WEST VIRGINIA CODE CHAPTER 16A

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§16A-1-1. Short title.

This chapter is in honor of James William “Bill” Flanigan and Lucile Gillespie and shall be known and cited as the West Virginia Medical Cannabis Act.

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§16A-2-1. Definitions.

(a) The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) "Act" means the West Virginia Medical Cannabis Act and the provisions contained in §60A-1-101 *et seq*. of this code.

(2) "Advisory board" means the advisory board established under §16A-11-1 *et seq*. of this code.

(3) "Bureau" means the Bureau for Public Health within the Department of Health.

(4) "Caregiver" means the individual designated by a patient or, if the patient is under 18 years of age, an individual authorized under §16A-5-1 *et seq*. of this code, to deliver medical cannabis.

(5) "Certified medical use" means the acquisition, possession, use, or transportation of medical cannabis by a patient, or the acquisition, possession, delivery, transportation, or administration of medical cannabis by a caregiver, for use as part of the treatment of the patient's serious medical condition, as authorized in a certification under this act, including enabling the patient to tolerate treatment for the serious medical condition.

(6) "Change in control" means the acquisition by a person or group of persons acting in concert of a controlling interest in an applicant or permittee either all at one time or over the span of a 12-consecutive-month period.

(7) "Commissioner" means the Commissioner of the Bureau for Public Health.

(8) "Continuing care" means treating a patient, in the course of which the practitioner has completed a full assessment of the patient's medical history and current medical condition, including an in-person consultation with the patient, and is able to document and make a medical diagnosis based upon the substantive treatment of the patient.

(9) "Controlling interest" means:

(A) For a publicly traded entity, voting rights that entitle a person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of five percent or more of the securities of the publicly traded entity.

(B) For a privately held entity, the ownership of any security in the entity.

(10) "Dispensary" means a person, including a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, which holds a permit issued by the bureau to dispense medical cannabis. The term does not include a health care medical cannabis organization as defined in §16A-13-1 *et seq*. of this code.

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(11) "Family or household member" means the same as defined in §48-27-204 of this code.

(12) "Financial backer" means an investor, mortgagee, bondholder, note holder, or other source of equity, capital, or other assets, other than a financial institution.

(13) "Financial institution" means a bank, a national banking association, a bank and trust company, a trust company, a savings and loan association, a building and loan association, a mutual savings bank, a credit union, or a savings bank.

(14) "Form of medical cannabis" means the characteristics of the medical cannabis recommended or limited for a particular patient, including the method of consumption and any particular dosage, strain, variety and quantity, or percentage of medical cannabis or particular active ingredient.

(15) "Fund" means the Medical Cannabis Program Fund established in §16A-9-2 of this code.

(16) "Grower" means a person, including a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, which holds a permit from the bureau under this act to grow medical cannabis. The term does not include a health care medical cannabis organization as defined in §16-13-1 *et seq*. of this code.

(17) "Grower/processor" means either a grower or a processor.

(18) "Identification card" means a document issued under §16A-5-1 *et seq*. of this code that authorizes access to medical cannabis under this act.

(19) "Individual dose" means a single measure of medical cannabis.

(20) "Medical cannabis" means cannabis for certified medical use as set forth in this act.

(21) "Medical cannabis organization" means a dispensary, grower, or processor. The term does not include a health care medical cannabis organization as defined in §16A-13-1 *et seq*. of this code.

(22) "Patient" means an individual who:

(A) Has a serious medical condition;

(B) Has met the requirements for certification under this act; and

(C) Is a resident of this state.

(23) "Permit" means an authorization issued by the bureau to a medical cannabis organization to conduct activities under this act.

(24) "Physician" or "practitioner" means a doctor of allopathic or osteopathic medicine who is fully licensed pursuant to the provisions of either §30-3-1 *et seq*. or §30-14-1 *et seq*. of this

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code to practice medicine and surgery in this state.

(25) "Post-traumatic stress disorder" means a diagnosis made as part of continuing care of a patient by a medical doctor, licensed counselor, or psychologist.

(26) "Prescription drug monitoring program" means the West Virginia Controlled Substances Monitoring Program under §60A-9-101 *et seq*. of this code.

(27) "Principal" means an officer, director, or person who directly owns a beneficial interest in or ownership of the securities of an applicant or permittee, a person who has a controlling interest in an applicant or permittee, or who has the ability to elect the majority of the board of directors of an applicant or permittee, or otherwise control an applicant or permittee, other than a financial institution.

(28) "Processor" means a person, including a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, which holds a permit from the bureau under this act to process medical cannabis. The term does not include a health care medical cannabis organization as defined in §16A-13-1 *et seq*. of this code.

(29) "Registry" means the registry established by the bureau for practitioners.

(30) "Serious medical condition" means any of the following, as has been diagnosed as part of a patient’s continuing care:

(A) Cancer.

(B) Positive status for human immunodeficiency virus or acquired immune deficiency syndrome.

(C) Amyotrophic lateral sclerosis.

(D) Parkinson’s disease.

(E) Multiple sclerosis.

(F) Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.

(G) Epilepsy.

(H) Neuropathies.

(I) Huntington’s disease.

(J) Crohn’s disease.

(K) Post-traumatic stress disorder.

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(L) Intractable seizures.

(M) Sickle cell anemia.

(N) Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain.

(O) Terminally ill.

(31) "Terminally ill" means a medical prognosis of life expectancy of approximately one year or less if the illness runs its normal course.

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§16A-3-1. Establishment of program.

(a) A medical cannabis program for patients suffering from serious medical conditions is established. The program shall be implemented and administered by the bureau. The bureau shall:

(1) Issue permits to medical cannabis organizations to authorize them to grow, process or dispense medical cannabis and ensure their compliance with this act.

(2) Register practitioners and ensure their compliance with this act.

(3) Have regulatory and enforcement authority over the growing, processing, sale and use of medical cannabis in this state.

(4) Establish and maintain an electronic database to include activities and information relating to medical cannabis organizations, certifications and identification cards issued, practitioner registration and electronic tracking of all medical cannabis as required under this act to include:

(A) Ensurance that medical cannabis is not diverted or otherwise used for unlawful purposes by a practitioner or medical cannabis organization.

(B) Ability to establish the authenticity of identification cards.

(C) Recording recommended forms of medical cannabis provided in a certification filed by the practitioner.

(D) Monitoring all growth, transfer, possession, processing, testing and dispensing of medical cannabis in this state.

(E) The tracking system under article seven of this chapter must include information under section one, article eight of this chapter and any other information required by the bureau to be used by the bureau and dispensaries to enable a dispensary to lawfully provide medical cannabis. The tracking system and database shall be capable of providing information in real time. The database shall be capable of receiving information from a dispensary regarding the disbursement of medical cannabis to patients and caregivers. This information shall be immediately accessible to the bureau and other dispensaries to inhibit diversion and ensure compliance with this act.

(5) Maintain a directory of patients and caregivers approved to use or assist in the administration of medical cannabis within the bureau’s database.

(6) Develop a four-hour training course for physicians regarding the latest scientific research on medical cannabis, including the risks and benefits of medical cannabis and other information deemed necessary by the bureau. Successful completion of the course shall be approved as continuing education credits as determined by:

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(A) The State Board of Medicine.

(B) The State Board of Osteopathic Medicine.

(7) Develop a two-hour course for the principals and employees of a medical cannabis organization who either have direct contact with patients or caregivers or who physically handle medical cannabis. Employees must successfully complete the course no later than ninety days after commencing employment. Principals must successfully complete the course prior to commencing initial operation of the medical cannabis organization. The subject matter of the course shall include the following:

(A) Methods to recognize and report unauthorized activity, including diversion of medical cannabis for unlawful purposes and falsification of identification cards.

(B) Proper handling of medical cannabis and recordkeeping.

(C) Any other subject required by the bureau.

(8) Develop enforcement procedures, including announced and unannounced inspections of facilities of the grower/processors and dispensaries and all records of the medical cannabis organizations.

(9) Establish a program to authorize the use of medical cannabis to conduct medical research relating to the use of medical cannabis to treat serious medical conditions, including the collection of data and the provision of research grants.

(10) Establish and maintain public outreach programs about the medical cannabis program, including:

(A) A dedicated telephone number for patients, caregivers and members of the public to obtain basic information about the dispensing of medical cannabis under this act.

(B) A publicly accessible Internet website with similar information.

(11) Collaborate as necessary with other state agencies or contract with third parties as necessary to carry out the provisions of this act.

(12) Determine the number and type of medical cannabis products to be produced by a grower/processor and dispensed by a dispensary.

(13) Develop recordkeeping requirements for all books, papers, any electronic database or tracking system data and other information of a medical cannabis organization. Information shall be retained for a minimum period of four years unless otherwise provided by the bureau.

(14) Restrict the advertising and marketing of medical cannabis, which shall be consistent

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with the Federal rules and regulations governing prescription drug advertising and marketing.

(b) The bureau shall propose rules for legislative promulgation pursuant to the provisions of article three, chapter twenty-nine-a of this code as may be necessary to carry out and implement the provisions of this act. The bureau shall also have the power to propose and promulgate emergency rules as may be necessary to carry out and implement the provisions of this act.

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§16A-3-2. Lawful use of medical cannabis.

(a) Notwithstanding any provision of law to the contrary, the use or possession of medical cannabis as set forth in this act is lawful within this state, subject to the following conditions:

(1) Medical cannabis may only be dispensed to:

(A) a patient who receives a certification from a practitioner and is in possession of a valid identification card issued by the bureau; and

(B) a caregiver who is in possession of a valid identification card issued by the bureau.

(2) Subject to rules promulgated under this act, medical cannabis may only be dispensed to a patient or caregiver in the following forms:

(A) Pill;

(B) Oil;

(C) Topical forms, including gels, creams or ointments;

(D) A form medically appropriate for administration by vaporization or nebulization, excluding dry leaf or plant form until dry leaf or plant forms become acceptable under rules adopted by the bureau;

(E) Tincture;

(F) Liquid; or

(G) Dermal patch.

(3) Unless otherwise provided in rules adopted by the bureau under section two, article eleven of this chapter, medical cannabis may not be dispensed to a patient or a caregiver in dry leaf or plant form.

(4) An individual may not act as a caregiver for more than five patients.

(5) A patient may designate up to two caregivers at any one time.

(6) Medical cannabis that has not been used by the patient shall be kept in the original package in which it was dispensed.

(7) A patient or caregiver shall possess an identification card whenever the patient or caregiver is in possession of medical cannabis.

(8) Products packaged by a grower/processor or sold by a dispensary shall only be identified by the name of the grower/processor, the name of the dispensary, the form and species of

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medical cannabis, the percentage of tetrahydrocannabinol and cannabinol contained in the product.

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§16A-3-3. Unlawful use of medical cannabis.

(a) Except as provided in section two of this article, section four of article seven, article thirteen or article fourteen of this chapter, the use of medical cannabis is unlawful and shall, in addition to any other penalty provided by law, be deemed a violation of the Uniform Controlled Substances Act under chapter sixty-a of this code.

(b) It shall be unlawful to:

(1) Smoke medical cannabis.

(2) Except as provided under subsection (c), incorporate medical cannabis into edible form or sell in edible form.

(3) Grow medical cannabis unless the grower/processor has received a permit from the bureau under this act.

(4) Grow or dispense medical cannabis unless authorized as a health care medical cannabis organization under article thirteen of this chapter.

(5) Dispense medical cannabis unless the dispensary has received a permit from the bureau under this act.

(c) Edible medical cannabis. — Nothing in this act shall be construed to preclude the incorporation of medical cannabis into edible form by a patient or a caregiver in order to aid ingestion of the medical cannabis by the patient.

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§16A-3-4. Confidentiality.

(a) Patient information. — The bureau shall maintain a confidential list of patients and caregivers to whom it has issued identification cards. All information obtained by the bureau relating to patients, caregivers and other applicants shall be confidential and not subject to public disclosure under chapter twenty-nine-b of this code, including specifically the following:

(1) Individual identifying information about patients and caregivers.

(2) Certifications issued by practitioners.

(3) Information on identification cards.

(4) Information provided by the West Virginia State Police under section two, article five of this chapter.

(5) Information relating to the patient's serious medical condition.

(b) Public information. — The following records are public records and shall be subject to the Freedom of Information Act, under chapter twenty-nine-b of this code:

(1) Applications for permits submitted by medical cannabis organizations.

(2) The names, business addresses and medical credentials of practitioners authorized to provide certifications to patients to enable them to obtain and use medical cannabis in this state. All other practitioner registration information shall be confidential and exempt from public disclosure under the Freedom of Information Act.

(3) Information relating to penalties or other disciplinary actions taken against a medical cannabis organization or practitioner by the bureau for violation of this act.

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§16A-3-5. Reciprocity for terminally ill cancer patients.

The bureau may enter into reciprocity agreements with any states that have comparable requirements for the use and lawful purchase of medical cannabis in a manner consistent with the provisions of this article to allow terminally ill cancer patients to purchase medical cannabis in another state.

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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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§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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§16A-6-1. Authorized medical cannabis organizations.

The following entities shall be authorized to receive a permit to operate as a medical cannabis organization to grow, process or dispense medical cannabis:

(1) Growers.

(2) Processors.

(3) Dispensaries.

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§16A-6-2. Permits.

(a) Application. — An application for a grower, processor or dispensary permit to grow, process or dispense medical cannabis shall be in a form and manner prescribed by the bureau and shall include:

(1) Verification of all principals, operators, financial backers or employees of a medical cannabis grower/processor or dispensary.

(2) A description of responsibilities as a principal, operator, financial backer or employee.

(3) Any release necessary to obtain information from governmental agencies, employers and other organizations.

(4) A criminal history record check. Medical cannabis organizations applying for a permit shall submit fingerprints of principals, financial backers, operators and employees to the West Virginia State Police 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 principals, financial backers, operators and employees and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to principals, financial backers, operators and employees obtained under this section by the bureau may be interpreted and used by the bureau only to determine the principal's, financial backer's, operator's and employee's character, fitness and suitability to serve as a principal, financial backer, operator and employee under this act. This subdivision shall not apply to an owner of securities in a publicly traded corporation if the bureau determines that the owner of the securities is not substantially involved in the activities of the medical cannabis organization.

(5) Details relating to a similar license, permit or other authorization obtained in another jurisdiction, including any suspensions, revocations or discipline in that jurisdiction.

(6) A description of the business activities in which it intends to engage as a medical cannabis organization.

(7) A statement that the applicant:

(A) Is of good moral character. For purposes of this subparagraph, an applicant shall include each financial backer, operator, employee and principal of the medical cannabis organization.

(B) Possesses the ability to obtain in an expeditious manner the right to use sufficient land, buildings and other premises and equipment to properly carry on the activity described in the application and any proposed location for a facility.

(C) Is able to maintain effective security and control to prevent diversion, abuse and other illegal conduct relating to medical cannabis.

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(D) Is able to comply with all applicable State laws and rules relating to the activities in which it intends to engage under this act.

(8) The name, residential address and title of each financial backer and principal of the applicant. Each individual, or lawful representative of a legal entity, shall submit an affidavit with the application setting forth:

(A) Any position of management or ownership during the preceding ten years of a controlling interest in any other business, located inside or outside this state, manufacturing or distributing controlled substances.

(B) Whether the person or business has been convicted of a criminal offense graded higher than a summary offense or has had a permit relating to medical cannabis suspended or revoked in any administrative or judicial proceeding.

(9) Any other information the bureau may require.

(b) Notice. — An application shall include notice that a false statement made in the application is punishable under the applicable provisions of law.

WV Legislature

§16A-6-3. Granting of permit

(a) The bureau may grant or deny a permit to a grower, processor, or dispensary. In making a decision under this subsection, the bureau shall determine that:

(1) The applicant will maintain effective control of and prevent diversion of medical cannabis.

(2) The applicant will comply with all applicable laws of this state.

(3) The applicant is ready, willing, and able to properly carry on the activity for which a permit is sought.

(4) The applicant possesses the ability to obtain in an expeditious manner sufficient land, buildings, and equipment to properly grow, process, or dispense medical cannabis.

(5) It is in the public interest to grant the permit.

(6) The applicant, including the financial backer or principal, is of good moral character and has the financial fitness necessary to operate.

(7) The applicant is able to implement and maintain security, tracking, recordkeeping, and surveillance systems relating to the acquisition, possession, growth, manufacture, sale, delivery, transportation, distribution, or the dispensing of medical cannabis as required by the bureau: *Provided*, That the bureau may require that a medical cannabis organization maintain motion activated video surveillance at a dispensary, grower or processor facility and that a medical cannabis organization retain the recordings therefrom onsite or offsite for a period not to exceed 180 days, unless otherwise required for investigative or litigation purposes.

(8) The applicant satisfies any other conditions as determined by the bureau.

(b) *Nontransferability.* — A permit issued under this chapter shall be nontransferable.

(c) *Privilege.* — The issuance or renewal of a permit shall be a revocable privilege.

(d) *Dispensary location.* — The bureau shall consider the following when issuing a dispensary permit:

(1) Geographic location;

(2) Regional population;

(3) The number of patients suffering from serious medical conditions;

(4) The types of serious medical conditions;

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(5) Access to public transportation;

(6) Approval by local health departments;

(7) Whether the county has disallowed the location of a grower, processor, or dispensary; and

(8) Any other factor the bureau deems relevant.

(e) *Application procedure*. — The bureau shall establish a procedure for the fair and objective evaluation of all applications for all medical cannabis organization permits. The evaluations shall score each applicant numerically according to standards set forth in this chapter.

WV Legislature

§16A-6-4. Notice.

When the boundaries under subsection (d), section three of this article are established, the bureau shall publish notice of the determination in the State Register. The bureau may adjust the boundaries as necessary every two years. Notice of any adjustment to the boundaries shall be published in the State Register.

WV Legislature

§16A-6-5. Application and issuance.

(a) Duty to report. — An applicant to be a grower/processor or to operate a dispensary is under a continuing duty to:

(1) Report to the bureau any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application, including a change in control of the medical cannabis organization.

(2) Report to law enforcement, within twenty-four hours, any loss or theft of medical cannabis.

(3) Submit to announced or unannounced inspections by the bureau of the facilities for growing, processing, dispensing or selling medical cannabis, including all records of the organization.

(b) Additional information. — If the bureau is not satisfied that the applicant should be issued a permit, the bureau shall notify the applicant in writing of the factors for which further documentation is required. Within thirty days of the receipt of the notification, the applicant may submit additional material to the bureau.

WV Legislature

§16A-6-6. Fees and other requirements.

The following apply:

(1) For a grower or processor:

(A) An initial application fee in the amount of $5,000 shall be paid. The fee is nonrefundable.

(B) A fee for a permit as a grower/processor in the amount of $50,000 shall be paid. The permit shall be valid for one year. Applicants shall submit the permit fee at the time of submission of the application. The fee shall be returned if the permit is not granted.

(C) A renewal fee for the permit as a grower/processor in the amount of $5,000 shall be paid and shall cover renewal for all locations. The renewal fee shall be returned if the renewal is not granted.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check or money order.

(2) For a dispensary:

(A) An initial application fee in the amount of $2,500 shall be paid. The fee is nonrefundable.

(B) A permit fee for a dispensary shall be $10,000 for each location. The period of the permit is one year. An applicant shall submit the permit fee at the time of submission of the application. The fee shall be returned if the application is not granted.

(C) A renewal fee for the permit as a dispensary in the amount of $2,500 shall be paid. The fee shall be returned if the renewal is not granted and shall cover renewal for all locations.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check or money order.

(3) A fee of $250 shall be required when amending the application to indicate relocation within this state or the addition or deletion of approved activities by the medical cannabis organization.

(4) Fees payable under this section shall be deposited into the fund.

WV Legislature

§16A-6-7. Issuance.

A permit issued by the bureau to a medical cannabis organization shall be effective only for that organization and shall specify the following:

(1) The name and address of the medical cannabis organization.

(2) The activities of the medical cannabis organization permitted under this act.

(3) The land, buildings, facilities or location to be used by the medical cannabis organization.

(4) Any other information required by the bureau.

WV Legislature

§16A-6-8. Relocation.

The bureau may approve an application from a medical cannabis organization to relocate within this state or to add or delete activities or facilities.

WV Legislature

§16A-6-9. Terms of permit.

A permit issued by the bureau shall be valid for one year from the date of issuance.

WV Legislature

§16A-6-10. Permit renewals.

(a) Renewal. — An application for renewal shall include the following information:

(1) Any material change in the information provided by the medical cannabis organization in a prior application or renewal of a permit.

(2) Any charge or initiated, pending or concluded investigation, during the period of the permit, by any governmental or administrative agency with respect to:

(A) Any incident involving the theft, loss or possible diversion of medical cannabis grown, processed or dispensed by the applicant; and

(B) Compliance by the applicant with the laws of this state with respect to any substance listed under article two, chapter sixty-a of this code.

(b) Approval. — The bureau shall renew a permit unless the bureau determines that:

(1) The applicant is unlikely to maintain or be able to maintain effective control against diversion of medical cannabis.

(2) The applicant is unlikely to comply with all laws of this state applicable to the activities in which it may engage under the permit.

(c) Nonrenewal decision. — The denial or nonrenewal shall specify in detail how the applicant has not satisfied the bureau's requirements for renewal. Within thirty days of the bureau's decision, the applicant may submit additional material to the bureau or demand a hearing, or both. If a hearing is demanded, the bureau shall fix a date as soon as practicable.

WV Legislature

§16A-6-11. Suspension or revocation.

The bureau may suspend or revoke a medical cannabis organization permit if:

(1) The bureau has evidence that the medical cannabis organization has failed to maintain effective control against diversion of medical cannabis.

(2) The organization violates any provision of this act or a rule of the bureau.

(3) The organization has intentionally, knowingly, recklessly or negligently failed to comply with applicable laws of this State relating to medical cannabis.

WV Legislature

§16A-6-12. Convictions prohibited.

(a) The following individuals may not hold volunteer positions or positions with remuneration in or be affiliated with a medical cannabis organization, including a clinical registrant under article fourteen of this chapter, in any way if the individual has been convicted of any felony criminal offense related to the sale or possession of illegal drugs, narcotics or controlled substances, or conspiracy thereof:

(1) Financial backers.

(2) Principals.

(3) Employees.

(b) If an individual seeking to hold a volunteer position or position with remuneration in or be affiliated with a dispensary is otherwise prohibited under subsection (a) of this section, such individual may seek a waiver from the bureau in order to hold such a position with a dispensary. The allowance of the waiver, including any additional restrictions or conditions as part of the waiver, shall be in the discretion of the bureau.

WV Legislature

§16A-6-13. Limitations on permits.

(a) The following limitations apply to approval of permits for growers, processors, and dispensaries, subject to the limitations in subsection (b) of this section:

(1) The bureau may not issue permits to more than 10 growers: Provided, That each grower may have up to two locations per permit.

(2) The bureau may not issue permits to more than 10 processors.

(3) The bureau may not issue permits to more than 100 dispensaries.

(4) The bureau may not issue more than 10 individual dispensary permits to one person.

(5) The bureau may not issue more than one individual grower permit to one person.

(6) The bureau may not issue more than one individual processor permit to one person.

(7) A dispensary may only obtain medical cannabis from a grower or processor holding a valid permit under this act.

(8) A grower or processor may only provide medical cannabis to a dispensary holding a valid permit under this act.

(9) A person may hold a grower permit, a processor permit, and a dispensary permit, or any combination thereof, concurrently.

(b) Before a permit may be issued, the bureau shall obtain the following:

(1) A written approval from the board of health for the county in which the permit is to be located and operate business.

(2) A written statement from the county commission for the county in which the permit is to be located and conduct business that the county has not voted, pursuant to §16A-7-6 of this code, to disapprove a medical cannabis organization to be located or operate within the county.

WV Legislature

§16A-7-1. Electronic tracking.

(a) Requirement. — A medical cannabis organization must implement an electronic inventory tracking system which shall be directly accessible to the bureau through its electronic database that electronically tracks all medical cannabis on a daily basis. The system shall include tracking of all of the following:

(1) For a grower or processor, a seed-to-sale tracking system that tracks the medical cannabis from seed to plant until the medical cannabis is sold to a dispensary.

(2) For a dispensary, medical cannabis from purchase from the grower/processor to sale to a patient or caregiver and that includes information that verifies the validity of an identification card presented by the patient or caregiver.

(3) For a medical cannabis organization, a daily log of each day's beginning inventory, acquisitions, amounts purchased and sold, disbursements, disposals and ending inventory. The tracking system shall include prices paid and amounts collected from patients and caregivers.

(4) For a medical cannabis organization, a system for recall of defective medical cannabis.

(5) For a medical cannabis organization, a system to track the plant waste resulting from the growth of medical cannabis or other disposal, including the name and address of any disposal service.

(b) Additional requirements. — In addition to the information under subsection (a) of this section, each medical cannabis organization shall track the following:

(1) Security and surveillance.

(2) Recordkeeping and record retention.

(3) The acquisition, possession, growing and processing of medical cannabis.

(4) Delivery and transportation, including amounts and method of delivery.

(5) Dispensing, including amounts, pricing and amounts collected from patients and caregivers.

(c) Access. — (1) Information maintained in electronic tracking systems under subsection (a) of this section shall be confidential and not subject to public disclosure under chapter twenty-nine-b of this code.

(2) Pursuant to conditions and procedures established by the bureau, law enforcement shall be provided access to the tracking system.

WV Legislature

(d) Reports. — Within one year of the issuance of the first permit to a medical cannabis organization, and every three months thereafter in a form and manner prescribed by the bureau, the following information shall be provided to the bureau, which shall compile the information and post it on the bureau's publicly accessible Internet website:

(1) The amount of medical cannabis sold by a grower and a processor during each three-month period.

(2) The price of amounts of medical cannabis sold by growers and processors as determined by the bureau.

(3) The amount of medical cannabis purchased by each dispensary in this state.

(4) The cost of amounts of medical cannabis to each dispensary in amounts as determined by the bureau.

(5) The total amount and dollar value of medical cannabis sold by each dispensary in the three-month period.

WV Legislature

§16A-7-2. Grower/processors.

(a) Authorization. — Subject to subsection (b), a grower or processor may do all of the following in accordance with bureau rules:

(1) Obtain seed from outside this state to initially grow medical cannabis.

(2) Obtain seed and plant material from another grower/processor within this state to grow medical cannabis.

(b) Limitations. — A grower or processor may only grow, store, harvest or process medical cannabis in an indoor, enclosed, secure facility which:

(1) Includes electronic locking systems, electronic surveillance and other features required by the bureau; and

(2) Is located within this state.

WV Legislature

§16A-7-3. Storage and transportation.

The bureau shall develop rules relating to the storage and transportation of medical cannabis among grower/processors, testing laboratories and dispensaries which ensure adequate security to guard against in-transit losses. The tracking system developed by the bureau shall include all transportation and storage of medical cannabis. The rules shall provide for the following:

(1) Requirements relating to shipping containers and packaging.

(2) The manner in which trucks, vans, trailers or other carriers will be secured.

(3) Security systems that include a numbered seal on the trailer.

(4) Obtaining copies of drivers' licenses and registrations and other information related to security and tracking.

(5) Use of GPS systems.

(6) Number of drivers or other security required to ensure against storage or in-transit losses.

(7) Recordkeeping for delivery and receipt of medical cannabis products.

(8) Requirements to utilize any electronic tracking system required by the bureau.

(9) Transporting medical cannabis to a grower/processor, approved laboratory or dispensary.

WV Legislature

§16A-7-4. Laboratory.

(a) A grower and processor shall contract with an independent laboratory to test the medical cannabis produced by the grower or processor. The bureau shall approve the laboratory and require that the laboratory report testing results in a manner as the bureau shall determine, including requiring a test at harvest and a test at final processing. The possession by a laboratory of medical cannabis shall be a lawful use.

(b) All medical cannabis produced pursuant to this chapter shall be subject to testing as directed by the bureau.

(c) The bureau shall ensure that there is sufficient testing capacity to meet patient demand.

(d) All laboratories providing testing pursuant to this section shall be certified to do so by the Office of Laboratory Services.

WV Legislature

§16A-7-5. Prices.

The bureau and the Department of Revenue shall monitor the price of medical cannabis sold by growers, processors and by dispensaries, including a per-dose price. If the bureau and the Department of Revenue determine that the prices are unreasonable or excessive, the bureau may implement a cap on the price of medical cannabis being sold for a period of six months. The cap may be amended during the six-month period. If the bureau and the Department of Revenue determine that the prices become unreasonable or excessive following the expiration of a six-month cap, additional caps may be imposed for periods not to exceed six months.

WV Legislature

§16A-7-6. County prohibition.

A county may pass an ordinance by vote of the residents of the county to prohibit the operation or location of a medical cannabis organization within that particular county. A prohibition under this section shall remain in effect unless and until changed by a subsequent vote.

WV Legislature

§16A-8-1. Dispensing to patients and caregivers.

(a) *General rule*. — A dispensary that has been issued a permit under §16A-6-1 *et seq.* of this code may lawfully dispense medical cannabis to a patient or caregiver upon presentation to the dispensary of a valid identification card for that patient or caregiver. The dispensary shall provide to the patient or caregiver a receipt, as appropriate. The receipt shall include all of the following:

(1) The name, address, and any identification number assigned to the dispensary by the bureau.

(2) The name and address of the patient and caregiver.

(3) The date the medical cannabis was dispensed.

(4) Any requirement or limitation by the practitioner as to the form of medical cannabis for the patient.

(5) The form and the quantity of medical cannabis dispensed.

(b) *Filing with bureau*. — Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall file the receipt information with the bureau utilizing the electronic tracking system. When filing receipts under this subsection, the dispensary shall dispose of any electronically recorded certification information as provided by rule.

(c) *Limitations*. — No dispensary may dispense to a patient or caregiver:

(1) A quantity of medical cannabis greater than that which the patient or caregiver is permitted to possess under the certification; or

(2) A form of medical cannabis prohibited by this act.

(d) *Supply*. — When dispensing medical cannabis to a patient or caregiver, the dispensary may not dispense an amount greater than a 30-day supply until the patient has exhausted all but a seven-day supply provided pursuant to §16A-4-5 of this code.

(e) *Verification*. — Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall verify the information in subsections (d) and (f) of this section by consulting the electronic tracking system included in the bureau's electronic database established under §16A-3-1 of this code and the dispensary tracking system under §16A-7-1 of this code.

(f) *Form of medical cannabis*. — Medical cannabis dispensed to a patient or caregiver by a dispensary shall conform to any requirement or limitation set by the practitioner as to the form of medical cannabis for the patient.

WV Legislature

(g) *Safety insert*. — When a dispensary dispenses medical cannabis to a patient or caregiver, the dispensary shall provide to that patient or caregiver, as appropriate, a safety insert. The insert shall be developed and approved by the bureau. The insert shall provide the following information:

(1) Lawful methods for administering medical cannabis in individual doses.

(2) Any potential dangers stemming from the use of medical cannabis.

(3) How to recognize what may be problematic usage of medical cannabis and how to obtain appropriate services or treatment for problematic usage.

(4) How to prevent or deter the misuse of medical cannabis by minors or others.

(5) Any other information as determined by the bureau.

(h) *Sealed and labeled package*. — Medical cannabis shall be dispensed by a dispensary to a patient or caregiver in a sealed, properly labeled, and child-resistant package. The labeling shall contain the following:

(1) The information required to be included in the receipt provided to the patient or caregiver, as appropriate, by the dispensary.

(2) The packaging date.

(3) Any applicable date by which the medical cannabis should be used.

(4) A warning stating:

"This product is for medicinal use only. Women should not consume during pregnancy or while breastfeeding except on the advice of the practitioner who issued the certification and, in the case of breastfeeding, the infant's pediatrician. This product might impair the ability to drive or operate heavy machinery. Keep out of reach of children."

(5) The amount of individual doses contained within the package and the species and percentage of tetrahydrocannabinol and cannabidiol.

(6) A warning that the medical cannabis must be kept in the original container in which it was dispensed.

(7) A warning that unauthorized use is unlawful and will subject the person to criminal penalties.

(8) Any other information required by the bureau.

WV Legislature

§16A-8-2. Facility requirements.

(a) General rule. —

(1) A dispensary may only dispense medical cannabis in an indoor, enclosed, secure facility located within this state, as determined by the bureau.

(2) A dispensary may not operate on the same site as a facility used for growing and processing medical cannabis.

(3) A dispensary may not be located within one thousand feet of the property line of a public, private or parochial school or a daycare center.

(4) A dispensary may, pursuant to bureau conditions and limitations, sell medical devices and instruments which are needed to administer medical cannabis under this act.

(b) Adjustment or waiver of prohibition. — The bureau may amend a prohibition under subsection (a)(3) of this section if it is shown by clear and convincing evidence that the amendment is necessary to provide adequate access to patients. An amendment may include additional security, physical plant of a facility or other conditions necessary to protect children.

WV Legislature

§16A-8-3. Posting.

A dispensary shall post a copy of its permit in a location within its facility in a manner that is easily observable by patients, caregivers, law enforcement officers and agents of the bureau.

WV Legislature

§16A-9-1. Tax on medical cannabis.

(a) Tax imposed. — For the privilege of engaging or continuing within this state in the business of a dispensary of medical cannabis, as defined in §16A-2-1 of this code, there is hereby levied upon and collected from every person exercising the privilege a privilege tax.

(b) Rate and measure of tax. — The rate of tax imposed by this section shall be 10 percent of the gross receipts the dispensary receives or accrues during the reporting period, depending upon its method of accounting for federal income tax purposes, from the sale of medical cannabis to a patient or to a caregiver. The tax imposed by this section shall not be added by the dispensary as a separate charge or line item on any sales slip, invoice, receipt, other statement, or memorandum of the price paid by a patient, or caregiver.

(c) Definitions. — For purposes of this article:

(1) "Gross receipts" means and includes the gross receipts, however denominated, derived from the sale, distribution, or transfer of medical cannabis, without any deduction on account of the cost of property sold; the cost of materials used to grow, process, or sell the medical cannabis; labor costs, taxes, royalties paid in cash or in kind, or otherwise; interest or discount paid; or any other expense, however denominated.

(2) "Person" includes any natural person, corporation, partnership, limited liability company, or other business entity as those terms are defined in §11-1-1 et seq. of this code.

(d) Payment of tax and reports. — Every person subject to the tax imposed by this section shall make quarterly payments under this section for each calendar quarter at the rate prescribed in subsection (b) of this section on the gross receipts received or accrued for the calendar quarter, depending upon the person’s method of accounting for federal income tax purposes. The tax shall be due and payable on the 20th day of January, April, July, and October for the preceding calendar quarter. When the payment of tax is due, the person shall file a tax return in a form prescribed by the Tax Commissioner. The Tax Commissioner may require such forms, schedules, and returns and impose such filing and remittance requirements as may be necessary or convenient for the efficient administration of taxes imposed by this section.

(e) Electronic filing and payment. – The taxes imposed by this section shall be paid to the Tax Commissioner by electronic funds transfer, unless electronic payment is prohibited by state or federal law. Tax returns required by this section shall be filed electronically with the Tax Commissioner.

(f) Liability for reporting and payment of tax. — If any dispensary does not renew its permit, gives up its permit, loses its permit to operate a dispensary, or otherwise ceases business then any tax, additions to tax, penalties, and interest imposed by this article and by §11-10-1 et seq. of this code shall become due and payable immediately and the dispensary shall make a final return or returns and pay any tax which is due within 30 days after not renewing its

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permit, giving up its permit, losing its permit to operate a dispensary, or otherwise ceasing business. The unpaid amount of any tax is a lien upon the property of the dispensary and of its owners.

(g) Deposits of proceeds. — All money received from the tax imposed under this section, including any interest and additions to tax paid under §11-10-1 et seq., less the amount of any refunds, shall be deposited into the Medical Cannabis Program Fund.

(h) Exemption. — Sales of medical cannabis shall not be subject to the taxes imposed by §11-15-1 et seq. and §11-15A-1 et seq. of this code if gross receipts from the sale thereof are included in the measure of tax under this section and the tax has been paid as provided in this section. Additionally, sales of medical cannabis shall not be subject to a special district excise tax imposed by a county or municipality pursuant to this code, or to a county or municipal sales tax.

(i) Information. —

(1) Persons subject to the tax imposed by this section shall provide to the Tax Commissioner any information the Tax Commissioner may require to administer, collect, and enforce the tax imposed by this section.

(2) Notwithstanding any provision of §11-10-1 et seq. of this code or of this article to the contrary, the Tax Commissioner, the bureau, and the Secretary of Health and Human Resources may enter into written agreements pursuant to which the Tax Commissioner will disclose to designated employees of the bureau and the Secretary of Health and Human Resources, whether a particular grower, processor, or dispensary is in good standing with the Tax Commissioner, and the bureau and the secretary will disclose to designated employees of the Tax Commissioner information a grower, processor, or dispensary provides to the bureau and the secretary pursuant to this code. Tax information disclosed pursuant to a written agreement shall remain confidential in the hands of the receiver and shall not be disclosable under §29B-1-1 et seq. of this code. To the extent feasible, this information should be shared or exchanged electronically.

(j) Rules. — The Tax Commissioner may promulgate, in accordance with the provisions of §29A-3-1 et seq. of this code, such procedural, interpretive, or legislative rules, including emergency rules, as the Tax Commissioner may deem necessary or convenient for the efficient administration of taxes imposed by this §16A-9-1 of this code.

WV Legislature

§16A-9-2. Medical Cannabis Program Fund.

(a) Fund established. — The Medical Cannabis Program Fund is established as a special fund in the State Treasury. Money in the fund is appropriated as set forth in subsection (c) of this section. Any amount unspent at the end of a fiscal year shall be appropriated to the bureau for its operations.

(b) Source of funds. — Fees and taxes payable under this act shall be deposited into the fund. The money deposited into the fund may only be used for the purposes set forth in this section. Any interest accrued shall be deposited into the fund.

(c) Use of proceeds. — Money in the fund is allocated in accordance with the following percentages:

(1) Fifty-five percent of the revenue in the fund shall be allocated to the bureau.

(2) The remaining forty-five percent of the revenue in the fund shall be allocated as follows:

(A) Fifty percent shall be allocated to the Fight Substance Abuse Fund created by section eight, article nine, chapter sixty-a of the code.

(B) Forty percent shall be allocated to the Division of Justice and Community Services, for grants to local law enforcement agencies for training, drug diversion, and other programs focused on crime and addiction, pursuant to and in accordance with the provisions of article nine-a, chapter fifteen of this code.

(C) Ten percent shall be allocated to the fund created in section four, article twenty-nine, chapter thirty, to be used for law enforcement professional training and professional development programs.

WV Legislature

§16A-9-3. Tax on medical cannabis crimes and penalties.

Notwithstanding any provision in §11-9-1 et seq. of this code to the contrary, each and every provision of the West Virginia Tax Crimes and Penalties Act set forth in §11-9-1 et seq. of this code shall apply to the tax imposed by §16A-9-1 et seq. of this code with like effect as if said act were applicable only to the tax imposed by §16A-9-1 et seq. of this code and were set forth in extenso in §16A-9-1 et seq. of this code.

WV Legislature

§16A-9-4. Procedure and administration of the tax on medical cannabis.

Notwithstanding any provision of §11-10-1 et seq. of this code or any other provision of this code to the contrary, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1 et seq. of this code shall apply to the tax imposed by §16A-9-1 et seq. with like effect as if the said West Virginia Tax Procedure and Administration Act were applicable only to the tax imposed by §16A-9-1 et seq. of this code and were set forth in extenso in §16A-9-1 et seq. of this code.

WV Legislature

§16A-10-1. Administration.

The Commissioner of the Bureau for Public Health may establish and create an Office of Medical Cannabis within the bureau to assist in the administration and enforcement of the provisions of this act.

WV Legislature

§16A-10-2. Reports by medical cannabis organizations.

A medical cannabis organization shall periodically file reports related to its activities. The bureau shall determine the information required in and the frequency of filing the reports.

WV Legislature

§16A-10-3. Law-enforcement notification.

Notwithstanding any provision of this act or any other law to the contrary, the bureau may notify any appropriate law-enforcement agency of information relating to any violation or suspected violation of this act. In addition, the bureau shall verify to law-enforcement personnel in an appropriate case whether a certification, permit, registration or an identification card is valid, including release of the name of the patient.

WV Legislature

§16A-10-4. Evaluation.

The bureau may provide for an analysis and evaluation of the implementation and effectiveness of this act. The bureau may enter into agreements with one or more persons for the performance of an evaluation of the implementation and effectiveness of this act.

WV Legislature

§16A-10-5. Report.

(a) Report required. — The bureau shall submit a written report under subsection (b) of this section every two years, beginning two years after the effective date of this section, to the following:

(1) The Governor.

(2) The Joint Committee on Government and Finance.

(3) The Attorney General of the State.

(b) Contents of report. — The following information shall be included in the report:

(1) An assessment of the use of medical cannabis as a result of the enactment of this act.

(2) An assessment of the benefits and risks to patients using medical cannabis under this act, including adverse events.

(3) Recommendations for amendments to this act for reasons of patient safety or to aid the general welfare of the citizens of this state.

WV Legislature

§16A-10-6. Emergency rules.

(a) Promulgation. — In order to facilitate the prompt implementation of this act, the bureau may promulgate emergency rules that shall expire not later than two years following the publication of the emergency rule.

(b) Expiration. — The bureau's authority to adopt emergency rules under subsection (a) of this section shall expire July 1, 2021. Rules adopted after this period shall be promulgated as provided by law.

(c) Publication. — The bureau shall begin publishing emergency rules in the State Register no later than six months after the effective date of this section.

WV Legislature

§16A-11-1. Advisory board.

(a) The Medical Cannabis Advisory Board is established within the bureau. The advisory board shall consist of the following members:

(1) The commissioner or a designee.

(2) The Superintendent of the West Virginia State Police or a designee.

(3) Four physicians licensed to practice in the state to be appointed by the State Medical Association with one from each of the following specialized medicine:

(A) Family Practice/Neurologist/General Practitioner.

(B) Pain Management.

(C) Oncologist/Palliative Care.

(D) Psychiatrist.

(4) Two physicians who are licensed pursuant to §30-14-1 et seq. of this code appointed by the West Virginia Osteopathic Association.

(5) One pharmacist licensed to practice in the state, to be designated by the Board of Pharmacy.

(6) One pharmacologist who has experience in the science of cannabis and a knowledge of the uses, effects, and modes of actions of drugs, to be appointed by the Governor.

(7) One member who is a horticulturalist, to be designated by the West Virginia Commissioner of Agriculture.

(8) One member designated by the West Virginia Association of Alcoholism and Drug Counselors.

(9) An attorney licensed in the state who is knowledgeable about medical cannabis laws.

(10) One member appointed by the West Virginia Prosecuting Attorneys Institute.

(11) One member appointed by the Governor, who shall be a patient, a family or household member of a patient, or a patient advocate.

(b) Terms. — Except as provided under subsection (g) of this section, the members shall serve a term of four years or until a successor has been appointed and qualified, but no longer than six months beyond the four-year period.

(c) Chair. — The commissioner, or a designee, shall serve as chair of the advisory board.

WV Legislature

(d) Voting; quorum. — A majority of the members shall constitute a quorum for the purpose of organizing the advisory board, conducting its business, and fulfilling its duties. A vote of the majority of the members present shall be sufficient for all actions of the advisory board unless the bylaws require a greater number.

(e) Attendance. — A member of the advisory board who fails to attend three consecutive meetings shall be deemed vacant, unless the commissioner, upon written request from the member, finds that the member should be excused from a meeting for good cause. A member who cannot be physically present may attend meetings via electronic means, including video conference.

(f) Governance. — The advisory board shall have the power to prescribe, amend, and repeal bylaws governing the manner in which the business of the advisory board is conducted and the manner in which the duties granted to it are fulfilled. The advisory board may delegate supervision of the administration of advisory board activities to an administrative commissioner and other employees of the bureau as the commissioner shall appoint.

(g) Initial terms. — The initial terms of members appointed under subsection (a) of this section shall be for terms of one, two, three, or four years, the particular term of each member to be designated by the commissioner at the time of appointment. All other members shall serve for a term of four years.

(h) Vacancy. — In the event that any member appointed under subsection (a) of this section shall die or resign, or otherwise become disqualified during the member's term of office, a successor shall be appointed in the same way and with the same qualifications as set forth in this section and shall hold office for the unexpired term. An appointed member of the advisory board shall be eligible for reappointment.

(i) Expenses. — A member shall receive the amount of reasonable travel, hotel, and other necessary expenses incurred in the performance of the duties of the member in accordance with state rules but shall receive no other compensation for the member's service on the board.

(j) Duties. — The advisory board shall have the following duties:

(1) To examine and analyze the statutory and regulatory law relating to medical cannabis within this state.

(2) To examine and analyze the law and events in other states and the nation with respect to medical cannabis.

(3) To accept and review written comments from individuals and organizations about medical cannabis.

(4) To issue, two years after the effective date of this section, a written report to the Governor, the Senate, and the House of Delegates.

WV Legislature

(5) The written report under subdivision (4) of this subsection shall include recommendations and findings as to the following:

(A) Whether to change the types of medical professionals who can issue certifications to patients.

(B) Whether to change, add, or reduce the types of medical conditions which qualify as serious medical conditions under this act.

(C) Whether to change the form of medical cannabis permitted under this act.

(D) Whether to change, add, or reduce the number of growers, processors, or dispensaries.

(E) How to ensure affordable patient access to medical cannabis.

(F) Whether to permit medical cannabis to be dispensed in dry leaf or plant form, for administration by vaporization.

(6) The final written report under this section shall be adopted at a public meeting.

WV Legislature

§16A-11-2. Rules based on recommendations of advisory board.

After receiving the report of the advisory board, at the discretion of the commissioner, the bureau may propose rules for legislative promulgation pursuant to the provisions of article three, chapter twenty-nine-a of this code to effectuate recommendations made by the advisory board. The commissioner shall issue notice in the State Register within twelve months of the receipt of the report of the advisory board. The notice shall include the recommendations of the advisory board and shall state the specific reasons for the decision of the commissioner on whether or not to effectuate each recommendation.

WV Legislature

§16A-12-1. Criminal diversion of medical cannabis by practitioners.

In addition to any other penalty provided by law, a practitioner who intentionally and knowingly certifies a person as being able to lawfully receive medical cannabis or who otherwise provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

WV Legislature

§16A-12-2. Criminal diversion of medical cannabis.

(a) In addition to any other penalty provided by law, any employee, financial backer, operator or principal of any qualifying entities who intentionally and knowingly sells, dispenses, trades, delivers or otherwise provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

(b) For purposes of this section, "qualifying entity" shall mean:

(1) A medical cannabis organization.

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

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

(4) A laboratory utilized to test medical cannabis under section four, article seven of this chapter.

WV Legislature

§16A-12-3. Criminal retention of medical cannabis.

In addition to any other penalty provided by law, any patient or caregiver who intentionally and knowingly possesses, stores or maintains an amount of medical cannabis in excess of the amount legally permitted is guilty of a misdemeanor, and upon conviction thereof, shall be confined in jail for not more than six months.

WV Legislature

§16A-12-4. Criminal diversion of medical cannabis by patient or caregiver.

In addition to any other penalty provided by law, any patient or caregiver that intentionally and knowingly provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

WV Legislature

§16A-12-5. Falsification of identification cards.

In addition to any other penalty provided by law, any person who commits one of the following, knowing he or she is not privileged to hold an identification card;

(1) possesses an identification card and either attempts to use the card to obtain medical cannabis or obtains medical cannabis;

(2) possesses an identification card which falsely identifies the person as being lawfully entitled to receive medical cannabis and either attempts to use the card to obtain medical cannabis or obtains medical cannabis; or

(3) possesses an identification card which contains any false information on the card and the person either attempts to use the card to obtain medical cannabis or obtains medical cannabis, is guilty of a misdemeanor, and upon conviction thereof, shall be confined in jail for not more than twelve months.

WV Legislature

§16A-12-6. Adulteration of medical cannabis.

In addition to any other penalty provided by law, any person who adulterates, fortifies, contaminates or changes the character or purity of medical cannabis from that set forth on the patient's or caregiver's identification card, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

WV Legislature

§16A-12-7. Disclosure of information prohibited.

(a) In addition to any other penalty provided by law, any employee, financial backer, operator or principal who discloses, except to authorized persons for official governmental or health care purposes, any information related to the use of medical cannabis:

(1) A medical cannabis organization.

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

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

(4) An employee of the bureau.

(b) Exception. — Subsection (a) of this section shall not apply where disclosure is permitted or required by law or by court order.

WV Legislature

§16A-12-8. Additional penalties.

(a) Civil penalties. — In addition to any other remedy available to the bureau, the bureau may assess a civil penalty for a violation of this act, a rule promulgated under this act or an order issued under this act or rule, subject to the following:

(1) The bureau may assess a penalty of not more than $10,000 for each violation and an additional penalty of not more than $1,000 for each day of a continuing violation. In determining the amount of each penalty, the bureau shall take the following factors into consideration:

(A) The gravity of the violation.

(B) The potential harm resulting from the violation to patients, caregivers or the general public.

(C) The willfulness of the violation.

(D) Previous violations, if any, by the person being assessed.

(E) The economic benefit to the person being assessed for failing to comply with the requirements of this act, a rule promulgated under this act or an order issued under this act or rule.

(2) If the bureau finds that the violation did not threaten the safety or health of a patient, caregiver or the general public and the violator took immediate action to remedy the violation upon learning of it, the bureau may issue a written warning in lieu of assessing a civil penalty.

(3) A person who aids, abets, counsels, induces, procures or causes another person to violate this act, a rule promulgated under this act or an order issued under this act or rule shall be subject to the civil penalties provided under this subsection.

(b) Sanctions. —

(1) In addition to the penalties provided in subsection (a) of this section, and any other penalty authorized by law, the bureau may impose the following sanctions:

(A) Revoke or suspend the permit of a person found to be in violation of this act, a rule promulgated under this act or an order issued under this act or rule.

(B) Revoke or suspend the permit of a person for conduct or activity or the occurrence of an event that would have disqualified the person from receiving the permit.

(C) Revoke or suspend the registration of a practitioner for a violation of this act or a rule promulgated or an order issued under this act or for conduct or activity which would have

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disqualified the practitioner from receiving a registration.

(D) Suspend a permit or registration of a person pending the outcome of a hearing in a case in which the permit or registration could be revoked.

(E) Order restitution of funds or property unlawfully obtained or retained by a permittee or registrant.

(F) Issue a cease and desist order.

(2) A person who aids, abets, counsels, induces, procures or causes another person to violate this act shall be subject to the sanctions provided under this subsection.

(c) Costs of action. — The bureau may assess against a person determined to be in violation of this act the costs of investigation of the violation.

(d) Minor violations. — Nothing in this section shall be construed to require the assessment of a civil penalty or the imposition of a sanction for a minor violation of this act if the bureau determines that the public interest will be adequately served under the circumstances by the issuance of a written warning.

WV Legislature

§16A-12-9. Other restrictions.

This act does not permit any person to engage in and does not prevent the imposition of any civil, criminal or other penalty for the following:

(1) Undertaking any task under the influence of medical cannabis when doing so would constitute negligence, professional malpractice or professional misconduct.

(2) Possessing or using medical cannabis in a state correctional facility or Regional Jail Authority facility, including a facility owned or operated or under contract with the Bureau of Corrections or the Regional Jail Authority, which houses inmates serving a portion of their sentences on parole or other community correction program.

(3) Possessing or using medical cannabis in a youth detention center or other facility which houses children adjudicated delinquent, including the separate, secure state-owned facility or unit utilized for sexually violent delinquent children.

WV Legislature

§16A-13-1. Definitions.

(a) The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) "Health care medical cannabis organization". A vertically integrated health system approved by the bureau to dispense medical cannabis or grow and process medical cannabis, or both, in accordance with a research study under this chapter.

(2) "Vertically integrated health system". A health delivery system in which the complete spectrum of care, including primary and specialty care, hospitalization and pharmaceutical care, is provided within a single organization.

WV Legislature

§16A-13-2. Establishment of medical cannabis research program.

(a) Program to be established. — The bureau shall establish and develop a research program to study the impact of medical cannabis on the treatment and symptom management of serious medical conditions. The program shall not include a clinical registrant or academic clinical research center under article fourteen of this chapter.

(b) Bureau duties. — The bureau shall:

(1) Review all serious medical conditions which are cited by a practitioner upon the practitioner's certification that a patient be granted an identification card.

(2) Create a database of all serious medical conditions, including comorbidities, which are cited by practitioners in the certifications of patients. The database shall also include the form of medical cannabis certified to treat each serious medical condition.

(3) When the database contains twenty-five or more patients with the same serious medical condition, petition the United States Food and Drug Administration and the United States Drug Enforcement Administration for approval to study the condition and the impact of medical cannabis on the condition.

(4) Concurrent with the request to the United States Food and Drug Administration and United States Drug Enforcement Administration, publicly announce the formation of a research study to which a vertically integrated health system and a university within this state may submit a request to participate.

(5) Upon approval of a research study by the United States Food and Drug Administration and the United States Drug Enforcement Administration, select a vertically integrated health system or systems to conduct the research study and designate the form or forms of medical cannabis which will be used to treat the serious medical condition.

(6) Notify a patient who has been issued an identification card:

(A) that the patient has been selected to participate, at the patient's option, in a research study to study medical cannabis as a treatment; and

(B) where the patient may secure medical cannabis through a health care medical cannabis organization at no cost to the patient in accordance with subsection (c).

(7) If the United States Food and Drug Administration and the United States Drug Enforcement Administration reject the proposal for the research study, take all reasonable steps to collect and collate data on the serious medical condition and the use of medical cannabis as a treatment for the serious medical condition and consider submitting an additional request to the United States Food and Drug Administration and United States Drug Enforcement Administration for a research study on the same condition.

WVLegislature

(c) Costs. — The cost of the medical cannabis which is dispensed to patients in accordance with an approved research study shall be paid for by the fund.

(d) Geographic accessibility. — The bureau shall take into consideration the geographic location of the health care medical cannabis organization when assigning a patient to a health care medical cannabis organization. The bureau shall make an effort to assign a patient to a health care medical cannabis organization that is located within fifty miles of the patient's residence.

(e) Data. — Data collected by the health care medical cannabis organization shall be provided to the university participating in the research study for analysis.

WV Legislature

§16A-13-3. Medical cannabis research program administration.

(a) The bureau may establish a research study for each serious medical condition. The bureau may engage universities within this state to participate in the collection, collation, analysis and conclusive findings of the research studies. The bureau shall, by rule, establish the procedure to be used by health care medical cannabis organizations with respect to:

(1) Real time inventory tracking.

(2) Real time tracking of the medical cannabis dispensed.

(3) Recall of defective medical cannabis.

(b) Request for distributions. — The bureau shall establish a form and procedure for universities selected to participate in a research study to request distributions from the fund to conduct research on medical cannabis, including administrative costs. These distributions shall also be used to pay for the cost of the medical cannabis so that it is not borne by the patient participating in the research study. The forms shall include, at a minimum, the following:

(1) The form or forms of medical cannabis to be studied.

(2) The serious medical condition to be studied.

(c) Research reports. —

(1) A vertically integrated health system shall report on the effectiveness of the use of medical cannabis for the treatment of the serious medical condition studied and all counterindications and noted side effects.

(2) The bureau shall notify the vertically integrated health system and the university participating in the research study of the data which is required to meet the United States Food and Drug Administration’s and the United States Drug Enforcement Administration’s approval for the research study.

(3) The first report, including the data required under subdivision (2), shall be submitted to the bureau and made publicly available within one hundred eighty days of the initiation of a research study for a specific serious medical condition.

(4) An annual report of the data required under subdivision (2) shall be submitted to the bureau beginning one year after the initiation of a research study for a specific serious medical condition and each year thereafter.

WV Legislature

§16A-13-4. Approval.

A vertically integrated health system located in this state may petition the bureau to participate in a research study to study a serious medical condition. Approval of the vertically integrated health system as a health care medical cannabis organization by the bureau shall authorize access within a region under subsection (d), section three, article six of this chapter to medical cannabis for all patients included in an approved research study.

WV Legislature

§16A-13-5. Requirements.

(a) Dispensing. — A health care medical cannabis organization that dispenses medical cannabis shall:

(1) Maintain licensure with the bureau.

(2) Secure the medical cannabis within the associated pharmacies of the health care medical cannabis organization in a manner and method prescribed by the bureau.

(3) Keep a daily log of the medical cannabis dispensed and the research study with which the patient and the medical cannabis are associated. Reports shall be delivered to the bureau and the university participating in the research study on a weekly basis.

(4) Report the utilization rates of those patients participating in the research of medical cannabis and treatment options.

(5) Only dispense medical cannabis received from a grower, processor or a health care medical cannabis organization that is approved to grow and process medical cannabis.

(6) Provide all patients or caregivers with the safety insert, prepared by the bureau, which includes potential dangers, recognition and correction of problematic dosage and any other information required by the bureau or which the bureau deems relevant for patient safety.

(b) Growing and processing. — A health care medical cannabis organization that grows and processes medical cannabis shall:

(1) Maintain licensure with the bureau.

(2) Only make available medical cannabis to health care medical cannabis organizations that dispense medical cannabis.

(3) Keep a daily log of medical cannabis intended for ultimate use by patients participating in a research study.

WV Legislature

§16A-13-6. Restrictions.

A health care medical cannabis organization may not participate in a research study of any kind, including the program established under this article, or dispense or grow and process medical cannabis if it has violated its licensure requirements or conditions.

WV Legislature

§16A-13-7. Rules.

The bureau shall, by rule, establish the procedure to be used by a health care medical cannabis organization that grows and processes medical cannabis with respect to:

(1) Real time inventory tracking, including a seed-to-dispensing tracking system that tracks medical cannabis from seed or immature plant stage until the medical cannabis is provided to a patient in a research study.

(2) Security, recordkeeping, record retention and surveillance systems relating to every stage of growing and processing medical cannabis.

(3) A daily log of each day's beginning inventory, acquisitions, disbursements, disposals and ending inventory.

(4) A system to recall defective medical cannabis.

(5) A system to track the plant waste resulting from the growth of medical cannabis.

(6) Testing of medical cannabis by an independent laboratory to test the medical cannabis produced by the health care medical cannabis organization, including requiring a test at harvest and a test at final processing.

(7) Any other procedure deemed necessary by the bureau.

WV Legislature

§16A-13-8. Nonentitlement.

Nothing in this chapter shall be construed to create an entitlement or right of a patient to receive medical cannabis or to participate in a research study.

WV Legislature

§16A-14-1. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) “Academic clinical research center” means an accredited medical school within this state that operates or partners with an acute care hospital licensed within this state.

(2) “Clinical registrant” means an entity that:

(A) Holds a permit as a grower, processor and a dispensary; and

(B) Has a contractual relationship with an academic clinical research center under which the academic clinical research center or its affiliate provides advice to the entity, regarding, among other areas, patient health and safety, medical applications and dispensing and management of controlled substances.

WV Legislature

§16A-14-2. Clinical registrants.

Notwithstanding the limitations in section thirteen, article six of this chapter, the bureau may register up to four clinical registrants, and subject to the following:

(1) A clinical registrant must pay the fees and meet all other requirements under this act for obtaining a permit as a grower, processor and a dispensary.

(2) The clinical registrant must comply with all other requirements of this act regarding growing, processing and dispensing medical cannabis.

WV Legislature

§16A-14-3. Research study.

Notwithstanding any provision of this act to the contrary, the bureau may, upon application, approve the dispensing of medical cannabis by a clinical registrant to the academic clinical research center for the purpose of conducting a research study. The bureau shall develop the application and standards for approval of such dispensing by the clinical registrant. The following apply to the research study:

(1) The clinical registrant shall disclose the following information to the bureau in its application:

(i) The reason for the research project, including the reason for the trial.

(ii) The strain of medical cannabis to be used and the strength of the medical cannabis to be used in the research study.

(iii) The anticipated duration of the study.

(iv) Evidence of approval of the trial by an accredited institutional review board, including any other required regulatory approvals.

(v) Other information required by the bureau, except that the bureau may not require disclosure of any information that would infringe upon the academic clinical research center's exclusive right to intellectual property or legal obligations for patient confidentiality.

(2) The academic clinical research center shall provide its findings to the bureau within three hundred sixty-five days of the conclusion of the research study or within three hundred sixty-five days of publication of the results of the research study in a peer-reviewed medical journal, whichever is later.

(3) The bureau shall allow the exchange of medical cannabis seed between clinical registrants for the conduct of research.

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.

WV Legislature

§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.

WV Legislature

§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.

WV Legislature

§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.

WV Legislature

§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.

WV Legislature

§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.

WV Legislature

§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.

WV Legislature

§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.

WV Legislature

§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

§16A-16-1. Effective date.

(a) Unless excepted in subsection (b) or (c) of this section, the provisions of this act shall be effective upon passage.

(b) The provisions of §16A-12-1 et seq. of this code, and any other criminal provisions or penalties contained in this act, shall not be effective until 90 days from passage of Senate Bill 386 during the 2017 regular session.

(c) Notwithstanding any provision of this chapter to the contrary, no identification cards may be issued to patients until July 1, 2019. The bureau may take sufficient steps through rule to implement the preliminary provisions in preparation for implementation of the provisions of this act.

(d) Notwithstanding the prohibition contained in subsection (c) of this section on the issuance of identification cards until July 1, 2019, the bureau may implement a process for the preregistration of patients with a serious medical condition who have been issued a certification approved by the bureau and to a caregiver designated by the patient: Provided, That a patient who is preregistered must nevertheless comply with the provisions of §16A-5-1 of this code and may not be issued an identification card necessary to obtain and use medical cannabis as authorized by this act until July 1, 2019.

WV Legislature