

**STATE OF VERMONT
CANNABIS CONTROL BOARD**

RULE 3: MEDICAL CANNABIS

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PROPOSED

3. Rule 3: Medical Cannabis

3.1 Section 1: General Provisions

3.1.1 Authority

The Cannabis Control Board adopts this rule pursuant to 7 V.S.A. §§ 901, 953, 954, 956, 971, 974, 975, 976, 978, and other applicable law.

3.1.2 Scope and Purpose

The Board is charged with implementing and regulating a legal market for Cannabis in Vermont. This rule regulates the Patient and Caregiver Registry, as well cannabis dispensaries.

3.1.3 Definitions

All definitions in 7 V.S.A. §§ 861 and 951 shall apply to this rule. The following definitions shall also apply:

- (a) “Board designee” means a person designated by the Board to act as its agent for the purpose of executing the Board’s responsibilities. This may be an employee of the Board, another government agency, or a contractor.
- (b) “Bona fide health care professional-patient relationship” means a treating or consulting relationship of not less than three months’ duration, in the course of which a health care professional has completed a full assessment of the registered patient's medical history and current medical condition, including a personal physical examination.
 - i. The three-month requirement shall not apply if:
 - 1. a patient has been diagnosed with a terminal illness, cancer, or acquired immune deficiency syndrome;
 - 2. a patient is currently under hospice care;
 - 3. a patient had been diagnosed with a debilitating medical condition by a health care professional in another jurisdiction in which the patient had been formerly a resident and the patient, now a resident of Vermont, has the diagnosis confirmed by a health care professional in this State or a neighboring state as provided in subdivision 7 V.S.A. § 951(5)(B), and the new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination;
 - 4. a patient who is already on the Registry changes health care professionals three months or less prior to the annual renewal of the patient's registration, provided the patient's new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination;

5. a patient is referred by his or her health care professional to another health care professional who has completed advanced education and clinical training in specific debilitating medical conditions, and that health care professional conducts a full assessment of the patient's medical history and current medical condition, including a personal physical examination; or
 6. a patient's debilitating medical condition is of recent or sudden onset.
- (c) "Caregiver" means a person who has been issued a Caregiver registration card by the Board, identifying the person as someone who has agreed to undertake responsibility for managing the well-being of a Patient with respect to the use of Cannabis or Cannabis Products for symptom relief.
 - (d) "Inventory Tracking System" means a method implemented by the Board for tracing all Cannabis and Cannabis Products grown, manufactured, and sold in Vermont.
 - (e) "Licensee" means a person who has been issued a license pursuant to Board Rule 1 or this rule. A licensee does not include a person who has been issued a provisional license.
 - (f) "Patient" means a resident of Vermont who has been issued a Patient registration card by the Board, identifying the person as having a qualifying medical condition pursuant to the provisions of this rule.
 - (g) "Pesticide" shall have the same meaning as "economic poison" as defined in 6 V.S.A. § 911(5).
 - (h) "Physical site of operations" means:
 - i. a cultivator's grow site;
 - ii. a wholesaler's product storage facility;
 - iii. a manufacturer's site of manufacture;
 - iv. a retailer's store location; or
 - v. a testing laboratory's testing facility.
 - (i) "Resident of Vermont" means a person who is domiciled in Vermont.

Any time this rule references a retail Cannabis Establishment or otherwise references retail stores, such references shall include the retail portion of an integrated licensee unless the text of the rule plainly states that it does not.

3.1.4 Applicability

This rule applies to persons who seek to become Patients or Caregivers, who are Patients or Caregivers, who seek to operate a dispensary, or who operate a dispensary pursuant to 7 V.S.A. chapters 37 and 39. This rule also applies to retail cannabis establishments that pursue or obtain a medical-use endorsement pursuant to 7 V.S.A. § 907(f), as well as to cannabis manufacturers and wholesalers that process, package, buy, sell, make, or market Cannabis and Cannabis Products for medical use that are not permitted for nonmedical use.

3.1.5 Time

- (a) In computing any time period, measured in days, that is established or allowed by this rule or by order of the Board or Chair:
 - i. the day of the act or event that triggers the period shall be excluded;

- ii. every day, including intermediate Saturdays, Sundays, and legal holidays shall be counted;
 - iii. the last day of the period shall be counted, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- (b) A “legal holiday” means:
- i. any day declared a holiday by the President or Congress of the United States; and
 - ii. any day declared a holiday by the State of Vermont.

3.1.6 Severability

If any portion of this rule is found to be invalid, the remaining portion of the rule shall remain in force and effect.

3.2 Registration of Patients

3.2.1 Forms and Fees

Individuals applying to register as a Patient are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public. Applicants may have to pay a fee in accordance with a fee schedule that the Board will make readily accessible to the public.

3.2.2 Patient Application

The Patient application shall require the following information:

- (a) Name, address, phone number, email if available, and date of birth;
- (b) A valid Vermont driver’s license or non-driver identification number if the individual has such documentation. The Board will review alternative documentation demonstrating residency on a case-by-case basis for individuals without such documentation;
- (c) Name, address, phone number, email if available, and date of birth of a person the Patient is requesting serve as his or her Caregiver pursuant to section 3.3 of this rule, if applicable;
- (d) A Health Care Professional Verification Form—Initial, as provided for by section 3.2.3 of this rule, completed, signed, and dated by a health care professional in a bona fide health care professional-patient relationship with the applicant.
- (e) A recent electronic photograph; and
- (f) An attestation that all information provided in the application is truthful, provided that if an individual is under 18 the attestation must be signed by a parent or legal guardian.

3.2.3 Health Care Professional Verification Form

The Board will make Health Care Professional Verification Forms available in a format readily accessible to the public. The Health Care Professional Verification Form must contain the following:

- (a) A statement by a health care professional that the Patient has a qualifying medical condition, as defined in 7 V.S.A. § 951(8), including the specific disease or condition which the Patient has;
- (b) A signed certification which provides in substantial part: “I certify that I meet the definition of a ‘health care professional’ as defined by 7 V.S.A. § 951(5), that I am a health care professional in good standing in the state of , that a ‘bona fide health care professional-patient relationship,’ as defined by CCB Rule 3.1.3(b), exists between myself and the subject patient, and that the facts that stated on the form are accurate to the best of my knowledge and belief”;
- (c) The date upon which the health care professional signed the certification, which shall be no older than 6 months prior to the submission of the application submitted pursuant to section 3.2.2 of this rule;
- (d) The health care professional's contact information, certification or license number, professional classification, and issuing state of professional certification or license;and
- (e) A release of information signed by the Patient applicant authorizing the Board to verify and confirm the accuracy of the information contained within the Health Care Professional Verification Form.

3.2.4 Patient Registration and Issuance of a Registered Patient Identification Card

- (a) The Board shall register as Patients all individuals who are residents of Vermont and who submit a complete and truthful application pursuant to section 3.2.2 of this rule.
- (b) Patients will be entitled to the privileges accorded to them in 7 V.S.A. chapter 35 and must comply with the requirements of that chapter and this rule.
- (c) The Board shall issue Patients a registered Patient identification card in a format determined by the Board.

3.2.5 Renewal of Patient Registration and Patient Identification Card

- (a) Patient registrations shall be valid for the time period set by 7 V.S.A. § 955.
- (b) Patients must submit a renewal form, which shall be created by the Board and readily available to the public, that:
 - i. updates any information that was provided in their original application or their previous renewal application to the extent the information has changed; and
 - ii. contains a new Health Care Professional Verification Form with a certification that is dated less than 6 months prior to the submission of the renewal application, provided that the Health Care Professional Verification Form and electronic photo will only be required every second renewal application;
- (c) Patients who do not submit renewal forms prior to the expiration of their registration must apply in accordance with section 3.2.2 of this rule.
- (d) Patients who submit renewal forms prior to the expiration of their registration but who do not get a response from the Board prior to the expiration date shall retain their prior registration until such time as the Board grants or denies their renewal.

3.3 Registration of Caregivers

3.3.1 Forms and Fees

Individuals applying to register as a Caregiver are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public. Applicants may have to pay a fee in accordance with a fee schedule that the Board will make readily accessible to the public.

3.3.2 Caregiver Application

The Caregiver application shall require the following information:

- (a) Name, address, phone number, email if available, and date of birth;
- (b) Name, address, phone number, email if available, and date of birth of a Patient whom the Caregiver will serve;
- (c) A valid Vermont driver's license or non-driver identification number if the individual has such documentation. The Board will review alternative documentation demonstrating residency on a case-by-case basis for individuals without such documentation;
- (d) any authorization or disclosure deemed necessary by the Board for the purpose of conducting a background check;
- (e) A recent electronic photograph of the individual;
- (f) An attestation that all information provided in the application is truthful.

3.3.3 Criminal History Records

To become registered Caregivers, individuals must be deemed qualified in accordance with the standards regarding criminal history records in section 1.11 of Board Rule 1, provided that if a spouse, domestic partner (as defined in 17 V.S.A. §2414(e)(1)), child, legal guardian, parent, sibling, grandparent, or grandchild of a Patient seeks to be their Caregiver the Board may, at its discretion, temporarily register the Caregiver pending the completion of criminal history check.

3.3.4 Caregiver Registration and Issuance of a Registered Caregiver Identification Card

- (a) The Board shall register as a Caregiver an individual who meets the following requirements:
 - i. Is a resident of Vermont;
 - ii. Is 21 years of age or older;
 - iii. Submits a complete and truthful application pursuant to section 3.3.2 of this rule; and
 - iv. Meets the criminal history record qualification standards to the extent required by section 3.3.3 of this rule.
- (b) Caregivers will be entitled to the privileges accorded to them in 7 V.S.A. chapter 35 of the Vermont Statutes and must comply with the requirements of that chapter and this rule.
- (c) The Board shall issue Caregivers a registered Caregiver identification card in a format

determined by the Board.

3.3.5 Renewal of Caregiver Registration and Caregiver Identification Card

- (a) Caregiver registrations shall be valid for the time period set by 7 V.S.A. § 955.
- (b) Caregivers must submit a renewal form, which shall be created by the Board and readily available to the public, that:
 - i. updates any information that was provided in their original application or their previous renewal application to the extent the information has changed; and
 - ii. provides for an updated background check.
- (b) Caregivers who do not submit renewal forms prior to the expiration of their registration must apply in accordance with section 3.3.2 of this rule.
- (c) Caregivers who submit renewal forms prior to the expiration of their registration but who do not get a response from the Board prior to the expiration date shall retain their prior registration until such time as the Board grants or denies their renewal.

3.3.6 Caregiver Renewals for Registrations Pursuant to 18 V.S.A. chapter 86

- (a) On the date that this rule takes effect, individuals who have valid Caregiver registrations pursuant to the rules set forth by the Department of Public Safety under 18 V.S.A. Chapter 86 shall be deemed to have valid Caregiver registrations under this rule until such time as those registrations would have expired under the Department of Public Safety's rules.
- (b) Such Caregivers may renew their registrations by submitting a renewal form to the Board pursuant to section 3.3.5 of this rule, provided that the information they will be required to update will be limited to the information requested in section 3.3.2 of this rule.

3.4 Licensing of Dispensaries

3.4.1 Forms and Fees

A person or persons applying for a dispensary license are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public. Applicants may have to pay a fee in accordance with a fee schedule that the Board will make readily accessible to the public.

3.4.2 General Licensing Requirements

- (a) The license application and renewal provisions of Board Rule 1 shall apply to any person or persons seeking to obtain or renew a license to operate a dispensary, subject to applicable provisions in section 3.4.3 of this rule.
- (c) Sections 1.4 through 1.9 of Board Rule 1 are each applicable to a dispensary application or renewal, except as provided by subsection 3.4.3(d) of this rule.
- (d) Dispensary licenses are valid for one year from the date of issue.

When applying Rule 1 to a person or persons applying to operate a dispensary:

- (e) “Cannabis Establishment” shall mean a dispensary;
- (f) “Applicant” shall mean a dispensary applicant;
- (g) “Licensee” shall mean a person or persons who have been licensed to operate a dispensary;
- (h) Fees will be understood to reference those required by 7 V.S.A. chapter 37; and
- (i) Where Board Rule 1 requires compliance with applicable statutes, such references shall be understood to mean compliance with 7 V.S.A. chapter 37.

3.4.3 Departures from Board Rule 1 for Dispensary Licensing

- (a) Dispensary applicants must submit plans satisfactory to the Board to ensure Patient privacy and confidentiality.
- (b) In addition to complying with all employee training required pursuant to Rule 1, employees who interact with Patients shall complete all additional trainings required by the Board regarding patient confidentiality, the Inventory Tracking System, record-keeping, and the probable effects of the Cannabis and Cannabis Products available for Patient purchase.
- (c) Dispensary applicants must submit plans satisfactory to the Board to provide educational materials to Patients and, if applicable, their Caregivers.

3.4.4 Dispensary Identification Cards

Owners, principals, and employees of dispensaries will be issued Cannabis Establishment identification cards in accordance with Board Rule 1.16. Maintenance and renewals of the cards will also occur in accordance with Board Rule 1.16. This will constitute compliance with 7 V.S.A. § 976. For the purposes of this rule, a dispensary cardholder will mean an employee, owner, or principal of a dispensary who has a current and valid Cannabis Establishment identification card.

3.5 Regulation of Dispensaries

3.5.1 General Regulatory Requirements

- (a) Dispensaries may do everything permitted in 7 V.S.A. §§ 971 and 973 and must abide by the regulations of 7 V.S.A. chapter 37.
- (b) Except where Board Rule 2 conflicts with 7 V.S.A. §§ 971 and 973 or the provisions of this section 3.5, dispensaries shall be regulated in accordance with Board Rule 2.
- (c) In accordance with 7 V.S.A. chapter 37, product restrictions in Board Rule 2 and 7 V.S.A. chapter 33 are not applicable to dispensaries.
- (d) Each activity in a dispensary’s operation, including but not limited to cultivation, manufacturing, and retail sales, will be regulated in accordance with the relevant section of Board Rule 2, subject to the exceptions in this section 3.5.

When applying Board Rule 2 to dispensary operations:

- (e) “Cannabis Establishment” shall mean a dispensary;
- (f) “Licensee” shall mean a person or persons who have been licensed to operate a dispensary; and
- (g) Where Board Rule 2 requires compliance with applicable statutes, such references shall be understood to mean compliance with 7 V.S.A. chapter 37.

3.5.2 Transportation and Delivery

The provisions governing transportation of Cannabis and Cannabis Products contained in Board Rule 2 do not apply to dispensaries. The following rules govern transportation and delivery for dispensaries:

A registered dispensary electing to deliver to registered Patients 21 years of age or older and Caregivers, or to transfer to another dispensary or a testing laboratory, shall:

- (a) Transport Cannabis and Cannabis Products in a secure locked container.
- (b) Only permit registered cannabis identification card holders in the vehicle.
- (c) Deliver only to a Patient’s or Caregiver’s physical address transmitted to the dispensary from the Board.
- (d) Ensure that dispensary personnel other than the personnel performing delivery services have knowledge of the delivery schedule.
- (e) Depart with only the amount of Cannabis or Cannabis Product scheduled for delivery;
- (f) Schedule deliveries to occur only during established operating hours.
- (g) Verify the identity of each registered Patient or Caregiver at the time of his or her initial delivery and prior to dispensing Cannabis. Cannabis or Cannabis Product shall be transferred directly into the physical possession of the registered Patient or Caregiver.
- (h) Prior to dispensing Cannabis or Cannabis Product to the registered Patient or Caregiver who scheduled a delivery, verify his or her registry identification card is valid.
- (i) Ensure delivery vehicles are discreet and do not display advertising, cannabis-related insignia, or features indicative of dispensary operations.
- (j) Ensure that all dispensary cardholders performing deliveries have a mode of communication for contacting emergency services personnel.
- (k) Develop and implement policies and procedures to ensure employee safety and to provide security sufficient to prevent loss of inventory, theft, and diversion for the dispensing, delivery, and storage of Cannabis or Cannabis Product.
- (l) Require all dispensary cardholders to physically possess their registry identification cards when performing delivery services.
- (m) Retain documentation containing the following information for each delivery:
 - i. Registered Patient name and registry identification number. If a registered Caregiver accepts a delivery on behalf of his or her registered Patient the documentation shall additionally include the registered Caregiver’s name and registry identification number;
 - ii. Name(s) and registry identification number(s) of the dispensary cardholder(s) performing delivery;
 - iii. Date and time of delivery; and
 - iv. Strain, form, and amount of Cannabis or Cannabis Product delivered. Amount of Cannabis or Cannabis Product shall be in ounce or gram units of weight.

- (n) Generate a trip ticket for the transfer or transport of Cannabis or Cannabis Product between registered dispensary locations or to a registered Patient or Caregiver. A trip ticket will be provided to a registered Patient or his or her Caregiver and shall include the registered dispensary's name, product type, strain, weight in ounce or gram units, form, and time and date of transaction. A trip ticket when cannabis is transported by a registered dispensary to another registered dispensary or testing laboratory shall contain the originating and receiving dispensary or testing laboratory name and physical address, the weight and form of Cannabis and Cannabis Product, and relinquishing time and date.

3.5.3 Dispensary Visitors

The provisions governing visitors to Cannabis Establishments contained in Board Rule 2 do not apply to dispensaries. The following rules govern visitors to dispensaries, but not visitors to the cultivation area of a dispensary:

- (a) Patients, Caregivers, and holders of cannabis establishment identification cards shall always have their identification cards on-site while at a registered dispensary.
- (b) Dispensaries must make accommodation for Patient privacy upon request, including allowing Patients to purchase Cannabis or Cannabis Products inside the dispensary without compromising Patient privacy.
- (c) A record shall be maintained of all individuals who purchase Cannabis or Cannabis Products from the dispensary, provided that when an integrated licensee operates a dispensary location that also serves as an adult use retail location, records related to adult use consumers shall not violate the provisions of Rule 2.8.3. The record shall contain first and last legal name of all individuals, time, date, and registry identification number.
- (d) A licensed dispensary shall limit access to Patients and Caregivers, except for the situations listed in this subsection (d). In these situations, the record shall contain entity affiliation and purpose of entry and may omit a registry identification number:
 - i. A contractor or vendor, or the owner of the property on which a dispensary is located, who is performing services related to the operation of a dispensary and who needs access to the registered dispensary may be allowed access for a limited time under the direct accompaniment of a registered dispensary cardholder.
 - ii. A government employee who, in the performance of his or her job duties requires access to the registered dispensary shall be allowed access for a limited time under the direct accompaniment of a registered dispensary cardholder.
 - iii. Emergency services personnel, such as firefighters, police officers or other officials, who in the performance of their life safety duties require access to the registered dispensary in an emergency life safety or protection situation may enter a registered dispensary without escort in order to perform his or her job.
 - iv. A health care professional as defined by 7 V.S.A. § 951(5) may be allowed access under the direct accompaniment of a dispensary cardholder.
 - v. An interpreter for a Patient or Caregiver may be allowed access if they are accompanying the Patient or Caregiver for whom they are translating.

The following rules govern visitors to the cultivation or processing area of a dispensary:

- (e) Only dispensary cardholders may access a licensed dispensary cultivation or processing

location, except in one (or more) of the circumstances set out in subsection 3.5.3(d) of this section.

- (f) Licensed dispensaries conducting dispensing appointments in the same facility as cultivation and/or processing shall secure the cultivation and/or processing area(s) from the dispensing area of the facility with a lock or other security device in addition to all other security measures required by these rules.

3.5.4 Dispensary Security

- (a) The provisions governing security at Cannabis Establishments contained in Board Rule 2 apply to dispensaries.
- (b) Each activity that a dispensary engages in, including but not limited to cultivation, manufacturing, production, and sales, must abide by the relevant security requirements contained in Board Rule 2.

3.5.5 Quantity Limits

- (a) In a single transaction, dispensaries may provide no more Cannabis than a patient is permitted to possess in accordance with any limit set by 7 V.S.A. § 952, no more than the equivalent in Cannabis Products, or no more than the permitted limit in a combination of Cannabis and the equivalent in Cannabis Product.
- (b) Non-edible, non-psychoactive Cannabis Products including ointments, lotions, balms, and other non-transdermal topical products are exempt from the two-ounce quantity limit on sales.
- (c) Equivalencies referenced in subsection (a) of this section 3.5.5 shall be provided by guidelines promulgated by the Board and readily accessible to the public.

3.5.6 Transfer or Sale to Adult Use Market Prohibited

Dispensaries and the dispensary operations of integrated licensees may not sell or transfer Cannabis or Cannabis Product to any person or licensee participating in the adult use market, except that the dispensary operations of integrated licensees may make such transfers to the extent permitted by Rule 2.10.5.

3.6 Integrated Licensees

- (a) If an integrated licensee is operating a dispensary, any portion of the licensee's operations that are servicing both the adult use market and the dispensary will be required to follow all relevant regulations in Board Rule 2, with the following exceptions:
 - i. At a retail operation both medical regulations and adult use regulations will apply in accordance with Rule 2.10 and this rule; and
 - ii. In accordance with 7 V.S.A. §§ 971 and 973, integrated licensees that also operate a dispensary may produce and sell Cannabis and Cannabis Product in accordance with those statutes and this rule only to the extent required to serve Patients as part of the licensee's dispensary operation.
- (b) Integrated licensees with dispensary retail operations shall make accommodation for

Patient privacy at a retail establishment upon request, including allowing Patients to purchase Cannabis or Cannabis Products inside the retail establishment without compromising Patient privacy.

3.7 Medical Cannabis and Medical Cannabis Products

3.7.1 Testing,

Medical products for sale at a dispensary or a retail cannabis establishment with a medical use endorsement must have been tested in accordance with Board Rule 2 and related guidance by a third-party Cannabis Establishment with a testing laboratory license.

3.7.2 Registration

Medical products for sale at a dispensary or a retail cannabis establishment with a medical use endorsement must be registered under Rule 2.2.21 in like manner to adult-use Cannabis and Cannabis Products. Medical registrations shall be distinguished with an “M” suffix.

3.7.3 Packaging & Labeling

Medical products must conform to requirements applicable to adult-use products. Packaging and labeling of medical products must be black and white in color and must comply with other distinguishing characteristics set out in Board guidance.

3.7.4 Display & Sale

A retail cannabis establishment with a medical endorsement must store medical products behind the counter and display medical products only under cover. Patient eligibility to purchase medical products shall be verified at the point of sale, prior to sale, by comparing an acceptable form of identification to the purchaser’s valid patient or caregiver identification card.

3.7.5 Sampling Prohibited

Notwithstanding any law or rule to the contrary, samples of medical products are prohibited.

3.8 Deregistration of Patients or Caregivers

- (a) A health care professional who signed the certification on a Health Care Professional Verification Form may withdraw their certification at any time by submitting to the Board a signed statement to that effect. This shall have the effect of canceling a Patient’s registration. A Patient who has been deregistered in this manner may submit an application to the Board pursuant to section 3.2.2 of this rule at any time, provided that the Patient must submit a new and timely Health Care Professional Verification Form.

- (b) A Patient who stops using the services of a Caregiver may submit a notice to that effect to the Board. If a Caregiver is no longer serving any Patient due to such a cessation of services or due to a Patient's death, the Caregiver's registration shall expire 90 days after the cessation or death.

3.9 Patient's and Caregiver's Ongoing Duty to Disclose

Patients and Caregivers have an ongoing duty to fully and transparently update the information submitted with their registration application or their last renewal form if they have renewed their registration.

3.10 Dispensary's Ongoing Duty to Disclose

A dispensary has an ongoing duty to fully and transparently update the information submitted with their licensing application or their last renewal form if they have renewed their license.

3.10.1 Disclosure Insufficient For Changes In Control

If a dispensary seeks to alter the interest holders that control it, mere disclosure is insufficient to meet its obligations under this rule. It must seek a license renewal prior to any change in control, as required by Rule 1.17.

3.11 Confidentiality

The Board will abide by the confidentiality requirements of 7 V.S.A. §§ 901a, 952(c), and 7 V.S.A. § 973(b).

3.12 Regulatory Waiver

The Board, in accordance with the purposes and intent of 7 V.S.A. chapters 35 and 37 and this rule, may waive a regulatory requirement regarding the operations of a dispensary or the Patient and Caregiver Registry to the extent such waiver does not conflict with any other state law, if in the Board's determination, such a waiver:

- (a) is necessary to achieve the purpose of Vermont law; and
- (b) does not create a danger to the public health, safety, or welfare.