WEST VIRGINIA CODE CHAPTER 16A ARTICLE 5

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§16A-5-1. Identification cards.

(a) Issuance. — The bureau may issue an identification card to a patient who has a certification approved by the bureau and to a caregiver designated by the patient. An identification card issued to a patient shall authorize the patient to obtain and use medical cannabis as authorized by this act. An identification card issued to a caregiver shall authorize the caregiver to obtain medical cannabis on behalf of the patient.

(b) Procedure for issuance. — The bureau shall develop and implement procedures for:

(1) Review and approval of applications for identification cards.

(2) Issuance of identification cards to patients and caregivers.

(3) Review of the certification submitted by the practitioner and the patient.

(c) Application. — A patient or a caregiver may apply, in a form and manner prescribed by the bureau, for issuance or renewal of an identification card. A caregiver must submit a separate application for issuance or renewal. Each application must include:

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

(2) The name, address and date of birth of a caregiver.

(3) The certification issued by the practitioner.

(4) The name, address and telephone number of the practitioner and documentation from the practitioner that all of the requirements of subsection (a), section three, article four of this chapter have been met.

(5) A $50 processing fee. The bureau may waive or reduce the fee if the applicant demonstrates financial hardship.

(6) The signature of the applicant and date signed.

(7) Other information required by the bureau.

(d) Forms. — Application and renewal forms shall be available on the bureau's publicly accessible Internet website.

(e) Expiration. — An identification card of a patient or caregiver shall expire within one year from the date of issuance, upon the death of the patient, or as otherwise provided in this section.

(f) Separate cards to be issued. — The bureau shall issue separate identification cards for patients and caregivers as soon as reasonably practicable after receiving completed applications, unless it determines that an application is incomplete or factually inaccurate, in

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which case it shall promptly notify the applicant.

(g) Change in name or address. — A patient or caregiver who has been issued an identification card shall notify the bureau within ten days of any change of name or address. In addition, the patient shall notify the bureau within ten days if the patient no longer has the serious medical condition noted on the certification.

(h) Lost or defaced card. — In the event of a lost, stolen, destroyed or illegible identification card, the patient or caregiver shall apply to the bureau within ten business days of discovery of the loss or defacement of the card for a replacement card. The application for a replacement card shall be on a form furnished by the bureau and accompanied by a $25 fee. The bureau may establish higher fees for issuance of second and subsequent replacement identification cards. The bureau may waive or reduce the fee in cases of demonstrated financial hardship. The bureau shall issue a replacement identification card as soon as practicable. A patient or caregiver may not obtain medical cannabis until the bureau issues the replacement card.

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§16A-5-2. Caregivers.

(a) Requirements. —

(1) If the patient designates a caregiver, the application shall include the name, address and date of birth of the caregiver, and other individual identifying information required by the bureau and the following:

(A) Federal and state criminal history record information as set forth in subsection (b) of this section.

(B) If the caregiver has an identification card for the caregiver or another patient, the expiration date of the identification card.

(C) Other information required by the bureau.

(2) The application shall be accompanied by a fee of $50. The bureau may waive or reduce the fee in cases of demonstrated financial hardship.

(3) The bureau may require additional information for the application.

(4) The application shall be signed and dated by the applicant.

(b) Criminal history. — A caregiver shall submit fingerprints for the purpose of obtaining criminal history record checks, and the West Virginia State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to a caregiver obtained under this section by the bureau may be interpreted and used by the bureau only to determine the applicant's character, fitness and suitability to serve as a caregiver under this act. The bureau shall also review the prescription drug monitoring program relating to the caregiver. The bureau shall deny the application of a caregiver who has been convicted of a criminal offense that occurred within the past five years relating to the felony sale or possession of drugs, narcotics or controlled substances, or conspiracy thereof. The bureau may deny an application if the applicant has a history of drug abuse or of diverting controlled substances or illegal drugs.

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§16A-5-3. Notice.

An application for an identification card shall include notice that a false statement made in the application is punishable under the applicable provisions of law.

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§16A-5-4. Verification.

The bureau shall verify the information in a patient or caregiver's application and on any renewal form.

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§16A-5-5. Special conditions.

The following apply:

(1) If the practitioner states in the certification that, in the practitioner's professional opinion, the patient would benefit from medical cannabis only until a specified earlier date, then the identification card shall expire on that date.

(2) If the certification so provides, the identification card shall state any requirement or limitation by the practitioner as to the form of medical cannabis for the patient.

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§16A-5-6. Minors.

If a patient is under eighteen years of age, the following shall apply:

(1) The patient shall have a caregiver.

(2) A caregiver must be one of the following:

(A) A parent or legal guardian of the patient.

(B) An individual designated by a parent or legal guardian.

(C) An appropriate individual approved by the bureau upon a sufficient showing that no parent or legal guardian is appropriate or available.

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§16A-5-7. Caregiver authorization and limitations.

(a) Age. — An individual who is under twenty-one years of age may not be a caregiver unless a sufficient showing, as determined by the bureau, is made to the bureau that the individual should be permitted to serve as a caregiver.

(b) Changing caregiver. — If a patient wishes to change or terminate the designation of the patient's caregiver, for whatever reason, the patient shall notify the bureau as soon as practicable. The bureau shall issue a notification to the caregiver that the caregiver's identification card is invalid and must be promptly returned to the bureau.

(c) Denial in part. — If an application of a patient designates an individual as a caregiver who is not authorized to be a caregiver, that portion of the application shall be denied by the bureau. The bureau shall review the balance of the application and may approve that portion of it.

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§16A-5-8. Contents of identification card.

An identification card shall contain the following:

(1) The name of the caregiver or the patient, as appropriate. The identification card shall also state whether the individual is designated as a patient or as a caregiver.

(2) The date of issuance and expiration date.

(3) An identification number for the patient or caregiver, as appropriate.

(4) A photograph of the individual to whom the identification card is being issued, whether the individual is a patient or a caregiver. The method of obtaining the photograph shall be specified by the bureau by rule. The bureau shall provide reasonable accommodation for a patient who is confined to the patient's home or is in inpatient care.

(5) Any requirement or limitation set by the practitioner as to the form of medical cannabis.

(6) Any other requirements determined by the bureau, except the bureau may not require that an identification card disclose the patient's serious medical condition.

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§16A-5-9. Suspension.

If a patient or caregiver intentionally, knowingly or recklessly violates any provision of this act as determined by the bureau, the identification card of the patient or caregiver may be suspended or revoked. The suspension or revocation shall be in addition to any criminal or other penalty that may apply.

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§16A-5-10. Prohibitions.

The following prohibitions shall apply:

(1) A patient may not operate or be in physical control of any of the following while under the influence with a blood content of more than three nanograms of active tetrahydrocannabis per milliliter of blood in serum:

(A) Chemicals which require a permit issued by the Federal Government or a state government or an agency of the Federal Government or a state government.

(B) High-voltage electricity or any other public utility.

(C) Vehicle, aircraft, train, boat or heavy machinery.

(2) A patient may not perform any employment duties at heights or in confined spaces, including, but not limited to, mining while under the influence of medical cannabis.

(3) A patient may be prohibited by an employer from performing any task which the employer deems life-threatening, to either the employee or any of the employees of the employer, while under the influence of medical cannabis. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.

(4) A patient may be prohibited by an employer from performing any duty which could result in a public health or safety risk while under the influence of medical cannabis. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.

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