

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **Senate Bill 487**

BY SENATORS OJEDA, ROMANO, BALDWIN, BEACH,  
FACEMIRE, JEFFRIES, PALUMBO, PREZIOSO, STOLLINGS,  
AND UNGER

[Introduced February 5, 2018; Referred  
to the Committee on Health and Human Resources; and  
then to the Committee on the Judiciary]

1 A BILL to repeal §16A-4-1 of the Code of West Virginia, 1931, as amended; to repeal §16A-6-4  
2 of said code; to amend and reenact §16A-2-1 of said code; to amend and reenact §16A-  
3 3-1, §16A-3-2, §16A-3-3, and §16A-3-4 of said code; to amend and reenact §16A-4-2,  
4 §16A-4-3, and §16A-4-5 of said code; to amend and reenact §16A-6-3, §16A-6-6, §16A-  
5 6-12, and §16A-6-13 of said code; to amend and reenact §16A-7-5 of said code; to amend  
6 and reenact §16A-8-1 and §16A-8-2 of said code; to amend and reenact §16A-9-1 of said  
7 code; to amend said code by adding thereto two new sections, designated §16A-9-3 and  
8 §16A-9-4; to amend and reenact §16A-11-1 of said code; and to amend and reenact §16A-  
9 12-8 of said code, all relating to the West Virginia Medical Cannabis Act; amending and  
10 removing definitions; defining terms; removing the requirement for practitioners to be  
11 registered; allowing data gathering to indicate where a specific form of medical cannabis  
12 was not recommended; removing the four-hour training course for physicians; increasing  
13 the two-hour training course for principals and employees to eight hours and adding  
14 requirements for the training; removing the Freedom of Information Act exemption for  
15 practitioner credentials; authorizing the medical cannabis sales in edible and plant-based  
16 form; removing the prohibition on smoking medical cannabis; authorizing licensed patients  
17 and caregivers to grow medical cannabis under certain restrictions; repealing the section  
18 requiring registration of physicians eligible to issue certifications to patients to use medical  
19 cannabis; adjusting certification requirements to reflect the removal of the practitioner  
20 registry; removing the requirement that other treatments be ineffective before  
21 recommending medical cannabis; clarifying the duration of a dosage that may be  
22 dispensed; expanding on the requirement that applicants are required to be residents of  
23 this state; permitting transfer of permits under certain circumstances; removing the  
24 requirement for separate regions associated with medical cannabis dispensaries;  
25 repealing the section requiring notice be printed in the State Register; authorizing the  
26 commissioner to set a sliding initial fee schedule for growers based on acreage of the

27 farm; setting a maximum fee for growers; allowing a grower or processor to pay its initial  
28 fee in two installments; adding additional prior convictions that result in a prohibition of  
29 being affiliated with a medical cannabis registrant; adjusting the current waiver process  
30 for persons previously convicted to prohibit certain persons from being eligible for a waiver  
31 in certain circumstances; removing the cap on the number of growers, processors, and  
32 dispensaries; removing the prohibition on a grower or processor being a dispensary;  
33 removing the requirement that a dispensary have a physician or pharmacist onsite at all  
34 times and clarifying other requirements; authorizing delivery by a dispensary to a  
35 caregiver's residence during certain times but prohibiting delivery to a commercial  
36 business and certain temporary housing locations; clarifying that Tax Division of  
37 Department of Revenue, along with Bureau for Public Health within the West Virginia  
38 Department of Health and Human Resources, will monitor price of medical cannabis;  
39 clarifying that Tax Division will administer, collect, and enforce medical cannabis tax;  
40 clarifying imposition of tax; detailing imposition of tax with respect to growers or processors  
41 that sell to a dispensary in which they have an economic interest; removing the exemption  
42 on medical cannabis from the sales tax; permitting exchange of information; providing that  
43 information exchanged is not subject to disclosure under Freedom of Information Act;  
44 requiring payment of tax by electronic funds transfer; requiring electronic filing of tax  
45 returns; authorizing legislative, interpretive, and procedural rules, as necessary to  
46 implement tax provisions; making tax subject to provisions of West Virginia Tax Crimes  
47 and Penalties Act; making tax subject to provisions of the West Virginia Tax Procedure  
48 and Administration Act; adding a doctor of osteopathic medicine to the advisory board;  
49 removing the ability of the bureau to sanction the registration of a practitioner due to the  
50 removal of the requirement to register; and removing the ability of the bureau to order  
51 restitution against a registrant.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 2. DEFINITIONS.****§16A-2-1. Definitions.**

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

3 (1) "Act" means the West Virginia Medical Cannabis Act and the provisions contained in  
4 chapter 60A of this code.

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

7 (3) "Bureau" mean the Bureau for Public Health within the West Virginia Department of  
8 Health and Human Resources.

9 (4) "Caregiver" means the individual designated by a patient or, if the patient is under  
10 18years of age, an individual under §16A-5-1 *et seq.* of this code, to deliver medical cannabis.

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

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

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

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

24 (9) "Controlling interest" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

58 (22) "Patient" means an individual who:

59 (A) Has a serious medical condition;

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

61 (C) Is a resident of this state.

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

64 (24) "Physician" or "practitioner" means a doctor of allopathic or osteopathic medicine who  
65 is fully licensed pursuant to the provisions of either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this  
66 code to practice medicine and surgery in this state.

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

69 ~~(26) "Practitioner" means a physician who is registered with the bureau under article four~~  
70 ~~of this chapter.~~

71 ~~(27)~~ (26) "Prescription drug monitoring program" means the West Virginia Controlled  
72 Substances Monitoring Program under §60A-9-1 *et seq.* of this code.

73 ~~(28)~~ (27) "Principal" means an officer, director or person who directly owns a beneficial  
74 interest in or ownership of the securities of an applicant or permittee, a person who has a  
75 controlling interest in an applicant or permittee or who has the ability to elect the majority of the  
76 board of directors of an applicant or permittee or otherwise control an applicant or permittee, other

77 than a financial institution.

78 ~~(29)~~ (28) "Processor" means a person, including a natural person, corporation,  
79 partnership, association, trust or other entity, or any combination thereof, which holds a permit  
80 from the bureau under this act to process medical cannabis. The term does not include a health  
81 care medical cannabis organization under §16A-13-1 *et seq.* of this code.

82 ~~(30)~~ "Registry" means the registry established by the bureau for practitioners

83 ~~(34)~~ (29) "Serious medical condition" means any of the following, as has been diagnosed  
84 as part of a patient's continuing care:

85 (A) Cancer;

86 (B) Positive status for human immunodeficiency virus or acquired immune deficiency  
87 syndrome;

88 (C) Amyotrophic lateral sclerosis;

89 (D) Parkinson's disease;

90 (E) Multiple sclerosis;

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

93 (G) Epilepsy;

94 (H) Neuropathies;

95 (I) Huntington's disease;

96 (J) Crohn's disease;

97 (K) Post-traumatic stress disorder;

98 (L) Intractable seizures;

99 (M) Sickle cell anemia;

100 (N) Severe chronic or intractable pain; ~~of neuropathic origin or severe chronic or~~  
101 ~~intractable pain in which conventional therapeutic intervention and opiate therapy is~~  
102 ~~contraindicated or has proved ineffective as determined as part of continuing care~~ or

103 (O) Terminally ill.

104 ~~(32)~~ (30) "Terminally ill" means a medical prognosis of life expectancy of approximately  
105 one year or less if the illness runs its normal course.

**ARTICLE 3. MEDICAL CANNABIS PROGRAM.**

**§16A-3-1. Establishment of program.**

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

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

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

7 ~~(3)~~ (2) Have regulatory and enforcement authority over the growing, processing, sale and  
8 use of medical cannabis in this state.

9 ~~(4)~~ (3) Establish and maintain an electronic database to include activities and information  
10 relating to medical cannabis organizations, certifications and identification cards issued,  
11 ~~practitioner registration~~ and electronic tracking of all medical cannabis as required under this act  
12 to include:

13 (A) ~~Insurance~~ Provisions to ensure that medical cannabis is not diverted or otherwise  
14 used for unlawful purposes by a practitioner or medical cannabis organization.

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

16 (C) Recording recommended forms of medical cannabis, if any, provided in a certification  
17 filed by the practitioner.

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

20 (E) The tracking system under §16A-7-1 *et seq.* of this code must include information  
21 under §16A-8-1 of this code and any other information required by the bureau to be used by the



22 bureau and dispensaries to enable a dispensary to lawfully provide medical cannabis. The  
23 tracking system and database shall be capable of providing information in real time. The database  
24 shall be capable of receiving information from a dispensary regarding the disbursement of medical  
25 cannabis to patients and caregivers. This information shall be immediately accessible to the  
26 bureau and other dispensaries to inhibit diversion and ensure compliance with this act.

27 ~~(5)~~ (4) Maintain a directory of patients and caregivers approved to use or assist in the  
28 administration of medical cannabis within the bureau's database.

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

33 ~~(A) The State Board of Medicine.~~

34 ~~(B) The State Board of Osteopathic Medicine~~

35 ~~(7)~~ (5) Develop a ~~two-hour~~ an eight-hour course for the principals and employees of a  
36 medical cannabis organization who either have direct contact with patients or caregivers or who  
37 physically handle medical cannabis. Employees must successfully complete the course no later  
38 than 90 days after commencing employment. Principals must successfully complete the course  
39 prior to commencing initial operation of the medical cannabis organization. The subject matter of  
40 the course shall include the following:

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

43 (B) Proper handling of medical cannabis and recordkeeping.

44 (C) The latest scientific research on medical cannabis, including the risk and benefits of  
45 medical cannabis.

46 ~~(G)~~ (D) Any other subject required by the bureau.

47 (8) Develop enforcement procedures, including announced and unannounced inspections

48 of facilities of the grower/processors and dispensaries and all records of the medical cannabis  
49 organizations.

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

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

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

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

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

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

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

65 (14) Restrict the advertising and marketing of medical cannabis, which shall be consistent  
66 with the Federal rules and regulations governing prescription drug advertising and marketing.

67 (b) The bureau shall propose rules for legislative promulgation pursuant to the provisions  
68 of §29A-3-1 *et seq.* of this code as may be necessary to carry out and implement the provisions  
69 of this act. The bureau shall also have the power to propose and promulgate emergency rules  
70 as may be necessary to carry out and implement the provisions of this act.

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

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

3 (1) Medical cannabis may only be dispensed to:

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

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

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

9 (A) Pill;

10 (B) Oil;

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

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

15 (E) Tincture;

16 (F) Liquid; ~~or~~

17 (G) Dermal patch;

18 (H) Dry leaf or plant form; or

19 (I) Other edible form approved by the bureau.

20 (3) Unless otherwise provided in rules adopted by the bureau under §16A-11-2 of this  
21 code, medical cannabis may not be dispensed to a patient or a caregiver in dry leaf or plant form.

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

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

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

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

28 (8) Products packaged by a grower/processor or sold by a dispensary shall only be

29 identified by the name of the grower/processor, the name of the dispensary, the form and species  
 30 of medical cannabis, the percentage of tetrahydrocannabinol and cannabidiol contained in the  
 31 product.

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

1 (a) Except as provided in §16A-3-2, §16A-7-4, §16A-13-1 *et seq.* or §16A-14-1 *et seq.* of  
 2 this code, the use of medical cannabis is unlawful and shall, in addition to any other penalty  
 3 provided by law, be deemed a violation of the Uniform Controlled Substances Act under chapter  
 4 60A of this code.

5 (b) It shall be unlawful to:

6 ~~(1) Smoke medical cannabis.~~

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

9 ~~(3) (1) Grow medical cannabis unless the grower/processor has received a permit from~~  
 10 ~~the bureau under this act: Provided, That a patient or caregiver may grow and cultivate no more~~  
 11 ~~than four mature cannabis plants and four immature cannabis plants solely for his or her own use~~  
 12 ~~or, in the case of a caregiver, for the use of his or her patients.~~

13 ~~(4) (2) Grow or dispense medical cannabis unless authorized as a health care medical~~  
 14 ~~cannabis organization under §16A-13-1 *et seq.* of this code: Provided, That a patient or caregiver~~  
 15 ~~may grow and cultivate no more than four mature cannabis plants and four immature cannabis~~  
 16 ~~plants solely for his or her own use or, in the case of a caregiver, for the use of his or her patients.~~

17 ~~(5) (3) Dispense medical cannabis unless the dispensary has received a permit from the~~  
 18 ~~bureau under this act: Provided, That a caregiver may dispense lawfully grown medical cannabis~~  
 19 ~~to his or her patients.~~

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

**§16A-3-4. Confidentiality.**

1 (a) *Patient information.* — The bureau shall maintain a confidential list of patients and  
 2 caregivers to whom it has issued identification cards. All information obtained by the bureau  
 3 relating to patients, caregivers and other applicants shall be confidential and not subject to public  
 4 disclosure under chapter 29B of this code, including specifically the following:

- 5 (1) Individual identifying information about patients and caregivers.
- 6 (2) Certifications issued by practitioners.
- 7 (3) Information on identification cards.
- 8 (4) Information provided by the West Virginia State Police under §16A-5-2 of this code.
- 9 (5) Information relating to the patient’s serious medical condition.

10 (b) *Public information.* — The following records are public records and shall be subject to  
 11 the Freedom of Information Act, under chapter 29B of this code:

- 12 (1) Applications for permits submitted by medical cannabis organizations; and
- 13 ~~(2) The names, business addresses and medical credentials of practitioners authorized~~  
 14 ~~to provide certifications to patients to enable them to obtain and use medical cannabis in this~~  
 15 ~~state. All other practitioner registration information shall be confidential and exempt from public~~  
 16 ~~disclosure under the Freedom of Information Act~~
- 17 ~~(3)~~ (2) Information relating to penalties or other disciplinary actions taken against a medical  
 18 cannabis organization or practitioner by the bureau for violation of this act.

**ARTICLE 4. PRACTITIONERS.**

**§16A-4-1. Registration.**

1 [Repealed.]

**§16A-4-2. Practitioner restrictions.**

1 (a) *Practices prohibited.* — The following shall apply with respect to practitioners:  
 2 (1) A practitioner may not accept, solicit or offer any form of remuneration from or to a  
 3 prospective patient, patient, prospective caregiver, caregiver or medical cannabis organization,

4 including an employee, financial backer or principal, to certify a patient, other than accepting a  
5 fee for service with respect to the examination of the prospective patient to determine if the  
6 prospective patient should be issued a certification to use medical cannabis.

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

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

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

13 (c) *Discipline.* — In addition to any other penalty that may be imposed under this act, a  
14 violation of subsection (a) of this section or §16A-4-3(f), of this code shall be deemed  
15 unprofessional conduct under the West Virginia Medical Practice Act, and shall subject the  
16 practitioner to discipline by the West Virginia Board of Medicine and West Virginia Board of  
17 Osteopathic Medicine, as appropriate.

### **§16A-4-3. Issuance of certification.**

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

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

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

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

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

12 ~~cannabis. and other treatments, including treatments involving opioids, have proven ineffective or~~  
13 ~~otherwise are contraindicated~~

14 (b) *Contents.* — The certification shall include:

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

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

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

19 (4) The date of issuance.

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

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

23 (c) *Consultation.* — (1) A practitioner shall review the prescription drug monitoring  
24 program prior to:

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

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

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

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

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

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

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

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

38 (1) Provide the certification to the patient.

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

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

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

**§16A-4-5. Duration.**

1 Receipt and possession of medical cannabis by a patient or caregiver from a dispensary  
2 may not exceed a ~~30-day supply of individual doses~~ such amount as shall be determined and  
3 established by rules adopted by the bureau to be appropriate for a 30-day period, by the  
4 appropriate measure of volume, weight or concentration level. During the last seven days of any  
5 30-day period during the term of the identification card, a patient may obtain and possess a 30-  
6 day supply for the subsequent 30-day period. Additional 30-day supplies may be provided in  
7 accordance with this section for the duration of the authorized period of the identification card  
8 unless a shorter period is indicated on the certification.

**ARTICLE 6. MEDICAL CANNABIS ORGANIZATIONS.**

**§16A-6-3. Granting of permit.**

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

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

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

6 (3) The applicant is a resident of this state, as defined in §29-22B-327 of this code, or is  
7 organized under the law of this state. If the applicant is a corporation, partnership, association,  
8 trust or other entity, or any combination thereof, at least a total of 51 percent of the interests of



9 such entity is owned by current residents and such current residents have all been residents of  
10 this state for seven consecutive years prior to the date of application.

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

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

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

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

18 (8) The applicant is able to implement and maintain security, tracking, recordkeeping and  
19 surveillance systems relating to the acquisition, possession, growth, manufacture, sale, delivery,  
20 transportation, distribution or the dispensing of medical cannabis as required by the bureau.

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

22 (b) ~~Nontransferability~~ Transferability. — A permit issued under this chapter shall be  
23 ~~nontransferable~~ transferable, but only after 24 months from the date of issuance and subject to  
24 review and approval by the bureau, to any party that meets the minimum requirements to receive  
25 a permit as an original applicant.

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

27 ~~(d) *Regions*. — The bureau shall establish a minimum of three regions within this state~~  
28 ~~for the purpose of granting permits to grower/processors and dispensaries and enforcing this act.~~  
29 ~~The bureau shall approve permits for growers, processors and dispensaries in a manner which~~  
30 ~~will provide an adequate amount of medical cannabis to patients and caregivers in all areas of~~  
31 ~~this state. The bureau shall consider the following when issuing a permit:~~

32 ~~(1) Regional population.~~

33 ~~(2) The number of patients suffering from serious medical conditions.~~

34 ~~(3) The types of serious medical conditions.~~

- 35           ~~(4) Access to public transportation.~~
- 36           ~~(5) Approval by local health departments.~~
- 37           ~~(6) Whether the county has disallowed the location of a grower, processor or dispensary.~~
- 38           ~~(7) Any other factor the bureau deems relevant~~

**§16A-6-4. Notice.**

1           [Repealed.]

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

1           The following apply:

2           (1) For a grower or processor:

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

5           (B) A fee for a permit as a grower shall be based on the acreage used to grow medical  
6 cannabis, such that smaller farms pay a smaller permit fee and larger farms pay a larger permit  
7 fee. The fee structure shall be set by the commissioner such that the largest fee is \$50,000. The  
8 permit shall be valid for one year. Applicants shall submit the permit fee at the time of submission  
9 of the application: *Provided*, That the fee may be paid in two equal installments with half paid  
10 before the permit is issued and the other half paid before the permit expires. The fee shall be  
11 returned if the permit is not granted.

12           ~~(B)~~ (C) A fee for a permit as a grower/processor in the amount of \$50,000 shall be paid.  
13 The permit shall be valid for one year. Applicants shall submit the permit fee at the time of  
14 submission of the application: *Provided*, That the fee may be paid in two installments with \$25,000  
15 paid before the permit is issued and the other \$25,000 paid before the permit expires. The fee  
16 shall be returned if the permit is not granted.

17           ~~(C)~~ (D) A renewal fee for the permit as a ~~grower/processor~~ processor in the amount of  
18 \$5,000 shall be paid and shall cover renewal for all locations. The renewal fee shall be returned  
19 if the renewal is not granted.

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

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

23 (2) For a dispensary:

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

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

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

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

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

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

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

**§16A-6-12. Convictions prohibited.**

1 (a) The following individuals may not hold volunteer positions or positions with  
2 remuneration in or be affiliated with a medical cannabis organization, including a clinical registrant  
3 under §16A-14-1 *et seq.* of this code, in any way if the individual has been convicted of any felony  
4 criminal offense related to the sale or possession of illegal drugs, narcotics or controlled  
5 substances, convicted of any misdemeanor or felony offense contained in the Bribery and Corrupt  
6 Practices Act, §61-5A-1, *et seq.* of this code or substantially similar laws of other states or the  
7 federal government, convicted of any misdemeanor or felony offense involving fraud, deceit,

8 crimes against the government or crimes of dishonesty, or conspiracy thereof of any of the  
9 foregoing offenses:

10 (1) Financial backers.

11 (2) Principals.

12 (3) Employees.

13 (b) If an individual seeking to hold a volunteer position or position with remuneration in or  
14 be affiliated with a dispensary is otherwise prohibited under subsection (a) of this section, such  
15 individual may seek a waiver from the bureau in order to hold such a position with a dispensary.  
16 The allowance of the waiver, including any additional restrictions or conditions as part of the  
17 waiver, shall be in the discretion of the bureau: Provided, That under no circumstances may a  
18 person prohibited under subsection (a) of this section serve as a principal, financial backer, or  
19 manager who oversees conduct of the dispensary.

**§16A-6-13. Limitations on permits.**

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

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

5 ~~(2) The bureau may not issue permits to more than ten processors.~~

6 ~~(3) The bureau may not issue permits to more than thirty dispensaries, with no more than~~  
7 ~~five in any region~~

8 ~~(4) (1) The bureau may not issue more than two individual dispensary permits to one~~  
9 ~~person.~~

10 ~~(5) (2) The bureau may not issue more than one individual grower permit to one person.~~

11 ~~(6) (3) The bureau may not issue more than one individual processor permit to one person.~~

12 ~~(7) (4) A dispensary may only obtain medical cannabis from a grower or processor holding~~  
13 ~~a valid permit under this act.~~

14           ~~(8)~~ (5) A grower or processor may only provide medical cannabis to a dispensary holding  
15 a valid permit under this act.

16           ~~(9) A grower or a processor may not be a dispensary~~

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

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

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

## **ARTICLE 7. MEDICAL CANNABIS CONTROLS.**

### **§16A-7-5. Prices.**

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

## **ARTICLE 8. DISPENSARIES.**

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

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

5 following:

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

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

9 (3) The date the medical cannabis was dispensed.

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

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

13 (b) *Requirements.* — ~~A dispensary shall have a physician or a pharmacist onsite at all~~  
14 ~~times during the hours the dispensary is open to receive patients and caregivers. A physician or~~  
15 ~~a pharmacist shall, prior to assuming duties under this paragraph~~ All principals and employees of  
16 a dispensary shall successfully complete the course established in §16A-3-1(a) of this code. A  
17 physician may not issue a certification to authorize patients to receive medical cannabis or  
18 otherwise treat patients at ~~the~~ a dispensary.

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

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

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

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

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

30 (f) *Verification.* — Prior to dispensing medical cannabis to a patient or caregiver, the

31 dispensary shall verify the information in subsections (e) and (g) of this section by consulting the  
32 electronic tracking system included in the bureau's electronic database established under §16A-  
33 3-1 of this code and the dispensary tracking system under §16A-7-1 of this code.

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

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

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

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

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

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

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

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

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

52 (2) The packaging date.

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

54 (4) A warning stating:

55 "This product is for medicinal use only. Women should not consume during pregnancy or  
56 while breastfeeding except on the advice of the practitioner who issued the certification and, in

57 the case of breastfeeding, the infant's pediatrician. This product might impair the ability to drive  
58 or operate heavy machinery. Keep out of reach of children.”

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

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

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

65 (8) Any other information required by the bureau.

**§16A-8-2. Facility requirements.**

1 (a) General rule. —

2 (1) Except as provided under subsection (c) of this section, a dispensary may only  
3 dispense medical cannabis in an indoor, enclosed, secure facility located within this state, as  
4 determined by the bureau.

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

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

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

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

15 (c) Subject to rules proposed by the bureau under the authority of this article, a dispensary  
16 may deliver medical cannabis to a patient or caregiver's residence on the date an order is received



17 and processed between the hours of 9:00 a.m. and 7:00 p.m. For the purpose of this subsection,  
18 “residence” means a dwelling, such as a house or apartment, but does not include a dormitory,  
19 hotel, motel, bed and breakfast, or other commercial business.

## **ARTICLE 9. TAX ON MEDICAL CANNABIS.**

### **§16A-9-1. Tax on medical cannabis.**

1 (a) *Tax imposed.* — (1) For the privilege or engaging or continuing within this state in the  
2 business of growing and processing medical cannabis, or purchasing and processing medical  
3 cannabis for sale to a dispensary, where a grower/processor sells to a dispensary in which the  
4 grower/processor has no economic interest, a tax is imposed on the gross receipts of a  
5 grower/processor received from the sale of medical cannabis by a grower/processor to a  
6 dispensary, to be paid by the grower/processor, at the rate of 10 percent. Where a  
7 grower/processor sells to a dispensary in which the grower/processor has an economic interest,  
8 a tax is imposed on the average wholesale value, as determined by the Tax Commissioner semi-  
9 annually based on a survey of all licensed growers/processors for the proceeding period, of the  
10 medical cannabis sold to the dispensary, to be paid by the grower/processor, at the rate of 10  
11 percent. The tax shall be charged against and be paid by the grower/processor and shall not be  
12 added as a separate charge or line item on any sales slip, invoice, receipt or other statement or  
13 memorandum of the price paid by a dispensary, patient or caregiver.

14 (2) For purposes of §16A-9-1 et seq. of this code, the term “gross receipts” means and  
15 includes the gross receipts, however denominated derived by the grower/processor from the sale,  
16 distribution or transfer of medical cannabis to a dispensary, without any deduction on account of  
17 the cost of property sold, the cost of materials used to grow or process the medical cannabis,  
18 labor costs, taxes, royalties paid in cash or in kind, or otherwise, interest or discount paid or any  
19 other expense however denominated. A dispensary that unlawfully purchases medical cannabis  
20 from a grower/processor that does not have a permit issued by the bureau under this chapter,  
21 shall pay the tax imposed by this article based on the amount paid to purchase or acquire the

22 medical cannabis from a grower/processor that does not have a permit issued under this chapter.

23 (b) *Payment of tax and reports.* — A grower/processor shall make quarterly payments  
24 under this section for each calendar quarter at the rate prescribed in subsection (a) of this section  
25 on the gross receipts for the calendar quarter. The tax shall be due and payable on the 20th day  
26 of January, April, July and October for the preceding calendar quarter ~~on~~ in a form prescribed by  
27 the Tax Division of the Department of Revenue. The Tax Commissioner may require such forms,  
28 schedules and returns, and impose such filing and remittance requirements as may be necessary  
29 or convenient for the efficient administration of taxes imposed by §16A-9-1. The Tax  
30 Commissioner may issue such procedural, interpretive or legislative rules, including emergency  
31 rules, as the Tax Commissioner may deem necessary or convenient for the efficient  
32 administration of taxes imposed by this section.

33 (c) *Electronic filing and payment required.* — Taxes imposed by this article shall be paid to  
34 the Tax Commissioner by electronic funds transfer unless electronic payment is prohibited by  
35 state or federal law. Tax returns required by this section shall be filed electronically with the Tax  
36 Commissioner.

37 ~~(e)~~ (d) *Deposit of proceeds.* — All money received from the tax imposed under subsection  
38 (a) of this section, including any interest and additions to tax paid under §11-10-1 et seq. of this  
39 code, shall be deposited into the Medical Cannabis Program Fund.

40 ~~(d) Exemption.~~ — ~~Medical cannabis shall not be subject to a sales tax.~~

41 (e) *Information.* — (1) A grower/processor that sells medical cannabis shall provide to the  
42 Tax Division of the Department of Revenue information required by the bureau, and any  
43 information required by the Tax Commissioner to administer, collect and enforce the taxes  
44 imposed by this §16A-9-1.

45 (2) Notwithstanding any provision of §11-10-1 et seq. of this code to the contrary, the Tax  
46 Commissioner and the Secretary of Health and Human Resources may enter into written  
47 agreements pursuant to which the Tax Commissioner will disclose to designated employees of

48 the Secretary of Health and Human Resources, whether a particular grower, processor or  
 49 dispensary is in good standing with the Tax Commissioner, and the secretary will disclose to  
 50 designated employees of the Tax Commissioner information a grower, processor or dispensary  
 51 provides to the secretary pursuant to this chapter. Information disclosed pursuant to a written  
 52 agreement shall remain confidential in the hands of the receiver and shall not be disclosable under  
 53 §29B-1-1 et seq. of this code.

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

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

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

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

**ARTICLE 11. MEDICAL CANNABIS ADVISORY BOARD.**

**§16A-11-1. Advisory board.**

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

3 (1) The commissioner or a designee.

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

5 (3) ~~Four~~ Five physicians licensed to practice in the state to be appointed by the State

6 Medical Association with one from each of the following specialized medicine:

- 7 (A) Family Practice/Neurologist/General Practitioner;
- 8 (B) Pain Management;
- 9 (C) Oncologist/Palliative Care;
- 10 (D) Psychiatrist; and
- 11 (E) Osteopathic Medicine.
- 12 (4) One pharmacist licensed to practice in the state, to be designated by the Board of
- 13 Pharmacy.
- 14 (5) One pharmacologist who has experience in the science of cannabis and a knowledge
- 15 of the uses, effects, and modes of actions of drugs, to be appointed by the Governor.
- 16 (6) One member who is a horticulturalist, to be designated by the West Virginia
- 17 Commissioner of Agriculture.
- 18 (7) One member designated by the West Virginia Association of Alcoholism and Drug
- 19 Counselors.
- 20 (8) An attorney licensed in the state who is knowledgeable about medical cannabis laws.
- 21 (9) One member appointed by the West Virginia Prosecuting Attorneys Institute.
- 22 (10) One member appointed by the Governor, who shall be a patient, a family or household
- 23 member of a patient or a patient advocate.
- 24 (b) *Terms.* — Except as provided under subsection (g) of this section, the members shall
- 25 serve a term of four years or until a successor has been appointed and qualified, but no longer
- 26 than six months beyond the four-year period.
- 27 (c) *Chair.* — The commissioner, or a designee, shall serve as chair of the advisory board.
- 28 (d) *Voting; quorum.* — A majority of the members shall constitute a quorum for the
- 29 purpose of organizing the advisory board, conducting its business and fulfilling its duties. A vote
- 30 of the majority of the members present shall be sufficient for all actions of the advisory board
- 31 unless the bylaws require a greater number.
- 32 (e) *Attendance.* — A member of the advisory board who fails to attend three consecutive

33 meetings shall be deemed vacant, unless the commissioner, upon written request from the  
34 member, finds that the member should be excused from a meeting for good cause. A member  
35 who cannot be physically present may attend meetings via electronic means, including video  
36 conference.

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

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

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

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

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

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

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

58 (3) To accept and review written comments from individuals and organizations about

59 medical cannabis.

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

62 (5) The written report under subdivision (4) shall include recommendations and findings  
63 as to the following:

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

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

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

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

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

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

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

## **ARTICLE 12. OFFENSES RELATED TO MEDICAL CANNABIS.**

### **§16A-12-8. Additional penalties.**

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

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

7 (A) The gravity of the violation.

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

9 public.

10 (C) The willfulness of the violation.

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

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

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

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

21 (b) *Sanctions.* —

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

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

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

28 ~~(C) Revoke or suspend the registration of a practitioner for a violation of this act or a rule~~  
29 ~~promulgated or an order issued under this act or for conduct or activity which would have~~  
30 ~~disqualified the practitioner from receiving a registration~~

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

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

35           ~~(F)~~ (E) Issue a cease and desist order.

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

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

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

NOTE: The purpose of this bill is to update and improve the West Virginia Medical Cannabis Act. The bill increases the geographic locations of dispensaries and the forms of acceptable medical cannabis. The bill makes other necessary technical and administrative changes, including clarifying that the Tax Division of the Department of Revenue, along with the Bureau of Public Health, will monitor the price of medical cannabis, and to apply the provisions of the West Virginia Tax Crimes and Penalties Act and the West Virginia Tax Procedure and Administration Act to the medical cannabis tax.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.