WEST VIRGINIA CODE CHAPTER 16A ARTICLE 15

WV Legislature

§16A-15-1. Conflict.

The growth, processing, manufacture, acquisition, transportation, sale, dispensing, distribution, possession and consumption of medical cannabis permitted under this act shall not be deemed to be a violation of the provisions of the Uniform Controlled Substance Act under chapter sixty-a of this code. If a provision of Uniform Controlled Substance Act under chapter sixty-a relating to cannabis conflicts with a provision of this act, this act shall take precedence.

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§16A-15-2. Financial and employment interests.

(a) Financial interests. — A public official, or an immediate family member thereof, shall not intentionally or knowingly hold a financial interest in a medical cannabis organization or in a holding company, affiliate, intermediary or subsidiary thereof, while the individual is a public official and for one year following termination of the individual's status as a public official.

(b) Employment. — No public official, or an immediate family member thereof, shall be employed by a medical cannabis organization or by any holding company, affiliate, intermediary or subsidiary thereof, while the individual is a public official and for one year following termination of the individual's status as a public official.

(c) For purposes of this section, "public official" and "immediate family" shall have the same definitions as those phrases are defined in section three, article one, chapter six-b of this code.

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§16A-15-3. Insurers.

Nothing in this act shall be construed to require an insurer or a health plan, whether paid for by state funds or private funds, to provide coverage for medical cannabis.

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§16A-15-4. Protections for patients and caregivers.

(a) Licensure. — None of the following shall be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a state licensing board or commission, solely for lawful use of medical cannabis or manufacture or sale or dispensing of medical cannabis, or for any other action taken in accordance with this act:

(1) A patient.

(2) A caregiver.

(3) A practitioner.

(4) A medical cannabis organization.

(5) A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter.

(6) A clinical registrant or academic clinical research center under article fourteen of this chapter.

(7) An employee, principal or financial backer of a medical cannabis organization.

(8) An employee of a health care medical cannabis organization or an employee of a university participating in a research study under article thirteen of this chapter.

(9) An employee of a clinical registrant or an employee of an academic clinical research center under article fourteen of this chapter.

(b) Employment. —

(1) No employer may discharge, threaten, refuse to hire or otherwise discriminate or retaliate against an employee regarding an employee's compensation, terms, conditions, location or privileges solely on the basis of such employee's status as an individual who is certified to use medical cannabis.

(2) Nothing in this act shall require an employer to make any accommodation of the use of medical cannabis on the property or premises of any place of employment. This act shall in no way limit an employer's ability to discipline an employee for being under the influence of medical cannabis in the workplace or for working while under the influence of medical cannabis when the employee's conduct falls below the standard of care normally accepted for that position.

(3) Nothing in this act shall require an employer to commit any act that would put the employer or any person acting on its behalf in violation of federal law.

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§16A-15-5. Schools.

The Department of Education shall promulgate rules within six months of the effective date of this section regarding the following:

(1) Possession and use of medical cannabis by a student on the grounds of a preschool, primary school and a secondary school.

(2) Possession and use of medical cannabis by an employee of a preschool, primary school and a secondary school on the grounds of such school.

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§16A-15-6. Daycare centers.

The Bureau shall promulgate rules within six months of the effective date of this section regarding the following:

(1) Possession and use of medical cannabis by a child under the care of a child-care or social service center licensed or operated by the Bureau of Family Assistance.

(2) Possession and use of medical cannabis by an employee of a child-care or social service center licensed or operated by the Bureau of Family Assistance.

(3) Possession and use of medical cannabis by employees of a youth development center or other facility which houses children adjudicated delinquent.

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§16A-15-7. Zoning.

The following apply:

(1) A grower/processor shall meet the same municipal zoning and land use requirements as other manufacturing, processing and production facilities that are located in the same zoning district.

(2) A dispensary shall meet the same municipal zoning and land use requirements as other commercial facilities that are located in the same zoning district.

(3) A municipality may enact an ordinance prohibiting or limiting the number and type of medical cannabis organizations permitted to operate in the municipality, including the time, place, and manner of operation.

WV Legislature

§16A-15-8. Notice to bureau.

(a) A municipality that enacts a restrictive ordinance pursuant to section seven of this article, shall promptly notify the bureau of such action.

(b) A county commission shall notify the bureau if a county votes to prohibit allowance of a medical cannabis organization pursuant to section six, article seven of this chapter.

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§16A-15-9. Applicability.

The issuance of permits and other authorizations shall begin upon publication of a notice by the bureau in the State Register that adequate emergency or permanent rules have been adopted to initiate the program under this act.

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§16A-15-10. State employee actions and federal law.

(a) No cause of action exists against the state officers and employees in their personal capacities, while acting within the scope of duties contemplated by §16A-1-1 et seq. of this code. Any recovery for claims or actions arising from this section is limited solely to the proceeds of available insurance coverage.

(b) To the extent permitted by law, the State of West Virginia shall defend state officers and employees involved in implementing the provisions of §16A-1-1 et seq. of this code against any claims, charges, liabilities, or expenses and shall indemnify and hold harmless state officers and employees involved in implementing the provisions of §16A-1-1 et seq. of this code provided they acted within the scope of their duties or employment in accordance with the act, including without limitation, defense in any state, federal, or local court and payment of the amount of any judgment obtained, damages, legal fees, expenses, and any other expenses incurred.

WV Legislature