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SENATE BILL NO. 126

Offered January 12, 2022

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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.

Patrons—Obenshain and Surovell

Referred to Committee on the Judiciary

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:

"Advanced age" means the same as that term is defined in § 18.2-369.

"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.

~~B.~~ 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.

~~C.~~ D. This section shall not apply to a transaction or disposition of money or other thing of value in

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SB126

59 which the accused acted for the benefit of the ~~person with mental incapacity~~ *vulnerable adult* or made a
60 good faith effort to assist such person with the management of his money or other thing of value.

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

65 **§ 18.2-369. Abuse and neglect of vulnerable adults; penalties.**

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

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

76 C. For purposes of this section:

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

82 "Advanced age" means 65 years of age or older.

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

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

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

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

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

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

113 **§ 46.2-341.20:7. Possession of marijuana in commercial motor vehicle unlawful; civil penalty.**

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

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

120 Any person who violates this section is subject to a civil penalty of no more than \$25. A violation of

121 this section is a civil offence. Any civil penalties collected pursuant to this section shall be deposited
122 into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.
123 Violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

124 B. Any violation of this section shall be charged by summons. A summons for a violation of this
125 section may be executed by a law-enforcement officer when such violation is observed by such officer.
126 The summons used by a law-enforcement officer pursuant to this section shall be in form the same as
127 the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court
128 costs shall be assessed for violations of this section. A person's criminal history record information as
129 defined in § 9.1-101 shall not include records of any charges or judgments for a violation of this section,
130 and records of such charges or judgments shall not be reported to the Central Criminal Records
131 Exchange; however, such violation shall be reported to the Department of Motor Vehicles and shall be
132 included on such individual's driving record.

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

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

141 E. The provisions of this section involving marijuana in the form of cannabis products as that term is
142 defined in § 54.1-3408.3 shall not apply to any person who possesses such cannabis product pursuant to
143 a valid written certification issued by a practitioner in the course of his professional practice pursuant to
144 § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) the person's diagnosed condition or
145 disease, (ii) if such person is the parent or guardian of a minor or of ~~an incapacitated~~ *a vulnerable* adult
146 as defined in § 18.2-369, such minor's or ~~incapacitated~~ *vulnerable* adult's diagnosed condition or disease,
147 or (iii) if such person has been designated as a registered agent pursuant to § 54.1-3408.3, the diagnosed
148 condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of
149 ~~an incapacitated~~ *a vulnerable* adult as defined in § 18.2-369, such minor's or ~~incapacitated~~ *vulnerable*
150 adult's diagnosed condition or disease.

151 **§ 54.1-3408.3. Certification for use of cannabis oil for treatment.**

152 A. As used in this section:

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

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

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

165 "Designated caregiver facility" means any hospice or hospice facility licensed pursuant to
166 § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services
167 or home health services, private provider licensed by the Department of Behavioral Health and
168 Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted
169 living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to
170 § 63.2-1701.

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

174 "Registered agent" means an individual designated by a patient who has been issued a written
175 certification, or, if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in
176 § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant
177 to subsection G.

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

182 B. A practitioner in the course of his professional practice may issue a written certification for the
183 use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or
184 disease determined by the practitioner to benefit from such use. The practitioner shall use his
185 professional judgment to determine the manner and frequency of patient care and evaluation and may
186 employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient
187 care through real-time interactive audio-visual technology. If a practitioner determines it is consistent
188 with the standard of care to dispense botanical cannabis to a minor, the written certification shall
189 specifically authorize such dispensing. If not specifically included on the initial written certification,
190 authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at
191 the time of dispensing.

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

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

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

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

216 G. A patient, or, if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in
217 § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered
218 agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such
219 designated individual shall register with the Board. The Board may set a limit on the number of patients
220 for whom any individual is authorized to act as a registered agent.

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

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

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

244 to information related to such registered patient.

245 **§ 54.1-3442.5. Definitions.**

246 As used in this article:

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

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

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

255 "Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to
256 § 54.1-3408.3 and (ii) cultivates Cannabis plants intended only for the production of cannabis oil,
257 botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to
258 a registered patient, his registered agent, or, if such patient is a minor or ~~an incapacitated~~ a vulnerable
259 adult as defined in § 18.2-369, such patient's parent or legal guardian.

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

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

262 **§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

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

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

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

299 D. The Board shall require that, after processing and before dispensing any cannabis products, a
300 pharmaceutical processor shall make a sample available from each batch of cannabis product for testing
301 by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for
302 testing shall be determined by each laboratory and may vary due to sample matrix, analytical method,
303 and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for
304 dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a

305 representative cannabis oil sample for analysis. A minimum sample size, to be determined by the
306 certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative
307 botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the
308 following: total cannabidiol (CBD); total tetrahydrocannabinol (THC); terpenes; pesticide chemical
309 residue; heavy metals; mycotoxins; moisture; and microbiological contaminants. Testing thresholds shall
310 be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may
311 remediate cannabis oil that fails any quality testing standard. Following remediation, all remediated
312 cannabis oil shall be subject to laboratory testing and approved upon satisfaction of testing standards
313 applied to cannabis oil generally. If the batch fails retesting, it shall be considered usable cannabis and
314 may be processed into cannabis oil, unless the failure is related to pesticide requirements, in which case
315 the batch shall not be considered usable cannabis and shall not be processed into cannabis oil. Stability
316 testing shall not be required for any cannabis oil product with an expiration date assigned by the
317 pharmaceutical processor of six months or less from the date of packaging.

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

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

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

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

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

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

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

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

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

363 M. A pharmaceutical processor may acquire industrial hemp extract processed in Virginia, and in
364 compliance with state or federal law, from a registered industrial hemp dealer or processor. A
365 pharmaceutical processor may process and formulate such oil extract with cannabis plant extract into an
366 allowable dosage of cannabis oil. Industrial hemp acquired by a pharmaceutical processor is subject to

367 the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be
368 performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp
369 dealer or processor shall provide such third-party testing results to the pharmaceutical processor before
370 industrial hemp may be acquired.

371 N. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act
372 (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the
373 adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this
374 section, the Board of Pharmacy shall publish a notice of opportunity to comment in the Virginia
375 Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of
376 opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the
377 proposed regulation; and (iii) the name, address, and telephone number of the agency contact person
378 responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the
379 last date prescribed in such notice for submittals of public comment. The legislative review provisions of
380 subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for
381 regulations pursuant to this section. The Board of Pharmacy shall consider and keep on file all public
382 comments received for any regulation adopted pursuant to this section.

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

384 **§ 54.1-3442.7. Dispensing cannabis products; report.**

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

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

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

425 D. The concentration of delta-9-tetrahydrocannabinol in any cannabis product on site may be up to
426 10 percent greater than or less than the level of delta-9-tetrahydrocannabinol measured for labeling. A
427 pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any

428 cannabis product on site is within such range. A pharmaceutical processor producing cannabis products
429 shall establish a stability testing schedule of cannabis products.
430 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
431 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
432 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
433 **correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I,**
434 **requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of**
435 **\$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
436 **appropriation cannot be determined for periods of commitment to the custody of the Department**
437 **of Juvenile Justice.**