and Cannabis-related businesses including, vendors, transporters, security companies, and other service providers;

(3) an approved list of Cannabis Business vendors and qualified Sacramental Usage organizations;

(4) rules to ensure that all cannabis establishments are located in and advertised in areas that do not negatively impact enterprises and entities that rely primarily on family and youth participation, such as schools and houses of worship. Rules must address street-level and media-based advertising and marketing guidelines, to ensure that advertising and marketing does not negatively impact family-based enterprises and civic organizations. Rules must also provide that each Cannabis Business must always have comprehensive security systems in place.

(5) an approved list of credit unions and other banking institutions, and security firms that Cannabis Businesses can legally and safely utilize.

(6) a recommended list of third-party vendors licensed to do business in the Virgin Islands that Cannabis Businesses can utilize.

(d) All rules promulgated by the Board must be published on a Virgin Islands official website. The Board shall provide not less than 30 days for public comment. Not later than 30 days after the period for public comment, the Board shall publish the final rules and proceed

with the implementation of the program in accordance with the rules.

(e) The Board shall appoint the Director of the Office of Cannabis Regulation for a three-year term, which may be extended. The Director of the OCR has the responsibility to ensure:

(1) the ability of Qualifying Patients in all areas of the Territory to obtain timely access to Cannabis;

(2) the effectiveness of the dispensaries and cultivation facilities, individually and together, in serving the needs of all users, including the provision of educational and support services by dispensaries, the reasonableness of their prices, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the Territory's residents and visitors;

(3) the effectiveness of the Cannabis Testing Facilities;

(4) the sufficiency of the regulatory and security safeguards contained in this chapter and adopted by the OCR, to ensure that access to and the use of Cannabis cultivated are provided only to those legally permitted to consume Cannabis;

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

(6) that research studies regarding the health effects of Cannabis for Qualified Patients and other users are encouraged and conducted.

(f) The Director shall hire additional staff as may be required to implement the requirements of this chapter, including consultants, but the OCR must become self-sufficient from the taxes or fees generated not later than two years after the enactment of this chapter.

(g) The Director shall submit a bi-annual administrative report to the Board, the

Commissioner of the Department of Licensing and Consumer Affairs, briefly outlining the staff roles, any changes to administrative policies, and any potential administrative issues or needs.

(h) The Director shall submit an annual report to the Governor, the Commissioner of Department of Licensing and Consumer Affairs (DCLA); the Legislature of the Virgin Islands, Committee on Health; and the Board. The annual report must comprehensively outline compiled data on the program, accomplishments, challenges and recommended regulation changes, including:

(1) The number of applications for each type of license or permit processed by the OCR in the prior calendar year, the time between submission of a complete application, the number of licenses and permits approved or denied by type, and the total number of active licenses and permits by type that were valid on a monthly basis for the prior calendar year;

(2) An overview of the Cannabis market, including but not limited to actual cultivation and sales volumes for the prior year and anticipated demand and production levels;

(3) The amount of revenue generated by Cannabis, including but not limited to taxes, application and License fees, and any other fees paid to the OCR, as well as expenses incurred by the OCR; and

(4) Enforcement measures imposed, and a list of Licensees or Permittees against whom enforcement measures were taken.

(i) All inspectors and regulatory enforcement officials of the OCR are peace officers pursuant to 5 V.I.C. § 3561.

(j) The OCR shall promulgate rules and adopt policies designed to maintain the

confidentiality of individually identifiable patient information and records, as well as any confidential or proprietary business information and records. These types of confidential and federally protected records shall also be exempt from the Virgin Islands Public Records law in title 3, chapter 33 of the Virgin Islands Code. The records and information that the OCR obtains, shall remain confidential but, unless release is ordered by a court of competent jurisdiction, are not limited to information about a business's operations, sales, financial records, tax returns, credit reports, cultivation information, testing regulations, security information and plans, or any revealing patient information. Any employee of the OCR or the Board, or any entity contracting with or working for the OCR or the Board, directly or indirectly, who discloses any confidential records or information that the OCR or the Board obtains, shall be subject to criminal prosecution punishable by a minimum of one year of imprisonment or a fine of \$1000.

(l) The Office of Cannabis Regulation is responsible for establishing and overseeing an OCR Enforcement Division, which is tasked with enforcement of all civil, criminal, and regulatory violations related to Cannabis. The Enforcement Division, in collaboration with the Industrial Hemp Commission established under title 7 Virgin Islands Code, chapter 13, subchapter III, section 207, will also be responsible for defining and assisting in the enforcement of the lawful cultivation, manufacture, sale and use of hemp. The OCR Enforcement Division has all the powers of any peace officer to:

1. Investigate violations or suspected violations of this chapter and any rules promulgated pursuant to it. Make arrests, with or without warrant, for any violation of this chapter, any rules promulgated pursuant to it, any other laws or regulations pertaining to Cannabis in this Territory, or any criminal law of this Territory, if, during an officer's

exercise of powers or performance of duties pursuant to this chapter the officer believes probable cause exists that a crime related to these laws has been or is being committed;

2. Serve all warrants, summons, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating Cannabis;

3. Assist or aid any law enforcement officer in the performance of his duties upon the law enforcement officer's request or the request of other local officials having jurisdiction;

4. Inspect, examine, or investigate any licensed premises, and any books and records in any way connected with any licensed activity;

5. Require any licensee, upon demand, to permit an inspection of a licensed premises, during business hours or at any time of operation, Cannabis equipment, and Cannabis accessories, or books and records, and, to permit the testing or examination of Cannabis Items;

6. Conduct investigations into the character, criminal history, and all other relevant factors related to suitability of all licensees, permittees, Third Party Vendors, Cannabis Business Representatives, and applicants for Licenses and Permits, and such other persons with a direct or indirect interest in a Cannabis Business or potential Cannabis Business; and

7. Exercise any other power or duty authorized by law and in furtherance of the requirements of this chapter.

The OCR shall collaborate with the Virgin Islands Police Department to ensure that the requirements of this chapter and the rules promulgated by the OCR are enforced 24 hours per



day, seven days per week. The OCR shall fund and arrange for any necessary training for the Virgin Islands Police Department officers to enforce the provisions of this chapter.

(m) All private entities awarded contracts to serve as a Cannabis Testing Facility shall hire 60% of its entire workforce, full-time and part-time, as Virgin Islands residents, and may not have, among its ownership interests or workforce, any conflicting ownership interest of any form with a Cannabis Business establishment in the Territory that will be the subject of such testing services. A Virgin Islands resident for purposes of this subsection is a resident who qualifies under 29 V.I.C. §1003(9).

### **§778. Licenses and Permits**

(a) The OCR may issue the following types of licenses and permits, which entitles the holder of the license or permit to all the privileges and impose all the restrictions on the holder of license or permit as set forth in this chapter and any rules adopted thereto:

- (1) Cannabis Cultivation License;
- (2) Cannabis Manufacturing License;
- (3) Cannabis Dispensary License;
- (4) Cannabis Research and Development License;
- (5) Cannabis Testing Facility License;
- (6) Adult-Use Lounge Permit;
- (7) Cannabis Use Permit;
- (8) Cannabis Temporary Use Permit;
- (9) Onsite Cannabis Consumption Permit; and
- (10) Micro-Cultivation Permit;

(b) All licenses and permits must be issued to a specific person at a defined location,

except that this provision does not prevent a person from applying for more than one license type identified in (a)(1) – (4) of this section that is intended to be operated at the same defined location provided that co-location of the license would not result in a violation of this chapter. The person and location associated with a permit or license may only be changed under the limited circumstances authorized by this chapter and requires approval from the OCR.

(c) All licenses and permits are valid for one year unless the OCR authorizes a shorter term.

(d) The OCR shall determine the final number of licenses and permits that the OCR will based on statistical analysis of supply and demand, public safety concerns, and market survey analyses. The OCR shall consider market and other circumstances in each island district in determining the final number of licenses and permits. In no event shall the number of licenses exceed the quantities set forth in § 787. Two years after the issuance of the first license, the number of licenses must be reviewed, and the OCR shall make written recommendations to the Legislature for possible changes to the limits on numbers of Cannabis Dispensary and Cultivation Licenses.

(e) The application, annual and renewal fees charged to all licensees, permittees, Qualified Patients, and Designated Caregivers shall be determined by the Board unless otherwise provided in this chapter.

(f) Renewal fees are charged annually in an amount equal to the application fees or as otherwise determined by the Board. The Board has the discretion to adjust all license fees annually.

(g) If the OCR revokes a license, a licensee elects to surrender a license, or the OCR issues new or additional licenses, the OCR shall conduct a Merit-Based Application Process to

determine whether a new Cannabis License of the same type should be issued.

(h) A license authorized by this chapter and issued by the OCR may not be held by, or issued to, directly or indirectly, any person or any Immediate Family Member of any person who, at any time within the previous 12 months, held elected office in the executive or legislative branches of the Government of the Virgin Islands, or was employed by the Department of Licensing and Consumer Affairs, the OCR, or who was a member of the Board. No person shall be precluded from owning stock in a publicly-traded corporation on the basis of this provision alone.

### **§779. Qualified Patients**

(a) A Qualified Patient is entitled to all the protections and rights set forth in this chapter.

(b) Possession limits for Qualified Patients:

- (1) Four ounces of Cannabis;
- (2) One ounce of Cannabis Concentrate; and
- (3) Two ounces of Cannabis Products.

(c) A Qualified Patient, who is also a resident, may possess, use, grow, process, or transport no more than six Flowering Cannabis Plants and six Immature Cannabis Plants for personal medicinal use, provided that the Cannabis Plants are cultivated on private property with the express consent of the landowner and the Cannabis produced from these plants is not sold, nor made available for sale. Notwithstanding the possession limits set forth in subsection (b), a Qualified Patient may possess all the Cannabis produced by Cannabis Plants cultivated at that address provided the cultivation is within the limits set forth herein. The OCR shall set a reasonable

annual fee for Qualified Patients or Designated Caregivers to engage in personal use cultivation as per this section, not to exceed 100.

(1) Notwithstanding the above, there may be no more than 12 Flowering Medical Cannabis Plants and 12 Immature Cannabis Plants for personal medicinal use cultivated at any time at a single address unless a Micro-Cultivation Permit has been issued to that address.

(2) Flowering Cannabis Plants cultivated pursuant to a Micro-Cultivation Permit are not “for personal use”, provided the plants and all Cannabis produced from those plants are clearly segregated and not comingled with the Cannabis Plants for personal medicinal use.

**(d)** Nothing in the chapter shall protect, nor be interpreted to protect, a Cannabis user, including a Qualified Patient, from prosecution for:

(1) Operating a motor vehicle or vessel on the road or waters of the Virgin Islands while impaired by Cannabis. Impairment from the use of Cannabis by any individual authorized to use Cannabis pursuant to this chapter is not determined solely by the presence of cannabinoids in the individual’s blood or urine, and the courts shall instead consider other relevant evidence;

(2) Transfer of Cannabis to any person for remuneration, unless transferor possesses a current and valid license or permit and the transfer is conducted in accordance with this chapter;

(3) Knowingly consuming Cannabis Items in a public place that does not possess a valid Adult Use Lounge Permit, Cannabis Use Permit, or Temporary Cannabis Use Permit; or

- (4) Display or transfer of Cannabis within 1,000feet of a cruise ship dock in Charlotte Amalie, Havensight or Crown Bay in St. Thomas and not less than 500 feet of primary cruise ship dock in Frederiksted or not less than 500 feet of a cruise ship tender pier in Cruz Bay.
- (e) A Qualified Patient may designate a Designated Caregiver, who may acquire, possess, cultivate, or administer Cannabis upon the Qualified Patient's behalf. A Designated Caregiver for a Qualified Patient under 21 years of age or not legally responsible for his or her own medical decisions must be designated by that patient's parent or legal guardian.

**§780. Medical Cannabis Certification Forms, Medical Cannabis Registry, Medical Cannabis Patient Cards**

- (a) The OCR shall create and publish a Medical Cannabis Registry Form for practitioners to certify that an individual has a Qualifying Medical Condition and would benefit from access to the medicinal use of Cannabis. The Department of Health shall provide advice and guidance on the creation of the form.
- (b) The OCR shall create and publish a specific Medical Cannabis Registry Form for Qualified Patients under 21 years of age or not in control of their own medical decisions, which shall require the Qualified Patient's parent or legal guardian's name and signature.
- (c) The OCR shall notify the Department of Health if it has reason to suspect that a practitioner is providing individuals with a Medical Cannabis Certification Form in a fraudulent manner or in violation of this chapter.
- (d) Evidence of a practitioner's attestation and signature on Medical Cannabis

Registry Forms, certifying an individual as a Qualified Patient, shall be sufficient to provide the individual with all protections entitled to a Qualified Patient.

- (e) A practitioner shall only recommend the medicinal use of Cannabis and provide an individual with a Medical Cannabis Certification Form after the performance of an in-person examination and determination that the individual has a Qualifying Medical Condition and would benefit from the medicinal use of Cannabis.
- (f) A practitioner that has an interest in or obtains any financial benefit from a licensee may not provide an individual a Medical Cannabis Certification Form, nor may that Practitioner's Medical Cannabis Certification be used as the basis for providing an individual with a Medical Cannabis Certification Form.
- (g) Prior to completing a Medical Cannabis Certification Form for Qualified Patients under 21 years of age or who are not legally responsible for their own medical decisions, a practitioner must obtain the signature of the Qualified Patient's parent or legal guardian.
- (h) A practitioner shall include an expiration date on all Medical Cannabis Certification Forms that shall not exceed two years from the date of issuance for residents of the Virgin Islands, and that shall not exceed six months from the date of issuance for non-residents. The definition of "resident" for purposes of qualifying for the medicinal use of Cannabis, is any individual who has resided in the Virgin Islands for more than 45 days.
- (i) The OCR shall create a Medical Cannabis Patient Registry and issue Medical Cannabis Patient Cards to Qualified Patients that submit a valid application.
  - (1) The Medical Cannabis Patient Registry, as well as any information obtained

in relation to an application to the registry, shall remain confidential and exempt from the Virgin Islands public records law in title 3, chapter 33 of Virgin Islands Code.

- (2) A Qualified Patient may apply to the OCR to be listed within the Medical Cannabis Patient Registry and receive a Medical Cannabis Patient Card. The OCR will provide qualified applicants a Medical Cannabis Patient Card that must include, but need not be limited to, the following information:
    - (A) The name of the cardholder;
    - (B) A designation that the cardholder is a Qualified Patient;
    - (C) A random alphanumeric number assigned to the Qualified Patient for purposes of identification in the Medical Cannabis Patient Registry;
    - (D) A phone number and web address where the validity of the Medical Cannabis Patient Card can be verified pursuant to the request of the Qualified Patient; and
    - (E) The expiration date of the Medical Cannabis Patient Card, which must be the same as the date on the Qualified Patient's Medical Cannabis Registry Form.
  - (3) A valid Medical Cannabis Card will be considered the legal equivalent of a valid and signed Medical Cannabis Patient Registry Form.
  - (4) A Designated Caregiver shall be required to possess a Medical Cannabis Caregiver Card to possess or administer Cannabis on behalf of a Qualified Patient.
- (j) If the Qualified Patient designates a Designated Caregiver, OCR may designate

whether the Qualified Patient or Designated Caregiver will be allowed to possess and cultivate Cannabis plants for the Qualified Patient's medicinal use.

**(k)** If the Qualified Patient is unable to submit the information required under subsection (a) due to the persons' age or medical condition, the person responsible for making medical decisions for the Qualified Patient may do so on behalf of the Qualified Patient.

**(l)** The OCR shall:

(1) verify the information contained in an application or renewal submitted pursuant to this chapter and approve or deny an application no later than 15 days or renewal not later than five days after receiving a completed application or renewal application; and

(2) issue Medical Cannabis Patient Cards to a Qualified Patient and the Designated Caregivers, if any, not later than five days after approving the application or renewal. A Designated Caregiver must have a Medical Cannabis Patient Card for each Qualified Patient for whom the Designated Caregiver is responsible.

**(m)** The OCR may conduct a background check of the prospective Designated Caregiver.

**(n)** The OCR may not issue a Medical Cannabis Patient Card to a Qualified Patient who is younger than 21 years of age unless:

(1) the Qualified Patient's practitioner has explained the potential risks and benefits of the medicinal use of Cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the Qualified Patient; and



- (2) the custodial parent or legal guardian with responsibility for health care decisions for the Qualified Patient consents in writing to:
- (A) allow the Qualified Patient's medicinal use of Cannabis;
  - (B) serve as the Qualified Patient's Designated Caregiver; and
  - (C) control the acquisition of the Cannabis, the dosage, and the frequency of the medicinal use of Cannabis by the Qualified Patient.
- (o) The OCR may deny an application or renewal of a Qualified Patient's Medical Cannabis Patient Card only if the applicant:
- (1) did not provide the required information, fee, or materials;
  - (2) previously had a Medical Cannabis Patient Card revoked; or
  - (3) provided false information.
- (p) The OCR may deny an application or renewal for a Designated Caregiver chosen by a Qualified Patient whose Medical Cannabis Patient Card was granted only if:
- (1) the Designated Caregiver does not meet the requirements of title 19, chapter 11, section 207 of the Virgin Islands Code;
  - (2) the applicant did not provide the required information;
  - (3) the Designated Caregiver previously had a Medical Cannabis Patient Card revoked; or
  - (4) the applicant or the Designated Caregiver provided false information.
- (q) The OCR shall give written notice to the Qualified Patient of the reason for denying the issuance of a Medical Cannabis Patient Card to the Qualified Patient or to the Qualified Patient's Designated Caregiver.
- (r) Denial of an application or renewal is considered a final OCR action, subject to an

administrative appeal, as more fully described herein. Denial of the administrative appeal is subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court of the Virgin Islands.

- (s) Until a Qualified Patient who has submitted an application and the required fee to the OCR receives a Medical Cannabis Patient Card or a rejection, a copy of the individual's application, written certification, serves as proof that the application was submitted to the OCR and is considered a valid Medical Cannabis Patient Card.
- (t) Until a Designated Caregiver whose Qualified Patient has submitted an application and the required fee receives Medical Cannabis Patient Card or a rejection, a copy of the Qualified Patient's application, written certification, serves as proof that the application was submitted to the OCR and is considered a valid Medical Cannabis Patient Card.
- (u) Written certifications issued within the previous year are considered Medical Cannabis Patient Cards for a Qualified Patient, for not less than 25 days after the OCR makes applications available for renewal.
- (v) Written certifications issued within the previous year are considered a Designated Caregiver Medical Cannabis Patient Card for not less than 25 days after the OCR makes applications available for renewal if the following occurs:
  - (1) a copy of a Qualified Patient's valid written certification was issued within the previous year; and

- (2) a signed affidavit attesting that the person has significant responsibility for managing the well-being of the patient and that the person has been chosen to assist the Qualified Patient.

**§ 781. Verification system**

- (a) The OCR shall maintain a confidential list of the persons to whom the OCR has issued Medical Cannabis Patient Cards and their addresses, phone numbers, and registry identification numbers. This confidential list may not be combined or linked in any manner with any other list or database, nor may it be used for any purpose not provided for in this chapter.
- (b) The OCR shall establish a secure phone or web-based verification system. The verification system must allow law enforcement personnel and Cannabis Businesses to enter a registry identification number and determine whether the number corresponds with a current, valid Medical Cannabis Patient Card. The system must disclose only:
  - (1) whether the identification card is valid;
  - (2) the name of the cardholder;
  - (3) whether the cardholder is a Qualified Patient or a Designated Caregiver; and;
  - (4) whether the cardholder is permitted to cultivate Cannabis plants; and
  - (5) the registry identification number of any affiliated registered Qualified Patient to a Designated Caregiver.

**§ 782. Notifications to OCR and responses**

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

- (1) A registered Qualified Patient shall notify the OCR of any change of name or address, or if the registered Qualified Patient ceases to have a debilitating medical condition, not later than 10 days after the change.
  - (2) A registered Designated Caregiver shall notify the OCR of any change of name or address, or if the Designated Caregiver becomes aware that the Qualified Patient is deceased, not later than 10 days after the change.
  - (3) Before a registered Qualified Patient changes his Designated Caregiver, the Qualified Patient shall notify the OCR.
  - (4) When a registered Qualified Patient changes his preference as to who may cultivate Cannabis for the Qualified Patient, the Qualified Patient shall notify the OCR.
  - (5) If a cardholder loses his or her Medical Cannabis Patient Card, he shall notify the OCR not later than 10 days after becoming aware the card has been lost.
- (b)** Each notification a registered Qualified Patient is required to make may instead be made by the patient's Designated Caregiver if the Qualified Patient is unable to make the notification due to his age or medical condition.
- (c)** When a cardholder notifies the OCR of items listed in subsection (a), but remains eligible under this chapter, the OCR shall issue the cardholder a new Medical Cannabis Patient Card with a new random 10-digit alphanumeric identification number not later than 10 days after receiving the updated information and a fee

in accordance with OCR's rules. If the person notifying the OCR is a registered Qualified Patient, the OCR shall also issue his registered Designated Caregiver, if any, a new Medical Cannabis Patient Card not later than 10 days after receiving the updated information.

- (d) If the registered Qualified Patient's certifying Practitioner notifies the OCR in writing that either the registered Qualified Patient has ceased to suffer from a debilitating medical condition or that the Practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medicinal use of Cannabis, the card becomes void.

### **§ 783 – Qualified Patient's Bill of Rights**

- (a) Activities related to medicinal use Cannabis are unlawful unless they are conducted in accordance with this chapter.
- (b) In accordance with the rights and limitations set forth in this chapter, a Qualified Patient, Designated Caregiver, or the parent or legal guardian of a Qualified Patient under 18 years of age, shall not be denied any right or privilege, or be subject to arrest, prosecution, or penalty in any manner, including any civil penalty or disciplinary action by a court or occupational or professional licensing board for:
  - (1) The possession, use, display, transport, process, or transfer of Cannabis Items;
  - (2) The purchase of Cannabis Items from a Licensed Cannabis Dispensary
  - (3) The manufacturing of Cannabis into Cannabis Concentrate or Cannabis Items without the use of solvents and in a manner, that does not pose harm to others;

and

- (c) A Qualified Patient may not have any personal property related to Cannabis, including any Cannabis Items and Cannabis Paraphernalia, seized, or forfeited solely for conduct that is permitted under this chapter.
- (d) Possession of, or application for, a Medical Cannabis Certification or Medical Cannabis Patient Card pursuant to this chapter does not alone constitute probable cause or reasonable suspicion, nor shall it be used to support a search of the person or property of the holder of a Medical Cannabis Certification or Medical Cannabis Patient Card, or otherwise subject the person or property of the person to inspection by any governmental agency.
- (e) Possession, use, display, transport, process, or transfer of Cannabis Items or Cannabis Paraphernalia by a Qualified Patient does not alone constitute probable cause or reasonable suspicion, nor shall it be used to support a search of the person or property of the holder of a Medical Cannabis Certification or Medical Cannabis Patient Card, or otherwise subject the person or property of the person to inspection by any governmental agency.
- (f) No landlord may refuse to lease to, and may not otherwise penalize, a person solely for the person's status as a Qualified Patient unless failing to do so would violate federal law or regulations or cause the landlord to lose a monetary or licensing-related benefit under federal law or regulations. A landlord may not be penalized or denied any benefit under territorial law for leasing to a Qualified Patient. No landlord shall be penalized for seeking a smoke-free environment in such leased premises.

- (g) No school may refuse to enroll, or otherwise penalize, a person solely for his or her status as a Qualified Patient unless failing to do so would cause it to lose a monetary or licensing-related benefit under federal law or regulations. No school may be penalized or denied any benefit under territorial law for enrolling a Qualified Patient.
- (h) A Qualified Patient who is a student may not possess or self-administer Cannabis Items on school grounds, upon a school bus, or at any school-sponsored event, except that a parent, guardian, or Designated Caregiver, or a practitioner, or nurse practitioner approved by the student's parent or guardian, may possess and administer Cannabis Items in a non-smokable form to a Qualified Patient upon the grounds of the school in which the student is enrolled, or upon a school bus or at a school-sponsored event. The parent, guardian, school nurse, practitioner, or nurse practitioner may not administer the non-smokable Cannabis in a manner visible to other students, that creates a disruption to the educational environment, or that causes exposure to other students.
- (i) A school may not deny eligibility to attend school to a student who holds a valid Cannabis Certification because the student requires Cannabis Items in a non-smokable form as a reasonable accommodation necessary for the child to attend school.
- (j) This section does not apply to a school if:
- (1) The school loses federal funding as a result of implementing this section;
  - (2) The school can reasonably demonstrate that it lost federal funding because of implementing this section; and

- (3) The school posts on its website in a conspicuous place a statement regarding its decision not to comply with this section.
- (k) No employer is required to allow the consumption of Cannabis in any workplace or to allow any employee to work while under the influence of Cannabis. Similarly, a Qualified Patient may not be protected from sanctions for engaging in activities under the influence of Cannabis in a manner that is a violation of a privileged license. However, a registered Qualified Patient may not be considered under the influence of Cannabis solely because of the presence of metabolites or components of Cannabis that appear in sufficient concentration to cause impairment.
- (l) For the purposes of providing medical care, including organ and tissue transplants, a Qualified Patient's use of Cannabis Items pursuant to this chapter are considered the equivalent of the authorized use of any other medication used at the discretion of a practitioner and does not constitute the use of an illicit substance or otherwise disqualify a Qualified Patient from receiving or being eligible to receive needed medical care.
- (m) A person may not be denied custody of, or visitation rights, or parenting time with a minor for the person's status as a Qualified Patient, and there may be no presumption of neglect or child endangerment for conduct allowed under this chapter unless the person's behavior is such that it creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence.
- (n) An employer is not required to permit or accommodate conduct otherwise allowed by this chapter in the workplace or on the employer's property. An



employer may discipline an employee for violation of a workplace drug policy or for working while under the influence of Cannabis. An employer may discharge, discipline, or otherwise take adverse employment action against a person with respect to tenure, terms, conditions, or privileges of employment because of that person's violation of a workplace drug policy during work hours or in the workplace.

**§ 784. Affirmative Defenses and Dismissal for Medicinal Use of Cannabis**

- (a) Except as otherwise provided herein, a person may assert the medicinal purpose for using Cannabis as a defense to any prosecution involving Cannabis, and the defense is presumed valid where the evidence shows that:
- (1) a practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a Bona Fide Practitioner-Patient Relationship, the patient has a debilitating Qualifying Medical Condition and the potential benefits of using Cannabis for medicinal purposes would likely outweigh the health risks for the person;
  - (2) the person, if issued a valid Medical Cannabis Patient Card by the OCR, was in possession of not more than 4.0 ounces of Cannabis, the amount of Cannabis products is within the limits allowed by OCR regulations,
  - (3) the person was engaged in the acquisition, possession, use, manufacture, or transportation of Cannabis, paraphernalia, or both,

relating to the administration of Cannabis to treat or alleviate the individual's debilitating Qualifying Medical Condition or symptoms associated with the individual's debilitating Qualifying Medical Condition; and

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

- (1) The person had a Medical Cannabis Patient Card revoked for misconduct; or
- (2) The purposes for the possession or cultivation of Cannabis were not solely for palliative or therapeutic use by the individual with a debilitating Qualifying Medical Condition who raised the defense.

(c) If an individual demonstrates the individual's medicinal purpose for using Cannabis, the individual is not subject to the following:

- (1) disciplinary action by an occupational or professional licensing board or bureau; or
- (2) forfeiture of any interest in or right to any property other than Cannabis.

### **§785 Possession Limits for Adult Users**

An adult over the age of 21 may possess up to:

- (a) Two ounces of Cannabis;
- (b) Fourteen grams of Cannabis Concentrate; and
- (c) One ounce of Cannabis Products.

### **§786. Application Requirements and Ownership Restrictions**

- (a) Ownership; Minimum Requirements for Cannabis License:.
- (1) An applicant for a Cannabis License must be composed of owners, principals, or members, each of whom is 21 years of age or older and meets the suitability requirements set forth in this chapter.
  - (2) Only owners may control or hold a partnership interest, limited or general, a joint venture interest, or ownership of a share or shares in a Licensee.
  - (3) An applicant for a license that is a Business Entity must be organized under title 13 or title 26 of the Virgin Islands Code.
  - (4) A license may not be held by a person comprised of individuals, any of whom has been convicted of a Disqualifying Felony Offense.
  - (5) An applicant for a license must demonstrate that they possess available funds in their control and financial capital as required by the OCR, which includes evidence in the form of bank statements, irrevocable lines of credit, or the equivalent showing that the applicant has sufficient resources to operate.
  - (6) A licensee shall submit to the OCR for approval all Financial Interests and each holder of a Financial Interest must be approved by the OCR before such Financial Interest holder may accept any portion of the licensee's revenue, or exercise any of the privileges of the Financial Interest.
  - (7) Residency Requirement. All partnerships, employee cooperatives, associations, nonprofit corporations, corporations, and limited

liability companies applying for ownership of a license must be formed under the laws of the Virgin Islands with its principal place of business in the Virgin Islands. Majority Owners must be residents of the Virgin Islands, as defined in § 776(xxx). If a licensee does not have a Majority Owner, then at least 51% of the entity holding the license, on a fully diluted basis, must be owned by residents of the Virgin Islands as defined in § 776(xxx).

- (b) Control. No person other than an owner has the authority to exercise control over a licensee. It is unlawful and a violation of public safety for any person who is not an owner to have control over the management or day-to-day operations of the licensee. Authority given to a Manager approved by the OCR to manage day-to-day operations of the licensee under the direction of the owners is not considered control for the purposes of this chapter. Whether a person exercises control is determined by whether the person takes or is authorized to take the following actions:
- (1) Exercises final decision-making authority over operations of the business;
  - (2) Directs the day-to-day operation of the business, except that Managers may direct the day-to-day operations subject to oversight by owners pursuant to a lawful employment contract;
  - (3) Is liable for the taxes and fees or other obligations of the licensee;
  - (4) Acknowledges liability for the Licensee's taxes and fees;
  - (5) Has authority to disburse funds of the business other than the receipt

of regularly replaced items of stock;

(6) Makes final policy decisions relative to the operations of the business;

or

(7) Has voting rights or the right to obtain voting rights in the Licensee.

**(c)** Ongoing Suitability Requirements. An applicant for a license has an affirmative duty to notify the OCR in writing of: (i) any Disqualifying Felony Offense under sections 776(hh) and 791(c)(5) against an owner not later than 10 days of the person's arrest and not later than 10 days of disposition; or (ii) any change in residency disqualifying any owner pursuant to section 786(a)(7), not later than 10 days after the change. Upon determination by the OCR that an owner associated with the licensee is no longer suitable under this chapter, the licensee has 90 days to remove the disqualified person from association with the license unless otherwise extended by the OCR for good cause. Failure to remove the disqualified person in accordance with this section may be grounds for denial, suspension, revocation, or administrative action.

**(d)** Requirements Applicable to Financial Interest Holders.

(1) Approval Required. A licensee shall disclose all Financial Interests at the time of the initial application, change of ownership, change of business structure, renewal, and at any other time requested by the OCR. A licensee may not permit any person to hold a Financial Interest in a license unless and until the person's Financial Interest has been disclosed to and approved by the OCR. It is unlawful to fail to

completely report all Financial Interests in each license. Failure to seek pre-approval of a Financial Interest or Financial Interest Holder may form the basis for denial or administrative action against the licensee. Each Financial Interest in a license and any amendment, transfer, or assignment of a Financial Interest must be approved.

(2) Required Agreement. A licensee seeking to apply for a Financial Interest shall submit a copy of the contract between the licensee and the proposed Financial Interest Holder. The agreement between the parties must be approved by the OCR and is void and of no effect until and unless approved by the OCR. The agreement is subject to rules promulgated by the OCR, which must at a minimum:

(A) Prevent the transfer or assignment of the Financial Interest, and must contain a provision requiring that any funds exchanged pursuant to the agreement may not be provided until the OCR approves the agreement in writing;

(B) Include representations and warranties by the Financial Interest Holder that its investment is passive and has no entitlement or expectation of being able to have any control, participation in, or investment in the licensee except as permitted in the agreement as approved by the OCR;

(C) Include representations and warranties by all parties that the agreement and the relationship between the parties is contingent upon approval of the OCR and that the proposed

Financial Interest Holder has no entitlement to or expectation of the OCR approving the Financial Interest;

(D) Contain an acknowledgment that the agreement and relationship between the parties is contingent upon the approval of the OCR; and

(E) Contain an acknowledgment and agreement by both parties that the decision of the OCR to approve or deny the Financial Interest is final and wholly discretionary and any administrative or judicial review of the determination by the OCR will only occur through licensing or enforcement proceedings involving the licensee.

(3) Investigation and Disclosures.

(A) The OCR shall conduct a financial investigation as well as a criminal background investigation of all Financial Interest Holders to determine whether the Financial Interest Holder is qualified. After licensure, a Financial Interest Holder must continue to disclose the source of funds for all money relating to the Financial Interest in the license. The OCR must approve these funds prior to the funds being used in any manner by the licensee.

(B) As a part of its application, a licensee seeking to obtain approval of a Financial Interest shall provide evidence to establish that the person seeking to become a Financial Interest Holder,

including all members of any business entity seeking to become a Financial Interest Holder, are lawful residents of the United States, and shall provide documentation satisfactory to the OCR verifying and confirming the funds used for the Financial Interest were lawfully earned or obtained.

(C) The OCR may deny an application for a Financial Interest Holder, or any person who may participate in such interest if its investigation of the applicant results in a determination that the holder is not suitable to hold a Financial Interest, is not of good moral character, or has not fully disclosed its sources of funds or interest in the license.

(4) Ongoing Suitability Requirement.

(A) The Financial Interest Holder and the licensee is subject to an ongoing duty to disclose in writing to the OCR all events which may reasonably disqualify the Financial Interest Holder from having an Interest in a License, no later than 10 days after receiving notice of the event.

(B) If at any time the OCR finds any Financial Interest Holder is not qualified, the OCR may require the licensee to terminate its relationship, including but not limited to all financial relations, with the Financial Interest Holder within a specified time by providing written notice to the licensee. Failure to terminate the relationship and financial ties within the



specified time may be a basis for administrative action against the licensee.

(5) Requirements-Permitted Interest Holders.

(A) An application for a Permitted Interest must be initiated by the licensee and must include a sworn affirmation from the applicant and proposed Permitted Interest Holder on forms prescribed by the OCR that the Permitted Interest Holder will not exercise control, or have any right to control, the license, until such time as the Permitted Interest Holder is licensed as an owner.

(B) Conversion from a Permitted Interest to an owner occurs pursuant to rules promulgated by the OCR and the terms of the Permitted Interest Agreement between the licensee and Permitted Interest Holder, but in no event can the conversion occur until such time as the Permitted Interest Holder meets all qualifications for licensure and ownership pursuant to this chapter and any rules promulgated pursuant to this chapter.

(C) The licensee or Permitted Interest Holder may initiate a conversion of a Financial Interest to Owner pursuant to the terms of the Permitted Interest Agreement by application to the OCR.

(D) The approval of the Permitted Interest Holder by the OCR is wholly discretionary, and the OCR may, at any time, deny

approval of the Permitted Interest or find that the Permitted Interest is no longer qualified. The Permitted Interest shall be terminable immediately upon such determination.

(6) Requirements-Reasonable Royalty Holders.

(A) An application for a Reasonable Royalty must be initiated by the licensee pursuant to rules promulgated by the OCR and must include a sworn affirmation from the applicant and proposed Reasonable Royalty Holder on forms prescribed by the OCR that the Reasonable Royalty Holder will not exercise control, or have any right to control, the licensee except as otherwise permitted by this chapter or the rules promulgated thereto. Any violation of this section may be the basis for criminal or administrative action against the applicant for a license or Financial Interest.

(B) The approval of the Reasonable Royalty Holder by the OCR is wholly discretionary, and the OCR may, at any time, deny approval of the Reasonable Royalty or find that the Reasonable Royalty Holder is no longer qualified. The Reasonable Royalty shall be terminable immediately upon such determination.

**§787. License Application Process**

(a) The OCR shall create and furnish forms for the application for a license and promulgate regulations governing the application, review, issuance, denial, and renewal of a license.

- (b) In accordance with the provisions set forth in section 778, the OCR may issue the following licenses on the island of St. Thomas:
- (1) Up to seven Cannabis Dispensary Licenses; and
  - (2) Up to 15 Cannabis Cultivation Licenses.
- (c) In accordance with the provisions set forth in section 778, the OCR may issue the following Cannabis Licenses on the Island of St. John:
- (1) Up to three Cannabis Dispensary Licenses; and
  - (2) Up to five Cannabis Cultivation Licenses.
- (d) In accordance with the provisions set forth in section 778, the OCR may issue the following Cannabis Licenses on the Island of St. Croix:
- (1) Up to seven Cannabis Dispensary Licenses; and
  - (2) Up to 15 Cannabis Cultivation Licenses.
- (e) A licensee that receives a Cannabis Dispensary License may also receive a Cannabis Cultivation License. The remaining Cannabis Cultivation Licenses authorized for issuance above must be issued to persons that do not possess a Cannabis Dispensary License. Notwithstanding this subsection, a Cannabis License is transferable in accordance with this chapter and there is no requirement that a Cannabis Dispensary Licensee must possess a Cannabis Cultivation License.
- (f) The OCR may issue additional licenses after January 1, 2025, provided it has conducted a study demonstrating that demand for Cannabis Items in the Virgin Islands exceeds or is projected to exceed within 24 months the current supply of Cannabis Items being produced by all Cannabis Manufacturing Licensees, Cannabis Cultivation Licensees, and Micro-Cultivation Permittees.

(g) Merit-Based Application Process. The OCR shall only issue licenses pursuant to a formal Merit-Based Application Process, whereby Cannabis Licenses are awarded to persons with the highest application score for the specific license type and on the specific island being sought based on certain criteria set forth by the OCR.

(1) The regulations governing a Merit-Based Application Process, including the process for scoring and points allocated, shall be adopted no later 60 days prior to the application deadline. The criteria must include consideration of the following in a points-based system:

- (A) Past Virgin Islands taxes paid and evidence of compliant return filing and payment of taxes;
- (B) Experience of the applicant in operating a regulated business;
- (C) Whether an applicant has had a license suspended or revoked for operating a Cannabis Business;
- (D) Proposed odor filtration systems;
- (E) Criminal background;
- (F) Proposed security measures;
- (G) Proposed operating plans;
- (H) Proposed staff training plans;
- (I) Proposed Inventory Tracking and illicit diversion prevention plans;
- (J) Proposed community engagement and cooperation plans including evidence of support from community members;
- (K) Evidence of adequate capital and liquidity;
- (L) Evidence of charitable contributions or scholarships;

- (M) Evidence that the applicant is a female-operated entity and/or a service-disabled veteran-operated entity,
  - (N) Evidence that the applicant, includes in its proposed ownership class, individuals who have been adversely impacted by the criminal justice system for activities that this chapter now declares legal, including, but not limited to individuals who are members of groups who have been subject to unjust targeting by the criminal justice system for sacramental activities that utilize Cannabis.
- (2) Other criteria subject to evaluation include establishing a system to evaluate competing applications for Adult Use Lounge Permit, such as:
- (A) an analysis of the geographical area in which the proposed Adult Use Lounge would operate, including with respect to information on criminal activity in the area;
  - (B) the proximity of the proposed adult use lounge to any existing or prospective Cannabis Dispensaries; and
  - (C) the proximity of the proposed Adult Use Lounge to any school or religious institution, and
  - (D) promotion and ensuring the safety and health of consumers.
- (3) The OCR shall review all applications submitted to a Merit-Based Application Process and publish a list of successful applicants, as well as the score for each applicant, no later than 90days after the application deadline.
- (4) The OCR shall promulgate rules governing the requirements for a license application, which shall include, at a minimum:

- (A) Applicant's fingerprints;
- (B) Personal history information concerning the applicant's qualifications for a license based on forms prepared by the OCR, including at a minimum the name, all mailing addresses for the past 15 years, e-mail address, telephone number, and social security number of each proposed owner and Financial Interest Holder;
- (C) If the applicant for a license or Financial Interest is a business entity, the following:
- i. If the applicant is a partnership, including a limited partnership, the name and percentage interest of each partner holding any interest in the partnership on both a current and on a fully diluted basis, the partnership agreement, and certification of residency for each partner;
  - ii. If the applicant is a limited liability company, the name and percentage interest each member holding any membership interest, the limited liability company agreement, the name of each officer, and certification of residency for each member, on both a current and on a fully diluted basis;
  - iii. If the applicant is a corporation, each owner of any of the corporation's stock, the certificate of corporation, a copy of its articles of incorporation or organization, the name of each corporate officer, a list of all shareholders with a percentage of ownership, and certification of residency for each shareholder, on both a current and on a fully diluted basis;
  - iv. A list of all officers with day-to-day operational control over the business.
- (D) For each business entity, owner, and Financial Interest Holder of an applicant,

all requested information concerning financial and controlling associations and interests of other persons associated with the business, and classes of stock or membership interests, on both a current and on a fully diluted basis;

(E) Evidence that the applicant is qualified to do business in the Virgin Islands;

(F) Supporting documentation to establish the following:

- i. That the applicant, including each majority owner, meets the residency requirement in section 776(xxx) including the dates when residency in the Virgin Islands began for each resident that has any ownership interest in the applicant;
- ii. That all owners and Cannabis Business Representatives of the applicant are not less than 21 years of age; and
- iii. That the applicant and its Cannabis Business Representatives do not have any Disqualifying Felony Offense as set forth in section 776(hh).

(G) Identify all civil litigation in the past 10 years and all criminal convictions in the person's history for any owner, Financial Interest Holder, Cannabis Business Representative, executive officer, director, and Manager of the applicant;

(H) A description of the corporate structure of the applicant, including any parent, intermediary, or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded on a securities exchange and whether the person bears any relationship to the licensee on both a current and on a fully diluted basis;

(I) A description of all outstanding securities, including a clear diagram with descriptions of corporate structure, capitalization, and ownership including

- voting rights, of the applicant and its holding company's subsidiary and intermediary companies and a list of all holders thereto on both a current and on a fully diluted basis;
- (J) For each license applicant and Financial Interest Holder, documentation verifying and confirming the lawful source of funds used for the operation of the proposed business;
- (K) The address and a detailed diagram of the proposed Licensed Premises showing all areas of ingress, egress, placement of cameras, and boundaries of the premises;
- (L) Proof of possession of the proposed Licensed Premises by applicant;
- (M) A proposed emergency response plan;
- (N) An affidavit by each owner and Financial Interest Holder declaring, under penalty of perjury, that the information contained in its application is accurate, true and complete in all material aspects.
- (O) Federal employer identification number of the applicant;
- (P) Proof of application for a Virgin Islands business license;
- (Q) Remittance of the required fees.

**§788. Permit Application Process**

- (a) The OCR shall create and furnish forms for the application for a permit and promulgate regulations governing the application, review, issuance, denial, and renewal of a permit.
- (b) The OCR shall only issue a permit to an applicant that meets the minimum criteria contained in this title and any rules adopted thereto.
- (1) A Micro-Cultivation Permit shall only be issued to a single individual, with a valid



- farming license from the Department of Agriculture, at a specific location.
- (2) Micro-Cultivation Permittees must be current residents of the Virgin Islands for not less than three years and must have no less than seven years of cumulative residency during the permittee's lifetime, by the date of application. A Micro-Cultivation Permit shall immediately become void if the permittee ceases to be a Virgin Islands resident.
  - (3) A Cannabis Use Permit may be issued to persons at a specific location.
  - (4) A Temporary Cannabis Use Permit may be issued to persons at a specific location.
  - (5) An Adult Use Lounge Permit may be issued to persons at a specific location.
  - (6) An Onsite Consumption Permit may be issued to persons that possess a Cannabis Cultivation License and at the location where a Cannabis Cultivation License is issued.
- (c) For individuals associated with the application for a Cannabis Permit, the OCR shall review the criminal history and history of compliance with this chapter and any rules adopted thereto prior to issuing a Cannabis Permit. A Cannabis Permit may not be issued to an individual that has discharged the sentence for a conviction for a Disqualifying Felony Offense.
- (d) The OCR shall review and may conduct a site-visit of the location for which the Cannabis Permit is sought.

### **§789. Renewals**

- (a) The OCR shall create and furnish forms for the renewal of an existing license or permit and create rules governing procedures for the renewal of an existing license or permit.
- (b) Ninety days prior to the expiration date of an existing License or Permit, the OCR shall

notify the licensee or permittee of the expiration date by first-class mail at the licensee's address of record with the OCR.

- (c) A licensee or permittee shall apply for the renewal of an existing license or permit to the OCR not less than 30 days prior to the date of expiration without being subject to penalty.
- (d) The OCR shall adopt policies governing the administrative continuance of a license or permit that has expired pending review of a renewal application.
- (e) A licensee or permittee may not exercise the privileges of its license or permit past its expiration date unless the OCR has administratively continued the license or permit.

#### **§790. Other Applications to the OCR**

- (a) A licensee or permittee may not make changes to its location, ownership, or Licensed Premises, without approval from the OCR.
- (b) Change in Ownership.
  - (1) A licensee or permittee may not undergo any change in ownership, whether adding or removing owners or adjusting equity amongst owners, without prior approval from the OCR. A license or permit granted under the provisions of this chapter is not transferable except as provided for in this chapter.
  - (2) A Micro-Cultivation Permit may not have its ownership transferred.
  - (3) A Licensee or Permittee shall apply for a Change of Ownership on forms prepared and furnished by the OCR, in accordance with all rules adopted hereto. In determining whether to approve or deny a transfer of ownership, the OCR shall consider the requirements of this chapter and any rules promulgated hereto.
  - (4) A change in ownership or business structure of any license or permit issued pursuant

to this chapter is prohibited unless all proposed owners of the license or permit meet criminal background and suitability requirements as required by this chapter.

- (5) A change in Majority Ownership of any license or permit issued pursuant to this chapter is prohibited for one year after the date the license or permit is issued unless the licensee or permittee can demonstrate that a transfer of ownership is made necessary by death or disability of the licensee or permittee, substantial financial hardship, or other reasons as determined by the OCR in accordance with criteria established in regulations.
- (6) No application for transfer of ownership or change in the business structure of any licensee or permittee shall be approved by the OCR until all taxes, any fines, penalties, and interest assessed against or imposed upon the licensee or permittee in relation to the licensed business are paid in full.

(c) Change of Location

- (1) A licensee or permittee may not undergo any change in a location without prior approval from the OCR.
- (2) A licensee or permittee shall apply for approval to change its location on forms prepared and furnished by OCR. In determining whether to approve or deny a transfer of ownership, the OCR shall consider the requirements of this chapter and any rules promulgated hereto.
- (3) A license or permit issued pursuant to this chapter is prohibited from changing location to a different island within the Virgin Islands or any location outside of the Virgin Islands.
- (4) A licensee or permittee may move the permanent location of its Licensed Premises

to any other place within the island where the license or permit was issued once permission to do so is granted by the OCR. In permitting a change of location, the OCR shall consider all reasonable restrictions that are or may be placed upon the new location.

(d) Modification of Licensed Premises

- (1) A licensee or permittee may not materially modify its Licensed Premises, Micro-Cultivation Site, or Designated Consumption area without prior approval from the OCR.
- (2) A licensee or permittee shall apply for a Modification of Licensed Premises on forms prepared and furnished by the OCR. In determining whether to approve or deny a Modification of Licensed Premises request, the OCR shall consider the requirements of the chapter and any rules promulgated hereto.
- (3) The OCR shall adopt rules governing when a Licensee or Permittee shall be required to submit a Modification of Licensed Premises form.

**§791. Requirements For All License Types**

- (a) The OCR shall establish an Inventory Tracking System to remotely monitor and track all Cannabis from the acquisition of seeds or clones through sale or delivery of a finished product to the consumer.
  - (1) The system must provide for real-time access by the OCR, licensees, permittees, and law enforcement personnel, to the extent that they are authorized to receive or submit the information to comply with, enforce, or administer this chapter.
  - (2) The Inventory Tracking System utilized by the OCR shall support interoperability with third-party software applications, including seed-to-sale tracking systems, and

- allow all licensee-facing system activities to be performed through a secure application programming interface (“API”) or comparable technology, which is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology must have version control and provide adequate notice of updates to third-party applications. The system must provide a test environment for third-party applications to access, which mirrors the production environment.
- (b) licensees or permittees may be permitted to transport Cannabis between Licensed Premises, provided the transportation is conducted in accordance with rules promulgated by the OCR.
  - (c) An individual who performs work on behalf of a licensee or permittee must qualify as an owner, Cannabis Business Representative, Consultant, or Contractor.
    - (1) A licensee or permittee shall not hire anyone to work or engage anyone to perform services who is under the age of 21.
    - (2) A Cannabis Business Representative must be a resident of the Virgin Islands on the date of hire or engagement and for the duration of the performance of work on behalf of the licensee or permittee and pursuant to the applicable residency requirement, whether an owner, employee, or agent.
    - (3) A consultant may not spend more than 90 days per annum within the Licensed Premises of the Cannabis Businesses unless the consultant has received a waiver from the OCR, which must be approved if the Cannabis Business can demonstrate commercial necessity.
    - (4) A licensee shall conduct a criminal background check on all Cannabis Business

Representatives and consultants prior to the date of hire or engagement.

- (5) A licensee may not permit individuals whose criminal history includes a conviction for a Disqualifying Felony Offense, or a Crime of Violence for which the sentence has not been discharged within the preceding five years, to act as a Cannabis Business Representative or Consultant.
  - (6) A licensee and permittee shall maintain a current list of all Cannabis Business Representatives and Consultants at its Licensed Premises.
  - (7) A licensee and permittee shall maintain documentation evidencing that all Cannabis Business Representatives and/or consultants were over the age of 21 upon the date of hire or engagement, have had an annual criminal background check for every year since the date of hire or engagement, and meets all applicable residency requirements.
  - (8) A licensee and permittee shall maintain documentation evidencing a written policy that requires all Cannabis Business Representatives and Consultants to sign an attestation to disclose all criminal convictions.
  - (9) Aside from customers, any individuals entering a Licensed Premises that is not an owner, Cannabis Business Representative, Consultant or Contractor of a Cannabis Licensee shall only be admitted as a visitor and subject to the rules promulgated by the OCR that shall include, but need not be limited to, age requirements, monitoring requirements, and visitor identification badges requirements. All visitors must be at least 21 years of age. Visitors may include contractors engaged for the purposes of service, repair, or maintenance.
- (d) All licensees shall develop and implement an on-site training curriculum or enter into

contractual relationships with outside resources capable of meeting Cannabis Business Representative training needs. Training shall include but not be limited to professional conduct, ethics, and territory and federal laws regarding patient confidentiality; informational developments in the field of medicinal use of Cannabis; the proper use of security measures and controls that have been adopted; and specific procedural instructions for responding to an emergency, including robbery or violent accident.

- (e) licensees and permittees shall secure its Licensed Premises in accordance with the rules promulgated by the OCR, which must include but need not be limited to standards for lighting, physical security, video surveillance, alarm systems, and waste disposal.
- (f) licensees may not advertise in a manner that has a high likelihood of reaching minors in violation of regulations promulgated by the OCR that must include but shall not be limited to restrictions on:
  - (1) Mass media advertising on television, radio, and the internet;
  - (2) Outdoor advertising; and
  - (3) Event sponsorship, except with the express approval of the OCR.
- (g) The consumption of Cannabis Items is not permitted upon the Licensed Premises of a licensee unless duly authorized by an appropriate permit.
  - (1) A licensee may permit the use of Cannabis Items by Qualified Patients in an alternate location subject to an Adult Use Lounge Permit, Cannabis Use Permit or Cannabis Temporary Use Permit.
  - (2) Cannabis Cultivation Licensee that has been issued an Onsite Consumption Permit may permit the consumption of Cannabis Items within its Licensed Premises in a Designated Consumption area and in accordance with all requirements of its permit.

- (h) A Cannabis Licensee may not sell any Cannabis Items, nor transfer from one Licensed Premises to another, without having had completed all mandatory quality assurance tests.
- (i) A licensee may not sell any Cannabis Items, nor transfer from one Licensed Premises to another, without having paid all required taxes.
- (j) A licensee shall only cultivate, cure, process, store, manufacture, display and sell Cannabis Items within its Licensed Premises, unless a sale is conducted in accordance with rules governing the delivery of Cannabis Items.
- (k) A licensee shall ensure its facility is kept, and operations conducted, in a sanitary manner and in accordance with regulations promulgated by the OCR designed to reduce the potential for contamination during cultivation, manufacturing, transporting, and dispensing.
- (l) The OCR shall establish a Cannabis quality assurance program. The quality assurance program must, at a minimum, establish standards for the safety and potency of Cannabis Items prior to sale at a Cannabis Dispensary.
  - (1) The quality assurance program shall require Cannabis Items to be submitted for contaminant and potency testing.
  - (2) The quality assurance program shall establish permissible levels of contaminants for Cannabis Items and require the destruction of products deemed unsafe for human consumption due to impermissible levels of contaminants.
  - (3) The quality assurance program shall establish standards and procedures for the potency testing of Cannabis Items to ensure the labeling of potency information is accurate and within a defined acceptable variance.



- (m) An individual who holds a Financial Interest in a licensee is prohibited from holding a Micro-Cultivation Permit.

### **§792. Cannabis Cultivation License**

- (a) The OCR may authorize a Cannabis Cultivation Licensee to purchase Cannabis Items from Cannabis Research and Development Licensees, other Cannabis Cultivation Licensees or Micro-Cultivation Permittees; cultivate, cure, process, internally-test, store, package, and label Cannabis; store, sell, purchase, receive, transfer, and transport Cannabis Items to and from other Cannabis Licensees in accordance with the limitations in this chapter and rules promulgated by the OCR.
- (b) A Cannabis Cultivation Licensee may not locate a Licensed Premises not less than 250 feet of a school or house of worship.
- (1) A Cannabis Cultivation Licensee may not be required to relocate if its premises was not located less than 250 feet of a school or house of worship on the date the Cannabis Cultivation Licensee filed its application for licensure or change of location to its current address.
- (2) The OCR may adopt rules for Cannabis Cultivation Licensees located in the Charlotte Amalie, Christiansted, and Frederiksted Historic Districts and the town of Cruz Bay that impose additional requirements on licensees, such as security, odor control, and community engagement including, but not limited to signage and fencing. If the rules are adopted, the OCR can waive or reduce the distance requirements in this section for Cannabis Cultivation Licenses located in the Charlotte Amalie, Christiansted, and Frederiksted Historic Districts and the town of Cruz Bay.

- (3) Cannabis Cultivation License may not be located less than 250 feet of the perimeter any cruise ship-bearing dock or pier in the Territory. The location of Cannabis Cultivation Licensed facilities must comply all applicable federal laws, rules and regulations
- (c) A Cannabis Cultivation Licensee shall only cultivate Cannabis in accordance with its authorized production limits established by the OCR in rules.
- (d) Cannabis may be cultivated outdoors provided it meets the requirements set forth by the OCR.
- (e) Cannabis may only be cultivated using Pesticides on an approved list maintained by the OCR.
- (f) A Cannabis Cultivation Licensee may obtain seeds or Immature Cannabis Plants from individuals not in possession of a Cannabis License or Permit for the first 30 days after its facility is operational, as determined by the OCR. Thereafter, a Cannabis Cultivation Licensee may only obtain seeds or Immature Cannabis Plants from other Cannabis Cultivation Licensees or Micro-Cultivation Permittees or Cannabis Research and Development Licensees, unless the OCR, upon its discretion and good cause, provides prior written approval due to commercially reasonable needs of the Licensee.
- (g) The OCR shall set production limits on the numbers of plants Cultivation Licensees may cultivate, based on market data on Cannabis sales in the Territory to prevent over-saturation, and using a sliding scale of annual fees based on number of plants grown. In the interest of assuring market balance, the OCR shall set production limits at their discretion at not less than 500 and no more than 1,000 Flowering Cannabis plants at a single time. On an annual basis, the OCR shall assess and, if needed, revise its

production limits for Cultivation Licensees.

**§793. Cannabis Manufacturing License**

- (a) The OCR may authorize a Cannabis Manufacturing Licensee to purchase Cannabis from Cannabis Cultivation Licensees, Cannabis Dispensary Licensees, Cannabis Research and Development Licensees, and/or Micro-Cultivation Permittees within the Territory; manufacture, process, internally test, package, and label Cannabis Concentrates and Cannabis Products; store, sell, purchase, receive, transfer, and transport Cannabis Items to and from other Cannabis Licensees in accordance with the limitations in this chapter and regulations promulgated by the OCR.
- (b) A Cannabis Manufacturing Licensee may not locate a Licensed Premises less than 250 feet of a school or house of worship.
  - (1) A Cannabis Manufacturing Licensee may not be required to relocate if its premises are not located less than 250 feet of a school or house of worship on the date the Cannabis Manufacturing Licensee filed its application for licensure or change of location to its current address.
  - (2) The OCR may adopt rules for Cannabis Manufacturing Licenses located in the Charlotte Amalie, Christiansted, and Frederiksted Historic Districts and the town of Cruz Bay that impose additional requirements on licensees, such as security, odor control, and community engagement. If such rules are adopted, the OCR can waive or reduce the distance requirements in this section for Cannabis Manufacturing Licenses located in the Charlotte Amalie, Christiansted, and Frederiksted Historic Districts and the town of Cruz Bay.
- (c) A Cannabis Manufacturing License may not be less than 250 feet of the perimeter any

cruise ship-bearing dock or pier in the Territory. The location of Cannabis Manufacturing Licensed facilities must comply with all applicable federal laws, rules and regulations.

- (d) The manufacturing of Cannabis Concentrates and Cannabis Products shall only be conducted in strict accordance with all rules promulgated by the OCR, which shall include but need not be limited to facility requirements, solvent purity, and food-handling.
- (e) A Cannabis Manufacturing Licensee may not intentionally or knowingly manufacture, or design a Cannabis Product that has an appearance, label, or package that would cause a reasonable consumer confusion as to whether the Cannabis Product is a trademarked food product.
- (f) Edible Cannabis Products must not contain more than 100 milligrams of THC per unit of sale.
- (g) Edible Cannabis Products shall be separated or easily separable into single servings, with no more than 10 milligrams of THC in a single serving.
- (h) A Cannabis Manufacturing Licensee shall package and label all Cannabis Concentrates and Cannabis Products, including accurate potency information, in accordance with this chapter and all rules promulgated hereto.
- (i) A Cannabis Manufacturing Licensee must purchase or acquire a portion of its Cannabis from Micro-Cultivation Permittees.
  - (1) The OCR shall, at its discretion, set this percentage between 10% and 25% of all Cannabis purchased or acquired by a Cannabis Manufacturing Licensees.
  - (2) The OCR shall determine the sourcing requirement based on factors that include,

but need not be limited to, the projected demand for Cannabis Items in the Virgin Islands and projected amount of Cannabis produced by Licensees and Micro-Cultivation Permittees.

- (j) Notwithstanding anything to the contrary in this chapter or the rules, Cannabis Manufacturing Licensees are required to source not less than 70% of the Cannabis used for its production from Unaffiliated Third Parties. Any actual or attempted structuring or configuration of a transaction, including through use of intermediaries or agents, for the purpose of circumventing or attempting to circumvent the requirements of this provision by obtaining or attempting to obtain Cannabis from sources other than Unaffiliated Third Parties in excess of the amount or percentage permitted, constitutes a violation of this provision and are grounds for suspension or revocation of a license and/or the imposition of a fine on the licensee, in the discretion of the OCR.
- (k) The OCR may suspend or amend the Unaffiliated Third-Party sourcing requirement and/or Micro-Cultivation sourcing requirement if it finds that there will be insufficient or inferior production by Licensees and Micro-Cultivation Permittees for Cannabis Manufacturing Licensees to meet the established percentage requirement.

#### **§794. Cannabis Dispensaries**

- (a) The OCR may authorize a Cannabis Dispensary Licensee to purchase Cannabis Items from Licensees or Micro-Cultivation Permittees; internally test, package and label Cannabis Items; store, sell, purchase, transfer, and transport Cannabis Items to and from other Licensees; and sell, transfer, and deliver Cannabis Items in accordance with the limitations in this chapter and rules promulgated by the OCR. Notwithstanding anything to the contrary in this chapter, or the rules, Cannabis Dispensaries are required

to source not less than 70% of the Cannabis used for retail sales from Unaffiliated Third Parties subject to OCR approved exclusions provided for herein. Any actual or attempted structuring or configuration of a transaction, including through use of intermediaries or agents, for the purpose of circumventing or attempting to circumvent the requirements of this provision by obtaining or attempting to obtain Cannabis from sources other than Unaffiliated Third Parties in excess of the amount or percentage permitted, constitutes a violation of this provision and are grounds for suspension or revocation of a license and/or the imposition of a fine on the licensee, in the discretion of the OCR. A Cannabis Dispensary Licensee may sell Cannabis Items to Qualified Patients, Designated Caregivers, or the parent or legal guardian of a Qualified Patient, and adult users over the age of 21.

- (1) The OCR shall promulgate rules concerning what types of identification is permissible for a Cannabis Dispensary to confirm an individual's age.
  - (2) A Cannabis Dispensary must engage in reasonable measures to confirm that all individuals it sells Cannabis Items to are either a Qualified Patient, Caregiver, or the parent or legal guardian of a Qualified Patient, or adult user over the age of 21.
  - (3) A Qualified Patient and adult user over t21 years of age are required to provide a Cannabis Dispensary a valid form of identification that is acceptable pursuant to regulations adopted by the OCR.
  - (4) A Cannabis Dispensary must also confirm an individual's residency prior to completing the sale of Cannabis Items to ensure compliance with the purchase limits set forth in this chapter.
- (b) A Cannabis Dispensary must ensure that all Cannabis purchased or acquired from a

Cannabis Cultivation Licensee or Micro-Cultivation Permittee has been tested in accordance with the quality assurance program.

- (c) Nothing in this chapter prohibits a Cannabis Dispensary from refusing to sell Cannabis Items to any person.
- (d) A Cannabis Dispensary shall only display or sell Cannabis Items within its designated Restricted Access Area, unless the sale is conducted in accordance with regulations governing the delivery of Cannabis Items to Qualified Patients promulgated by the OCR. Only owners, Cannabis Business Representatives, Consultants, and Qualified Patients are permitted in a Restricted Access Area.
- (e) The OCR shall establish by regulation the hours of operation of and access to a Cannabis Dispensary.
- (f) A Cannabis Dispensary may not permit any individual under 21 years of age to enter its Restricted Access Area.
- (g) A Cannabis Dispensary may not sell Cannabis Items to anyone under 21 years of age. All sales of Cannabis Items intended for Qualified Patients under 21 years of age shall be made to the Qualified Patient's parent, legal guardian, or Designated Caregiver.
- (h) A Cannabis Dispensary Licensee may not locate a Licensed Premises within less than 250 feet of a school or house of worship.
  - (1) A Cannabis Dispensary Licensee is not required to relocate if its premises was not located less than 250 feet of a school and 100 feet of a school or house of worship on the date the Cannabis Dispensary Licensee filed its application for licensure or change of location to its current address.
  - (2) The OCR shall adopt rules for Cannabis Dispensary Licenses located in the

Charlotte Amalie, Christiansted, and Frederiksted Historic Districts, and the town of Cruz Bay that impose requirements, such as security, odor control, and community engagement. Cannabis Dispensary Licenses located in the Charlotte Amalie, Christiansted, and Frederiksted Historic Districts and the town of Cruz Bay are exempt from distance requirements in this section.

- (i) A Cannabis Dispensary License may not be located less than 250 feet of the perimeter any cruise ship-bearing dock or pier in the Territory. The location of Cannabis Dispensary Licensed facilities must comply with all applicable federal laws, rules, and regulations.
- (j) On a daily basis a Cannabis Dispensary may not sell more than:
  - (1) Fourteen grams of Cannabis, three grams of Cannabis Concentrate, and 500 milligrams of Cannabis Products to a non-resident, as defined in this section as an individual who has resided in the Virgin Islands for less than 45 days.
  - (2) One ounce of Cannabis, 10 grams of Cannabis Concentrate, and 2,000 milligrams of Cannabis Products to a resident defined in this section as an individual who has resided in the Virgin Islands for 45 days or more.
- (k) A Cannabis Dispensary may not intentionally or knowingly sell Cannabis that will be resold or transported out of the Territory.
- (l) Prior to completing the sale of an Edible Cannabis Product, the individual that completes the sale must inform the purchaser: “A standard serving of edible Cannabis is 10 milligrams of THC, though many consumers prefer five milligrams or less. Please review the product labeling to ensure you consume only your desired amount. The effects of edible Cannabis can take two or more hours to take effect.”



- (m) A Cannabis Dispensary may deliver Cannabis Items to Qualified Patients, in accordance with regulations adopted by the OCR.
- (n) The OCR shall implement a responsible vendor training program that for employees working at a Cannabis Dispensary Licensee's business must attend, prior to any employee's first day of work.
- (o) A Cannabis Dispensary Licensee must purchase or acquire a portion of its Cannabis from Micro-Cultivation Permittees.
- (1) The OCR shall, at its discretion, set this percentage at between 10% and 25% of all Cannabis purchased or acquired by a Cannabis Dispensary Licensee.
  - (2) The OCR shall determine the sourcing requirement based on factors that include, but need not be limited to, the projected demand Cannabis Items in the Virgin Islands, testing passage rates of Micro-Cultivation Permittees and projected amount of Cannabis produced by Cannabis Licensee and Micro-Cultivation Permittees.
  - (3) The OCR may suspend or amend the Micro-Cultivation sourcing requirement if it finds that there will be insufficient or inferior production by Micro-Cultivation Permittees for Cannabis Dispensary Licensees to meet the established percentage requirement.

#### **§795. Cannabis Research and Development License**

- (a) The OCR shall authorize a Cannabis Research Development Licensee to purchase Cannabis Items from Cannabis Licensees or Micro-Cultivation Permittees; internally test, package and label Cannabis Items; store, sell, purchase, transfer,

and transport Cannabis Items to and from other Cannabis Licensees in accordance with the limitations in this chapter and regulations promulgated by the OCR.

- (b) A Cannabis Research and Development Licensee may also operate as a Cannabis Testing Facility.
- (c) The OCR shall authorize a Cannabis Research and Development Licensee to conduct experiments and testing on every form and derivative of Cannabis.
- (d) Any animal or human testing trial undertaken by a Cannabis Research and Development Licensee must submit a detailed plan and receive the explicit written permission from the OCR.
- (e) A Cannabis Research and Development Licensee may cultivate Immature Cannabis Plants and Flowering Cannabis Plants within production limits set by the OCR.
- (f) A Cannabis Research and Development Licensee may sell seeds and Immature Cannabis Plants to Cannabis Dispensaries, Cannabis Cultivation Licensees, and Micro-Cultivation Permittees. Information on all sales transactions and quantities of seeds and Immature Cannabis Plants to licensees must be included in the Inventory Tracking System as provided by section 791.
- (g) A Cannabis Research and Development Licensee may not sell Flowering Cannabis Plants or any Cannabis Items to other licensees other than seeds and Immature Cannabis Plants. Any other Cannabis plant material, more than what is needed for research and testing, must be destroyed by a method approved by the OCR.
- (h) A Cannabis Research and Development Licensee that includes a Cannabis Testing Facility may not hold any other Cannabis License or Permit. Nothing in this

chapter precludes a Cannabis Research and Development Licensee that does not operate a Cannabis Testing Facility from holding a different Cannabis License or Permit.

**§796. Micro-Cultivation Permit**

- (a) A Micro-Cultivation Permittee may cultivate, cure, process, and store Cannabis and sell, transfer, and transport Cannabis to Cannabis Licensees.
- (b) A Micro-Cultivation Permit shall only be issued to farmers licensed with the Department of Agriculture and the Department of Licensing and Consumer Affairs, but at no time shall Micro-Cultivation of Cannabis occur on land leased by the Government of the Virgin Islands.
- (c) An individual may not possess more than one Micro-Cultivation Permit and no more than one Micro-Cultivation Permit may be issued for a single address.
- (d) A Micro-Cultivation Permittee must be at least 21 years of age.
- (e) A Micro-Cultivation Permittee may not cultivate Cannabis Plants for commercial use outside of its designated Micro-Cultivation Site. A Micro-Cultivation Permittee may only sell Cannabis that was harvested from Cannabis Plants cultivated within its Micro-Cultivation Site and in accordance with all applicable laws and regulations.
- (f) A Micro-Cultivation Permittee may not hold an interest in any other Cannabis Business License. An Owner of a Cannabis Business License may not hold a Micro-Cultivation Permit.
- (g) A Micro-Cultivation Permittee may cultivate no more than 50 Flowering Cannabis Plants and no more than 200 Immature Cannabis Plants at a single time. The Cannabis Plants cultivated pursuant to a Micro-Cultivation Permit shall be for commercial-use

only and shall be physically separated from any Cannabis Plants cultivated for medicinal personal use by a Qualified Patient or Designated Caregiver or for Sacramental User.

(h) A Micro-Cultivation Permittee may not consume any of the Cannabis cultivated pursuant to a Micro-Cultivation Permit.

(1) Notwithstanding the above, a Micro-Cultivation Permittee can use seeds or clones produced by Cannabis Plants cultivated for personal use by a Qualified Patient or Designated Caregiver or Sacramental User to propagate Cannabis Plants for commercial use.

(i) A Micro-Cultivation Permit may not be possessed by an individual who:

(1) Has a Disqualifying Felony Offense; or

(2) Has been convicted of selling Cannabis to a person other than a Cannabis Cultivation Licensee while in possession of a Micro-Cultivation Permit.

(j) As part of its books and records, a Micro-Cultivation Permittee shall track all Cannabis cultivated for commercial use pursuant to its Micro-Cultivation Permit from seed or immature plant through sale to a Licensee. The records must include the total number of Flowering Cannabis Plants and Immature Cannabis Plants, the harvest date of Flowering Cannabis Plants, and any other record keeping requirements as determined by the OCR, necessary to prevent diversion and protect public safety, but does not make operations unreasonably impracticable for a Micro-Cultivation Permittee.

(k) A Micro-Cultivation Permittee shall only cultivate Cannabis in an enclosed and locked space, which may be outdoors and does not need a roof. The OCR may impose additional security requirements upon Micro-Cultivation Permittees that are necessary

to prevent diversion and protect public safety but does not make it unreasonably impracticable to operate a Micro-Cultivation Permit.

(l) A Micro-Cultivation Permittee may not cultivate Cannabis not less than 15 feet of a property line.

(m) A Micro-Cultivation Permittee may transport Cannabis in accordance with rules established by the OCR. The rules shall include but are not limited to, requirements for storage, documentation, and contacting the OCR or other governmental authority prior to commencing transportation.

(n) The OCR shall consider the feasibility, demand, and public safety concerns for Micro-Cultivation Permits to be authorized to produce edible and topical medical Cannabis products. Notwithstanding any other law, rule, or regulation, a Micro-Cultivation Permittee may not manufacture Cannabis Concentrates using solvents or in a manner that poses harm to others.

(o) The OCR may consider the feasibility and demand for Micro-Cultivation Permits authorized to cultivate up to 100 Flowering Cannabis Plants in non-residential areas.

(p) **§797. Adult Use Lounge Permit; Cannabis Use Permit; Temporary Cannabis Use Permit**

(a) Notwithstanding any other law or regulation, a person in possession of a valid Adult Use Lounge Permit; Cannabis Use Permit or Temporary Cannabis Use Permit may undertake the restricted consumption of Cannabis Items in an on-site Designated Consumption Area licensed and authorized by the OCR, provided the use conforms to this chapter and any rules adopted thereto.

(b) The consumption of Cannabis Items within a Designated Consumption Area in

accordance with this chapter are not grounds for suspension, revocation, non-renewal, or any other disciplinary action against any overlapping license or permit validly issued pursuant to the Virgin Islands Code.

(c) Notwithstanding any other law to the contrary, it is lawful to operate, or to consume or use Cannabis in or within, an Adult Use Lounge provided that:

(1) the Adult Use Lounge has received a permit from the OCR;

(2) no person under the age of 21 years old is permitted to enter, or remain in or upon, an Adult Use Lounge;

(3) except as provided in subsection (d), no sale of Cannabis, Cannabis products, or Cannabis accessories in or within the adult use lounge is permitted.

(d) Notwithstanding any other provision of this section, an Adult Use Lounge may be owned and operated by a Cannabis Dispensary Licensee and may be located adjacent to the premises of a Cannabis Dispensary; provided that the Adult Use Lounge is separated from the Cannabis Dispensary as per rules promulgated by the OCR.

(e) An Adult Use Lounge Permittee, a Cannabis Use Permittee, or a Temporary Cannabis Use Permittee may not sell, transfer, or distribute Cannabis Items within its premises. Similarly, a Cannabis Use Permittee shall take reasonable measures to prevent the unauthorized sale or transfer of Cannabis for remuneration by others in and around its premises; unless the sale or transfers is a delivery made pursuant to a Cannabis Dispensary License.

(f) The consumption of Cannabis Items pursuant to an Adult Use Lounge Permit, Cannabis Use Permit, or Temporary Cannabis Use Permit is permitted in the Designated Consumption Area, subject to any operational or other restrictions on Cannabis

consumption placed upon the use Permits pursuant to this chapter and rules adopted thereto.

- (g) At all times when the consumption of Cannabis Items is permitted within a Designated Consumption Area, the permittee shall possess and maintain possession of the premises by ownership, lease, rental, or other arrangement for possession of the Designated Consumption Area; or the permittee has permission to use the premises to allow Cannabis consumption from a person who is the lawful owner of the property where the Designated Consumption Area is located.
- (h) The consumption of Cannabis Items by smoking must occur in accordance with the Virgin Islands Smoke-Free Act. Vaporizing Cannabis Items is not smoking for the purposes of this chapter or The Virgin Islands Smoke-Free Act.
- (i) An individual is not permitted within the Designated Consumption Area unless the Cannabis Use Permittee confirms that the individual is over 21 years of age.
- (j) Designated Consumption Areas must be clearly marked with conspicuous signage measuring not less than 40 square inches in size that includes the statement “CANNABIS CONSUMPTION AREA - ACCESS RESTRICTED” in all uppercase letters not less than one inch high.
- (k) The permittee shall ensure that the consumption of inhaled Cannabis Items occurring at the street level is not visible from a public right-of-way or a place where minors congregate. The permittee shall make reasonable accommodations to ensure that persons immediately outside of a designated consumption area are not subject to Cannabis odor caused by Cannabis consumption occurring within a Designated Consumption Area.

- (l) Adult Use Lounge Permittees, Cannabis Use Permittees, and Temporary Cannabis Use Permittees are subject to the same advertising restrictions as Cannabis Business Licensees.
- (m) An Adult Use Lounge Permittee, Cannabis Use Permittee, or Temporary Cannabis Use Permittee may not locate a Licensed Premises less than 500 feet of a school or house of worship.
  - (1) An Adult Use Lounge Permittee, Cannabis Use Permittee, or Temporary Cannabis Use Permittee is not required to relocate if its premises were not located less than 500 feet of a school or house of worship on the date the permittee filed its application for licensure or change of location to its current address.
  - (2) The OCR may promulgate rules for Adult Use Lounge Permits, Cannabis Use Permits, or Temporary Cannabis Use Permits located in the Charlotte Amalie, Christiansted, and Frederiksted Historic Districts and the town of Cruz Bay that impose additional requirements on licensees, such as security, odor control, and community engagement. The OCR can waive or reduce the distance requirements in this section for Use Permits located in the Charlotte Amalie, Christiansted, and Frederiksted Historic Districts and the town of Cruz Bay.
  - (3) An Adult Use Lounge Permittee, Cannabis Use Permittee, or Temporary Cannabis Use Permittee may not be located less than 1,000 feet of any cruise ship dock in Charlotte Amalie, Havensight or Crown Bay, in St. Thomas and less than 500 feet of primary cruise ship dock in Frederiksted and less than 500 feet of cruise line tender pier in Cruz Bay on the date the Permittee filed its application for licensure or change of location to its current address.



- (n) A Designated Consumption Area may not require specific zoning permits and shall be permitted in any zone lot where the underlying business or event is permitted.

### **§798. Sacramental Usage**

- (a) It is not unlawful for persons over age 21 who are members of an organized religion or faith in the sincere exercise of their religion to possess, use, cultivate or consume Cannabis or Cannabis Items as part of their religious or sacramental rituals provided:
- (1) The religious or faith-based organization must be an organized and registered non-profit organization under the laws of the Virgin Islands and maintains its status in good standing, and must also be certified by the OCR; and
  - (2) The religious or faith-based organization may not engage in any commercial activities involving Cannabis or Cannabis Items without a Cannabis License or Permit;
- (b) The OCR shall establish rules for Sacramental Use cultivation by the qualifying non-profit organizations. The rules must include production limits for Cannabis cultivation by registered religious or faith-based organizations, which the OCR shall determine based on documented membership population size and must not exceed that of any other Cannabis Licensee.
- (c) Sacramental Users who are registered members of certified religious or faith-based organization and are residents of the Territory for more than 45 days may apply to the OCR to possess, use, grow, or process no more than six Flowering Cannabis Plants and six Immature Cannabis Plants for personal Sacramental Use, provided that the Cannabis Plants are cultivated on private property with the express consent of the

landowner as applicable, and that the Cannabis produced from these plants is not sold, nor made available for sale.

- (d) Notwithstanding the possession limits set forth in section §785, a Sacramental User may possess all the Cannabis produced by Cannabis Plants cultivated at that address provided the cultivation is within the limits set forth herein. The OCR shall issue a card or certification document to Sacramental Users who are authorized to cultivate on private property.
- (e) The OCR shall promulgate rules relating to enforcement of cultivation by Sacramental Users on private property that must include site visits by enforcement officers or other law enforcement personnel to ensure that cultivation is within the limits and parameters set by this section. The OCR shall set a reasonable annual fee not to exceed \$100 for Sacramental Users to engage in personal use cultivation as provided in this section
- (f) Sacramental Use may not endanger public health and safety and may not violate the provisions of tile 19 Virgin Islands Code, chapter 53A as it pertains to smoking in public places.

### **§ 799. Social Equity Plan**

- (a) The OCR shall create, develop, and implement a social equity plan that gives additional points during the Merit-Based Application Process to license applicants and Third-Party Vendors who are included in the following groups or combinations thereof:
  - (1) applicants whose ownership class includes individuals who were adversely impacted by the criminal justice system for activities that this chapter now considers legal;

- (2) applicants whose ownership class includes individuals who are members of religious groups who were adversely impacted by law enforcement for Sacramental Use of Cannabis;
  - (3) applicants who qualify as a female-owned entity or a service- disabled Veteran Entity;
- (b) The additional points awarded as a part of the social equity plan constitutes not less than 15% of the total points awarded.

**§ 800. Promotion of Cannabis Research and Development.**

(a) The Board may collaborate with University of the Virgin Islands to promote the research and development within the Virgin Islands of Cannabis and related products and technology. The Board shall work cooperatively with research programs established by the University of the Virgin Islands and other universities that conduct similar research programs.

(b) In undertaking the Cannabis research program, the University of the Virgin Islands may:

(1) Grow Cannabis to conduct agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of Cannabis for commercial products, including but not limited to Cannabis seed or strains of Cannabis, and Cannabis Items;

(2) Conduct research on various types of Cannabis which are best suited for growing in the Virgin Islands, including but not limited to, seed availability, creation of Virgin Islands hybrid types, in-the-ground variety trials, and seed production.

(3) Study the economic feasibility of developing a Cannabis market in various types of Cannabis which can be grown in the Virgin Islands;

(4) Report on the estimated value-added benefits, including environmental benefits that the Virgin Islands and state-side businesses would reap by having a Cannabis market of Virgin Islands-grown Cannabis varieties in the Territory;

(5) Study the agronomy research being conducted worldwide relating to industrial Cannabis varieties, production, and utilization;

(6) Research and promote Virgin Islands Cannabis and Cannabis seed on the world market, which can be grown on farms in the Territory; and

(7) Study the feasibility of attracting private funding for the Virgin Islands Cannabis research program.

(c) The authorization granted in this section does not subject the Cannabis research programs wherever they are in the Virgin Islands, to any criminal liability under the controlled substances laws of the Virgin Islands. This exemption from criminal liability is a limited exemption to be strictly construed and does not apply to any of the activities of the Cannabis research programs.

(d) The authorization granted in this section does not alter, amend, or repeal by implication any provision of the laws of the Virgin Islands relating to controlled substances.

(e) The University of the Virgin Islands and the Board shall notify the Virgin Islands Police Department of the duration, size, and location of all Cannabis plots.

### **§ 801. Cannabis Fund**

(a) There is created within the Treasury of the Virgin Islands a special fund to be known as

the “Cannabis Fund”. All funds collected by the OCR must be deposited into the Cannabis Fund. The Legislature shall appropriate funds from the Cannabis Fund for the following purposes:

- (1) To ensure the continuing and effective operation of the OCR;
- (2) Establish Cannabis Testing Facilities on each of the three major islands: St. Croix, St. Thomas and St. John;
- (3) To create and fund programs to provide job training, entrepreneurship training, business incubation and micro-lending opportunities to residents who have resided in the Virgin Islands for not less than two years at the time of enactment of this chapter; and to resident who have been adversely impacted by the criminal justice system for activities that this chapter now considers legal.
- (4) To establish sponsored research on the potential medical efficacy of Cannabis and the potential negative consequences associated with Cannabis use.
- (5) To establish programs designed to educate and prevent substance abuse and support individuals afflicted with substance abuse issues;
- (6) To fund a training program in the cultivation, manufacturing, retail, research and development, and education related to the Cannabis industry.

## **§ 802. Taxes**

(a) A Cannabis Dispensary shall levy a tax of no less than 18% on all sales of Cannabis, except that Qualified Patients who are residents of the Territory and who validly possess a Medical Cannabis Patient Card issued by the OCR are exempt from this tax.

- (1) Seventy-five percent of the revenues collected pursuant to this tax must be deposited to the General Fund and distributed as follows:

- (A) Fifteen percent to be distributed evenly among the Department of Human Services and the Department of Health for behavioral health programs.
  - (B) Five percent to the Department of Human Services for programs addressing homelessness.
  - (C) Five percent to the Department of Sports, Parks, and Recreation for youth-related programs.
  - (D) Fifty percent remains in the General Fund to fund the general operations of the Government of the Virgin Islands
- (2) Twenty-five percent of the revenues collected pursuant to this tax must be deposited in the Cannabis Fund and allocated to the OCR to fund the operations required by this chapter and public education and marketing.
- (b) A Cannabis Dispensary must require all customers who are not residents to pay a special non-resident Cannabis Fee of \$20, which must be reflected on the receipt at point-of-sale, at the time of purchase at Cannabis Dispensary. Residency for the purposes of this subsection is defined as individuals who are residents of the Territory for more than 45 days. To establish residency under this section, a Cannabis Dispensary shall accept either a Virgin Islands Government-issued driver's license, a Virgin Islands Government-issued voter registration card, or a Virgin Islands Government-issued senior citizen identification card.
- (c) A Cannabis Cultivation Licensee shall pay a 0.50 tax per gram of Cannabis cultivated on their Licensed Premises that is transferred to another licensee.
- (1) Seventy-Five percent of the revenues collected pursuant to this tax must be deposited to the General Fund and distributed as follows:

- (A) Fifteen percent to be distributed evenly among the Department of Human Services and the Department of Health for behavioral health programs;
  - (B) Five percent to the Department of Human Services for programs addressing homelessness;
  - (C) Five percent to the Department of Sports, Parks, and Recreation for youth-related programs; and
  - (D) Fifty percent remains in the General Fund to fund the general operations of the Government of the Virgin Islands.
- (2) Twenty-five percent of the revenues collected pursuant to this tax must be deposited in the Cannabis Fund and allocated to the OCR to fund the operations required by this chapter and for public education and marketing.
- (d) Unless otherwise prohibited by law, in computing net income for Cannabis Businesses pursuant to Virgin Islands law, there shall be allowed as a deduction from all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business as a Cannabis establishment, including reasonable allowance for salaries or other compensation for personal services rendered against the Cannabis Business' income tax return payable to the government.

### **§803. Fees**

- (a) The OCR shall promulgate rules establishing reasonable fees for applications, as well as annual fees and renewal fees, and other fees as necessary in furtherance of the operation of the OCR. The revenue from all fees must be deposited in the Cannabis Fund.
- (b) Application fees for licenses and permits may not exceed the following amounts:

- (1) \$1,000.00 for a Micro-Cultivation Permit
- (2) \$1,500 for a Adult Use Lounge Permit
- (3) \$20,000.00 for a Cannabis Cultivation License
- (4) \$50,000.00 for a Cannabis Dispensary License
- (5) \$10,000.00 for a Cannabis Manufacturing License
- (6) \$50 for a Medical Cannabis Patient Card

The OCR shall establish reasonable application fees for any other applications. Any increase to fees under this chapter may not exceed 10% of the last fee set by the OCR or the Legislature.

- (c) The OCR shall establish reasonable fees that must be paid by the holder of a license or permit when submitting a change of ownership, change of location, or modification of Licensed Premises.
- (d) All s fees must be included in rules to be promulgated by the OCR and may be adjusted by the OCR from time to time.

#### **§804. Inspection Procedures**

- (a) Each licensee and permittee shall keep a complete set of all records necessary to show all business transactions of the licensee or permittee, all of which s must be open for the inspection and examination by the OCR or its duly authorized representatives. The OCR may require any licensee or permittee to furnish information it considers necessary for the proper administration of the chapter.
- (b) The Licensed Premises are subject to inspection by the OCR during all business hours and other times of apparent activity for inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access is



required during business hours. Where any part of the Licensed Premises consists of a locked area, upon demand to the licensee, the area must be made available for inspection without delay.

- (c) Each licensee and permittee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the immediately preceding seven tax years.

#### **§805. Suspension, Revocations, and Fines**

- (a) In addition to any other sanctions prescribed by this chapter or rules promulgated pursuant to this chapter, the OCR has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee or permittee shall be afforded an opportunity to be heard, to suspend or revoke a license or permit issued by the OCR for a violation by the licensee or permittee or by any of the agents or employees of the licensee or permittee of the provisions of this chapter, or any of the rules promulgated pursuant to this chapter, or of any of the terms, conditions, or provisions of the license or permit issued by the OCR. The OCR has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of a hearing that the OCR is authorized to conduct.
- (b) The OCR shall provide notice of suspension, revocation, fine, or other sanction by mailing the same in writing to the licensee or permittee at the address contained in the license or permit. A suspension must not be for a longer than six months. If a license or permit is suspended or revoked, no part of the fees paid therefore shall be returned to the licensee or permittee.

- (c) Any license or permit may be summarily suspended by the OCR without notice pending any prosecution, investigation, or public hearing for public safety purposes and the licensee or permittee is entitled to due process after the suspension, but at no time may the suspension last more than 10 days without a due process hearing.
- (d) The OCR may enter into a stipulated settlement with a licensee or permittee in lieu of going to a public hearing. The stipulated settlement may contain any of the following: admissions by the licensee or permittee of violations of rules or statutory provisions, the suspension of a license or permit, that a suspension be held in abeyance pending no further violations as specified and agreed to by the parties, a fine imposed against the licensee or permittee, and/or any other terms agreed to by the OCR and licensee or permittee.
- (e) Cash payments of fines described herein shall not be accepted by the OCR. The fine shall be paid into the Cannabis Fund.

#### **§ 806. Unlawful Acts and Violations**

- (a) It is unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution, or consumption of Cannabis other than those forms of businesses and commerce that are expressly contemplated by this chapter.
- (b) It is unlawful for a licensee or permittee to buy, sell, transfer, give away, or acquire Cannabis except as allowed pursuant to this chapter.
- (c) A Qualified Patient who willfully fails to provide a notice required by section 782 is civilly liable for the infraction, subject to a fine of not more than \$1,500.
- (d) In addition to any other penalty applicable in law, a Cannabis Business that

intentionally sells or otherwise transfers Cannabis in exchange for anything of value to a person other than a Qualified Patient, Designated Caregiver or adult user over the age of 21 may be subject to a fine of not more than \$3,000. A person convicted under this subsection may not continue to be affiliated with the Cannabis Business and is disqualified from further participation under this chapter.

- (e) In addition to any other penalty applicable in law, a Qualified Patient, Designated Caregiver or Sacramental User who intentionally sells or otherwise transfers Cannabis to any person, or to a legally licensed Cannabis Business or its agent is guilty of a misdemeanor punishable by imprisonment for not more than one year or by payment of a fine of not more than \$1,000, or both, and may have their authorization to cultivate suspended or revoked by the OCR.
- (f) A person who intentionally makes a false statement to a law enforcement official about any fact or circumstance relating to the use of Cannabis to avoid arrest or prosecution is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by payment of a fine of not more than \$1,000, or both. This penalty is in addition to any other penalties that may apply for making a false statement or for the possession, cultivation, or sale of Cannabis not protected by this chapter
- (g) A person who knowingly submits false records or documentation required by the OCR to certify a Cannabis Business under this chapter is guilty of a felony and may be sentenced to imprisonment for not more than two years or by payment of a fine of not more than \$3,000, or both.
- (h) A practitioner who knowingly refers patients to a Cannabis Business establishment or to a Designated Caregiver, who advertises in a Cannabis Business, or who issues

written certifications while holding a Financial Interest in a Cannabis Business shall be fined up to \$1,000.

- (i) It is unlawful for a practitioner who recommends the use of Cannabis, provides Qualified Patients with Medical Cannabis Certification Forms, or refers patients to Cannabis Dispensaries to receive anything of value from a Cannabis Licensee or its agents, servants, officers, or owners or anyone financially interested in the licensee and it is unlawful for a licensee to offer anything of value to a practitioner for the same. Any practitioner or licensee who violates this section shall be fined \$1,000.
- (j) It is a misdemeanor punishable by not more than 180 days in jail and a \$1,000 fine for any person, including any employee or official of the OCR or another territorial agency, to breach the confidentiality of information obtained pursuant to this chapter.
- (k) A Cannabis Business shall be fined up to \$1,000 for any violation of this chapter, or the regulations issued pursuant to this chapter where no penalty has been specified. This penalty is in addition to any other penalties applicable in law. Further, the OCR will have the authority to require a person convicted for unlawful acts pursuant to this section to become unaffiliated with the relevant Cannabis Business and disqualify that person from further participation under this chapter.
- (l) It is an independent violation of this chapter and grounds for an independent enforcement action or imposition of other disciplinary measures, in the discretion of the OCR, for any person or licensee to attempt to avoid or circumvent any of the requirements or limitations contained in this chapter.

### **§807. Limitations**

- (a) This chapter does not authorize any person to engage in, and does not prevent the

imposition of any civil, criminal, or other penalties for engaging in, the following conduct:

- (1) Undertaking any task under the influence of Cannabis, when doing so would constitute negligence or professional malpractice;
- (2) Consuming Cannabis while operating any form of public transportation or in any public place or any place that is open to public use, unless the location possesses a valid Adult Use Lounge Permit, Cannabis Use Permit or Temporary Cannabis Use Permit and the consumption occurs in accordance with applicable laws and regulations; or
- (3) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat while under the influence of Cannabis, except that a registered Qualified Patient is not considered to be under the influence of Cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

#### **§ 808. Addition to Qualifying Medical Conditions**

Any resident of the Virgin Islands who has resided in the Virgin Islands for more than 45 days, may petition the OCR to add serious medical conditions or their treatments to the list of debilitating Qualifying Medical Conditions listed herein or established by regulations. The petition must be accompanied by a certification of the nature of the medical conditions and the benefit that would be derived from the use of Cannabis. The OCR shall consider petitions in the manner required by OCR regulation, including public notice and hearing. The OCR shall approve or deny a petition not later than 60 days after its submission. If the petition is denied, the petitioner may file an administrative appeal, as more fully described in regulations, and

provide notice that an appeal has been filed with the OCR no later than 30 days after the denial. The approval or denial of any timely filed appeal is a final decision of the OCR, subject to judicial review. Jurisdiction and venue are vested in the Superior Court of the Virgin Islands.

### **§809. Severability**

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

**SECTION 2.** (a) Not later than three years after the effective date of this act, the Office of Cannabis Regulations (OCR) shall publish a report on whether Micro-Cultivation Permits must be issued.

(b) Not later than two years after the enactment of this act, the OCR shall promulgate and implement rules to enable sacramental users who are members of a religious or faith-based organization certified by the OCR to cultivate cannabis for personal use on private property. The cultivation is subject to OCR regulations, plant count limitations, and applicable fees that must be aligned with the personal-use cultivation by Qualified Patients.

**SECTION 3.** The Office of the Governor shall create an Auto-Expungement working group that includes, but is not limited to, participants from relevant Territorial departments and agencies necessary to expunge Cannabis-related crimes, and any non-profit legal service organization deemed to be necessary to the work to be performed by the Auto-Expungement working group. Based upon recommendations from the Auto-Expungement working group, the Office of Cannabis Regulations shall issue an Auto-Expungement report no later than 10 months from the date of enactment of this act that details:

- i. Classifications of crimes that must be expunged for persons convicted for reasons

solely related to possession, control, or sale of cannabis, classification of crimes that may be expunged; and the classification of crimes that cannot be expunged under any circumstances;

- ii. Administrative processes necessary for the Territory to expunge certain cannabis related crimes; and
- iii. Funding necessary to implement the recommendations of this report.

(1) All relevant territorial agencies shall follow the directed recommendations of the Auto-Expungement report.

(2) Upon issuance of the Annual Auto-Expungement report to the Governor, Legislature, and Supreme Court, the Superior Court shall issue an order expunging each conviction for cannabis use or possession offenses entered by the court prior to the date of the Auto-Expungement report for such persons deemed to be eligible for Auto-Expungement.

(3) Each year following the issuance of the Auto-Expungement report, the OCR shall issue a report detailing any amendments necessary to its initial recommendations and the progress towards expunging Cannabis related crimes until all the recommendations in the Auto-Expungement report have been fully addressed.

**SECTION 4.** Title 5 Virgin Islands Code, section 3561 is amended by inserting the words "health inspectors of the Virgin Islands Department of Health include inspectors and regulatory enforcement officials of the OCR" after "health inspectors of the Virgin Islands Department of Health".

**SECTION 5.** There is appropriated from the Tourism Advertising Revolving Fund the sum of \$1,000,000.00 for the operations of the Office of Cannabis Regulation for its first two

years of operation, which sum shall be used until expended, and an additional sum of \$250,000.00 is appropriated to the Cannabis Fund to fund the auto-expungement of records, social equity job training program, entrepreneurship training program, and business incubation and micro-lending program for individuals who have resided in the Territory for not less than two years at the time of enactment of this act, and who have been adversely impacted by the criminal justice system for activities that this act now deems legal, which sum shall be used until expended.

**SECTION 6.** Title 19 of the Virgin Islands Code, part III, chapter 29, § 607a is amended by adding a subsection (i) that reads as follows:

“(i) Notwithstanding any other provision of this chapter, possession of cannabis or a commercial cannabis product, or operation of a commercial cannabis establishment, or any other act pursuant to and compliant with the terms of chapter 34, of title 19 of the Virgin Islands Code are not a violation of this chapter.”

**SECTION 7.** Sections 1, 3, 4, 5, and 6 of this take effect upon enactment. The Office of Cannabis Regulation shall begin issuing applications for licenses and permits no later than 12months after the promulgation of the rules and regulations for this act.”

**Amendment No. 34-699/December 29, 2022/SLR**