

22106769D

HOUSE BILL NO. 496

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary
on February 21, 2022)

(Patron Prior to Substitute—Delegate Mullin)

A *BILL to amend and reenact §§ 18.2-60.5, 18.2-178.1, 18.2-369, 46.2-341.20:7, 54.1-3408.3, 54.1-3442.5, 54.1-3442.6, and 54.1-3442.7 of the Code of Virginia, relating to abuse and neglect; financial exploitation; incapacitated adults; penalties.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-60.5, 18.2-178.1, 18.2-369, 46.2-341.20:7, 54.1-3408.3, 54.1-3442.5, 54.1-3442.6, and 54.1-3442.7 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-60.5. Unauthorized use of electronic tracking device; penalty.

A. Any person who installs or places an electronic tracking device through intentionally deceptive means and without consent, or causes an electronic tracking device to be installed or placed through intentionally deceptive means and without consent, and uses such device to track the location of any person is guilty of a Class 1 misdemeanor.

B. The provisions of this section shall not apply to the installation, placement, or use of an electronic tracking device by:

1. A law-enforcement officer, judicial officer, probation or parole officer, or employee of the Department of Corrections when any such person is engaged in the lawful performance of official duties and in accordance with other state or federal law;

2. The parent or legal guardian of a minor when tracking (i) the minor or (ii) any person authorized by the parent or legal guardian as a caretaker of the minor at any time when the minor is under the person's sole care;

3. A legally authorized representative of ~~an~~ *incapacitated a vulnerable* adult, as defined in § 18.2-369;

4. The owner of fleet vehicles, when tracking such vehicles;

5. An electronic communications provider to the extent that such installation, placement, or use is disclosed in the provider's terms of use, privacy policy, or similar document made available to the customer; or

6. A registered private investigator, as defined in § 9.1-138, who is regulated in accordance with § 9.1-139 and is acting in the normal course of his business and with the consent of the owner of the property upon which the electronic tracking device is installed and placed. However, such exception shall not apply if the private investigator is working on behalf of a client who is subject to a protective order under § 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, or 19.2-152.10 or subsection B of § 20-103, or if the private investigator knows or should reasonably know that the client seeks the private investigator's services to aid in the commission of a crime.

C. For the purposes of this section:

"Electronic tracking device" means an electronic or mechanical device that permits a person to remotely determine or track the position and movement of another person.

"Fleet vehicle" means (i) one or more motor vehicles owned by a single entity and operated by employees or agents of the entity for business or government purposes, (ii) motor vehicles held for lease or rental to the general public, or (iii) motor vehicles held for sale by motor vehicle dealers.

§ 18.2-178.1. Financial exploitation of vulnerable adults; penalty.

A. *As used in this section, "vulnerable adult" means the same as that term is defined in § 18.2-369.*

B. It is unlawful for any person who knows or should know that another person ~~suffers from mental incapacity~~ *is a vulnerable adult* to, through the use of that other person's ~~mental incapacity~~ *impairment*, take, obtain, or convert money or other thing of value belonging to that other person with the intent to permanently deprive him thereof. Any person who violates this section shall be deemed guilty of larceny.

C. Venue for the trial of an accused charged with a violation of this section shall be in any county or city in which (i) any act was performed in furtherance of the offense or (ii) the accused resided at the time of the offense.

D. This section shall not apply to a transaction or disposition of money or other thing of value in which the accused acted for the benefit of the ~~person with mental incapacity~~ *vulnerable adult* or made a good faith effort to assist such person with the management of his money or other thing of value.

E. *As used in this section, "mental incapacity" means that condition of a person existing at the time of the offense described in subsection A that prevents him from understanding the nature or consequences of the transaction or disposition of money or other thing of value involved in such*

60 offense.

61 **§ 18.2-369. Abuse and neglect of vulnerable adults; penalties.**

62 A. It is unlawful for any responsible person to abuse or neglect any ~~incapacitated~~ *vulnerable* adult as
63 defined in this section. Any responsible person who abuses or neglects ~~an incapacitated a vulnerable~~
64 adult in violation of this section and the abuse or neglect does not result in serious bodily injury or
65 disease to the ~~incapacitated vulnerable~~ adult is guilty of a Class 1 misdemeanor. Any responsible person
66 who is convicted of a second or subsequent offense under this subsection is guilty of a Class 6 felony.

67 B. Any responsible person who abuses or neglects ~~an incapacitated a vulnerable~~ adult in violation of
68 this section and the abuse or neglect results in serious bodily injury or disease to the ~~incapacitated~~
69 *vulnerable* adult is guilty of a Class 4 felony. Any responsible person who abuses or neglects ~~an~~
70 ~~incapacitated a vulnerable~~ adult in violation of this section and the abuse or neglect results in the death
71 of the ~~incapacitated vulnerable~~ adult is guilty of a Class 3 felony.

72 C. For purposes of this section:

73 "Abuse" means (i) knowing and willful conduct that causes physical injury or pain or (ii) knowing
74 and willful use of physical restraint, including confinement, as punishment, for convenience or as a
75 substitute for treatment, except where such conduct or physical restraint, including confinement, is a part
76 of care or treatment and is in furtherance of the health and safety of the ~~incapacitated person vulnerable~~
77 *adult*.

78 "Incapacitated adult" means any person 18 years of age or older who is impaired by reason of mental
79 illness, intellectual disability, physical illness or disability, advanced age or other causes to the extent the
80 adult lacks sufficient understanding or capacity to make, communicate or carry out reasonable decisions
81 concerning his well-being.

82 "Neglect" means the knowing and willful failure by a responsible person to provide treatment, care,
83 goods, or services which results in injury to the health or endangers the safety of ~~an incapacitated a~~
84 *vulnerable* adult.

85 "Responsible person" means a person who has responsibility for the care, custody, or control of ~~an~~
86 ~~incapacitated person a vulnerable adult~~ by operation of law or who has assumed such responsibility
87 voluntarily, by contract or in fact.

88 "Serious bodily injury or disease" ~~shall include~~ *includes* but *is not be* limited to (i) disfigurement, (ii)
89 a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, or (vi) life-threatening internal
90 injuries or conditions, whether or not caused by trauma.

91 "*Vulnerable adult*" means any person 18 years of age or older who is impaired by reason of mental
92 illness, intellectual or developmental disability, physical illness or disability, or other causes, including
93 age, to the extent the adult lacks sufficient understanding or capacity to make, communicate, or carry
94 out reasonable decisions concerning his well-being or has one or more limitations that substantially
95 impair the adult's ability to independently provide for his daily needs or safeguard his person, property,
96 or legal interests.

97 D. No responsible person shall be in violation of this section whose conduct was (i) in accordance
98 with the informed consent of the ~~incapacitated person vulnerable adult~~ that was given when he was not
99 ~~incapacitated vulnerable~~ or a person authorized to consent on his behalf; (ii) in accordance with a
100 declaration by the ~~incapacitated person vulnerable adult~~ under the Health Care Decisions Act
101 (§ 54.1-2981 et seq.) that was given when he was not ~~incapacitated vulnerable~~ or with the provisions of
102 a valid medical power of attorney; (iii) in accordance with the wishes of the ~~incapacitated person~~
103 *vulnerable adult* that were made known when he was not ~~incapacitated vulnerable~~ or a person
104 authorized to consent on behalf of the ~~incapacitated person vulnerable adult~~ and in accord with the
105 tenets and practices of a church or religious denomination; (iv) incident to necessary movement of,
106 placement of, or protection from harm to the ~~incapacitated person vulnerable adult~~; or (v) a bona fide,
107 recognized, or approved practice to provide medical care.

108 **§ 46.2-341.20:7. Possession of marijuana in commercial motor vehicle unlawful; civil penalty.**

109 A. It is unlawful for any person to knowingly or intentionally possess marijuana in a commercial
110 motor vehicle as defined in § 46.2-341.4. The attorney for the Commonwealth or the county, city, or
111 town attorney may prosecute such a case.

112 Upon the prosecution of a person for a violation of this section, ownership or occupancy of the
113 vehicle in which marijuana was found shall not create a presumption that such person either knowingly
114 or intentionally possessed such marijuana.

115 Any person who violates this section is subject to a civil penalty of no more than \$25. A violation of
116 this section is a civil offence. Any civil penalties collected pursuant to this section shall be deposited
117 into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.
118 Violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

119 B. Any violation of this section shall be charged by summons. A summons for a violation of this
120 section may be executed by a law-enforcement officer when such violation is observed by such officer.
121 The summons used by a law-enforcement officer pursuant to this section shall be in form the same as

the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs shall be assessed for violations of this section. A person's criminal history record information as defined in § 9.1-101 shall not include records of any charges or judgments for a violation of this section, and records of such charges or judgments shall not be reported to the Central Criminal Records Exchange; however, such violation shall be reported to the Department of Motor Vehicles and shall be included on such individual's driving record.

C. The procedure for appeal and trial of any violation of this section shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

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

E. The provisions of this section involving marijuana in the form of cannabis products as that term is defined in § 54.1-3408.3 shall not apply to any person who possesses such cannabis product pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) the person's diagnosed condition or disease, (ii) if such person is the parent or guardian of a minor or of an ~~incapacitated~~ *a vulnerable* adult as defined in § 18.2-369, such minor's or ~~incapacitated~~ *vulnerable* adult's diagnosed condition or disease, or (iii) if such person has been designated as a registered agent pursuant to § 54.1-3408.3, the diagnosed condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of an ~~incapacitated~~ *a vulnerable* adult as defined in § 18.2-369, such minor's or ~~incapacitated~~ *vulnerable* adult's diagnosed condition or disease.

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

A. As used in this section:

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

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

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

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

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

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

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

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology. If a practitioner determines it is consistent

183 with the standard of care to dispense botanical cannabis to a minor, the written certification shall
184 specifically authorize such dispensing. If not specifically included on the initial written certification,
185 authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at
186 the time of dispensing.

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

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

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

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

211 G. A patient, or, if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in
212 § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered
213 agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such
214 designated individual shall register with the Board. The Board may set a limit on the number of patients
215 for whom any individual is authorized to act as a registered agent.

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

222 I. The Board shall promulgate regulations to implement the registration process. Such regulations
223 shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification,
224 the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or ~~an~~
225 ~~incapacitated~~ *a vulnerable* adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a
226 process for ensuring that any changes in the information are reported in an appropriate timeframe; and
227 (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during
228 any given time period.

229 J. Information obtained under the registration process shall be confidential and shall not be subject to
230 the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However,
231 reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee
232 for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local
233 law enforcement for the purpose of investigating or prosecuting a specific individual for a specific
234 violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing
235 patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv)
236 a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a registered
237 patient, or (v) a registered patient, his registered agent, or, if such patient is a minor or ~~an incapacitated~~
238 *a vulnerable* adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect
239 to information related to such registered patient.

240 § 54.1-3442.5. Definitions.

241 As used in this article:

242 "Botanical cannabis," "cannabis oil," "cannabis product," and "usable cannabis" have the same
243 meanings as specified in § 54.1-3408.3.

244 "Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant

to § 54.1-3442.6; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis products produced by a pharmaceutical processor to a registered patient, his registered agent, or, if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in § 18.2-369, such patient's parent or legal guardian.

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

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

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

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

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

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

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

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling, including the potency of each botanical cannabis product and the amounts recommended by the practitioner or dispensing pharmacist, and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a registered patient, his registered agent, or, if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis oil that provide that each dispensed dose of cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processors and a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection M; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring oil from industrial hemp extract and formulating such oil extract with Cannabis plant extract into allowable dosages of cannabis oil; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and registered patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing cannabis products, (b) the secure disposal of agricultural waste, and (c) a process for registering cannabis oil products.

D. The Board shall require that, after processing and before dispensing any cannabis products, a pharmaceutical processor shall make a sample available from each batch of cannabis product for testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD); total tetrahydrocannabinol (THC); terpenes; pesticide chemical residue; heavy metals; mycotoxins; moisture; and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may

306 remediate cannabis oil that fails any quality testing standard. Following remediation, all remediated
307 cannabis oil shall be subject to laboratory testing and approved upon satisfaction of testing standards
308 applied to cannabis oil generally. If the batch fails retesting, it shall be considered usable cannabis and
309 may be processed into cannabis oil, unless the failure is related to pesticide requirements, in which case
310 the batch shall not be considered usable cannabis and shall not be processed into cannabis oil. Stability
311 testing shall not be required for any cannabis oil product with an expiration date assigned by the
312 pharmaceutical processor of six months or less from the date of packaging.

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

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

321 Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation
322 and production areas of the pharmaceutical processor and shall provide such information to the Board.
323 The Board shall direct all communications related to enforcement of requirements related to cultivation
324 and production of cannabis oil products by the pharmaceutical processor to such designated person.

325 G. The Board shall require the material owners of an applicant for a pharmaceutical processor or
326 cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive
327 information to be forwarded along with his fingerprints through the Central Criminal Records Exchange
328 to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information
329 regarding the applicant's material owners. The cost of fingerprinting and the criminal history record
330 search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results
331 of the criminal history background check to the Board or its designee, which shall be a governmental
332 entity. A pharmaceutical processor shall maintain evidence of criminal background checks for all
333 employees and delivery agents of the pharmaceutical processor. Criminal background checks of
334 employees and delivery agents may be conducted by any service sufficient to disclose any federal and
335 state criminal convictions.

336 H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ
337 individuals who may have less than two years of experience (i) to perform cultivation-related duties
338 under the supervision of an individual who has received a degree in a field related to the cultivation of
339 plants or a certification recognized by the Board or who has at least two years of experience cultivating
340 plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree
341 in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and
342 (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification
343 as a pharmacy technician.

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

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

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

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

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

366 N. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act
367 (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the

adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board of Pharmacy shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board of Pharmacy shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

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

§ 54.1-3442.7. Dispensing cannabis products; report.

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

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

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

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

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I,

429 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of
430 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
431 appropriation cannot be determined for periods of commitment to the custody of the Department
432 of Juvenile Justice.