WEST VIRGINIA CODE: §60a-2-201

§60A-2-201. Authority of Board of Pharmacy; recommendations to Legislature.

(a) The Board of Pharmacy shall administer the provisions of this chapter. It shall also, on the first day of each regular legislative session, recommend to the Legislature which substances should be added to or deleted from the schedules of controlled substances contained in this article or reschedule therein. The Board of Pharmacy shall also have the authority between regular legislative sessions, on an emergency basis, to add to or delete from the schedules of controlled substances contained in this article or reschedule such substances based upon the recommendations and approval of the federal food, drug and cosmetic agency, and shall report such actions on the first day of the regular legislative session immediately following said actions.

In making any such recommendation regarding a substance, the Board of Pharmacy shall consider the following factors:

(1) The actual or relative potential for abuse;

(2) The scientific evidence of its pharmacological effect, if known;

(3) The state of current scientific knowledge regarding the substance;

(4) The history and current pattern of abuse;

(5) The scope, duration and significance of abuse;

(6) The potential of the substance to produce psychic or physiological dependence liability; and

(7) Whether the substance is an immediate precursor of a substance already controlled under this article.

(b) After considering the factors enumerated in subsection (a) of this section, the Board of Pharmacy shall make findings with respect to the substance under consideration. If it finds that any substance not already controlled under any schedule has a potential for abuse, it shall recommend to the Legislature that the substance be added to the appropriate schedule. If it finds that any substance already controlled under any schedule should be rescheduled or deleted, it shall so recommend to the Legislature.

(c) If the Board of Pharmacy designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled, or deleted as a controlled substance under

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federal laws and notice thereof is given to the Board of Pharmacy, the board shall recommend similar control of such substance to the Legislature, specifically stating that such recommendation is based on federal action and the reasons why the federal government deemed such action necessary and proper.

(e) The authority vested in the board by subsection (a) of this section shall not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in other chapters of this code nor to any nonnarcotic substance if such substance may under the Federal Food, Drug and Cosmetic Act and the law of this state lawfully be sold over the counter without a prescription.

(f) Notwithstanding any provision of this chapter to the contrary, the sale, wholesale, distribution, or prescribing of a cannabidiol or nabiximols in a product approved by the Food and Drug Administration is permitted and shall be placed on the schedule or descheduled as provided for by the Drug Enforcement Administration.

(g) Notwithstanding §60A-2-204(d) of this code, if a drug that contains, an organic psilocybin substance or the pharmaceutical composition of crystalline polymorph psilocybin, is approved by the United States Food and Drug Administration and rescheduled by the United States Drug Enforcement Administration it shall be lawful to prescribe, distribute, and market based upon the recommendations of the United States Food and Drug Administration.

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