WEST VIRGINIA CODE CHAPTER 16A ARTICLE 4

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§16A-4-1. Registration.

(a) Eligibility. — A physician included in the registry is authorized to issue certifications to patients to use medical cannabis. To be eligible for inclusion in the registry:

(1) A physician must apply for registration in the form and manner required by the bureau.

(2) The bureau must determine that the physician is, by training or experience, qualified to treat a serious medical condition. The physician shall provide documentation of credentials, training or experience as required by the bureau.

(3) The physician must have successfully completed the course under subsection (a), section one, article three of this chapter.

(b) Bureau action. —

(1) The bureau shall review an application submitted by a physician to determine whether to include the physician in the registry. The review shall include information regarding whether the physician has a valid, unexpired, unrevoked, unsuspended license to practice medicine in this state and whether the physician has been subject to discipline.

(2) The inclusion of a physician in the registry shall be subject to annual review to determine if the physician's license is no longer valid, has expired or been revoked or the physician has been subject to discipline. If the license is no longer valid, the bureau shall remove the physician from the registry until the physician holds a valid, unexpired, unrevoked, unsuspended state license to practice medicine in West Virginia.

(3) The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine shall report to the bureau the expiration, suspension or revocation of a physician's license and any disciplinary actions in a timely fashion.

(c) Practitioner requirements. — A practitioner included in the registry shall have an ongoing responsibility to immediately notify the bureau in writing if the practitioner knows or has reason to know that any of the following is true with respect to a patient for whom the practitioner has issued a certification:

(1) The patient no longer has the serious medical condition for which the certification was issued.

(2) Medical cannabis would no longer be therapeutic or palliative.

(3) The patient has died.

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§16A-4-2. Practitioner restrictions.

(a) Practices prohibited. — The following shall apply with respect to practitioners:

(1) A practitioner may not accept, solicit or offer any form of remuneration from or to a prospective patient, patient, prospective caregiver, caregiver or medical cannabis organization, including an employee, financial backer or principal, to certify a patient, other than accepting a fee for service with respect to the examination of the prospective patient to determine if the prospective patient should be issued a certification to use medical cannabis.

(2) A practitioner may not hold a direct or economic interest in a medical cannabis organization.

(3) A practitioner may not advertise the practitioner's services as a practitioner who can certify a patient to receive medical cannabis.

(b) Unprofessional conduct. — A practitioner who violates subsection (a) of this section shall not be permitted to issue certifications to patients and shall be removed from the registry.

(c) Discipline. — In addition to any other penalty that may be imposed under this act, a violation of subsection (a) of this section or subsection (f), section three of this article shall be deemed unprofessional conduct under the West Virginia Medical Practice Act, and shall subject the practitioner to discipline by the West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine, as appropriate.

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§16A-4-3. Issuance of certification.

(a) Conditions for issuance. — A certification to use medical cannabis may be issued by a practitioner to a patient if all of the following requirements are met:

(1) The practitioner has been approved by the bureau for inclusion in the registry and has a valid, unexpired, unrevoked, unsuspended license to practice medicine in this state at the time of the issuance of the certification.

(2) The practitioner has determined that the patient has a serious medical condition and has included the condition in the patient's health care record.

(3) The patient is under the practitioner's continuing care for the serious medical condition.

(4) In the practitioner's professional opinion and review of past treatments, the practitioner determines the patient is likely to receive therapeutic or palliative benefit from the use of medical cannabis.

(5) The practitioner has determined that the patient has no past or current medical condition(s) or medication use that would constitute a contraindication for the use of cannabis.

(6) The practitioner has determined that the patient is experiencing serious pathophysiological discomfort, disability, or dysfunction that may be attributable to a serious medical condition and may possibly benefit from cannabis treatment when current medical research exhibits a moderate or higher probability of efficacy; and

(7) The practitioner has educated the patient about cannabis and its safe use.

(b) Contents. — The certification shall include:

(1) The patient's name, date of birth, and address.

(2) The specific serious medical condition of the patient.

(3) A statement by the practitioner that the patient has a serious medical condition and the patient is under the practitioner's continuing care for the serious medical condition.

(4) The date of issuance.

(5) The name, address, telephone number, and signature of the practitioner.

(6) Any requirement or limitation concerning the appropriate form of medical cannabis and limitation on the duration of use, if applicable, including whether the patient is terminally ill.

(7) A statement by the practitioner attesting that he or she has performed the requirements contained in subsection (a) of this section on a form to be issued by the West Virginia

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Department of Health, Bureau for Public Health.

(c) Consultation. —

(1) A practitioner shall review the prescription drug monitoring program prior to:

(A) Issuing a certification to determine the controlled substance history of a patient.

(B) Recommending a change of amount or form of medical cannabis.

(2) The practitioner shall consider and give due consideration to other controlled substances the patient may be taking prior to certifying medical cannabis.

(d) Other access by practitioner. — A practitioner may access the prescription drug monitoring program to do any of the following:

(1) Determine whether a patient may be under treatment with a controlled substance by another physician or other person.

(2) Allow the practitioner to review the patient's controlled substance history as deemed necessary by the practitioner.

(3) Provide to the patient, or caregiver, on behalf of the patient if authorized by the patient, a copy of the patient's controlled substance history.

(e) Duties of practitioner. — The practitioner shall:

(1) Provide the certification to the patient.

(2) Provide a copy of the certification to the bureau, which shall place the information in the patient directory within the bureau's electronic database. The bureau shall permit electronic submission of the certification.

(3) File a copy of the certification in the patient's health care record.

(f) Prohibition. — A practitioner may not issue a certification for the practitioner's own use or for the use of a family or household member.

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§16A-4-4. Certification form.

The bureau shall develop a standard certification form, which shall be available to practitioners upon request. The form shall be available electronically. The form shall include a statement that a false statement made by a practitioner is punishable under the applicable provisions of law.

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§16A-4-5. Duration.

Receipt of medical cannabis by a patient or caregiver from a dispensary may not exceed a 30-day supply of individual doses. During the last seven days of any 30-day period during the term of the identification card, a patient may obtain and possess a 30-day supply for the subsequent 30-day period. Additional 30-day supplies may be provided in accordance with this section for the duration of the authorized period of the identification card unless a shorter period is indicated on the certification.

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