

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 752

BY SENATORS TAKUBO, STOLLINGS, ROMANO, AND

WOELFEL

[Introduced February 12, 2020; referred
to the Committee on the Judiciary]

1 A BILL to repeal §16A-4-2 of the Code of West Virginia, 1931, as amended; to repeal §16A-6-4
2 of said code; to repeal §16A-13-1 of said code; to amend and reenact §16A-2-1 of said
3 code; to amend and reenact §16A-3-1, §16A-3-2, §16A-3-3, and §16A-3-5 of said code;
4 to amend and reenact §16A-4-3 and §16A-4-5 of said code; to amend and reenact §16A-
5 5-1 of said code; to amend and reenact §16A-6-2, §16A-6-3, §16A-6-6, §16A-6-12, and
6 §16A-6-13 of said code; to amend said code by adding thereto a new section, designated
7 §16A-6-14; to amend and reenact §16A-7-5 of said code; to amend and reenact §16A-8-
8 2 of said code; to amend and reenact §16A-12-2, §16A-12-7, and §16A-12-8 of said code;
9 to amend and reenact §16A-13-2, §16A-13-3, §16A-13-4, §16A-13-5, §16A-13-6, and
10 §16A-13-8 of said code; to amend and reenact §16A-14-1, §16A-14-2, and §16A-14-3 of
11 said code; and to amend and reenact §16A-15-2 and §16A-15-4 of said code, all relating
12 to medical cannabis generally; defining terms; authorizing the Commissioner of the
13 Bureau for Public Health to approve additions to the forms of lawful medical cannabis
14 which may be used and the conditions for which medical cannabis use is authorized
15 pursuant to recommendations of the Medical Cannabis Advisory Board; requiring
16 employees of medical cannabis organizations and establishing a registration fee;
17 authorizing the commissioner to enter into reciprocity agreements with other jurisdictions
18 for terminally ill cancer patients; authorizing the commissioner to promulgate rules relating
19 to 30-day supplies of medical cannabis; removing the residency requirement for medical
20 cannabis organization owners, operators, shareholders, partners, and members; adding
21 certain convictions which preclude participation as or in a medical cannabis organization;
22 clarifying that the Tax Division of the Department of Revenue is charged with monitoring
23 medical cannabis pricing; modifying and clarifying the distance a medical cannabis
24 dispensary must be from certain educational facilities; modifying and clarifying entities
25 engaged in medical cannabis research subject to nondisclosure provisions; removing
26 requirement that certain federal agencies must preapprove medical cannabis research

27 projects; authorizing accredited colleges and medical schools to be eligible to engage in
 28 approved medical cannabis research; increasing the number of clinical registrants;
 29 clarifying that the governing body of an academic clinical research center must approve
 30 the institution's participation in a medical cannabis research project; clarifying that only
 31 those public officials directly involved in the administrations of the medical cannabis
 32 program are prohibited from having a monetary interest in a medical cannabis
 33 organization; and adding accredited educational institutions engaged in research to the
 34 list of persons, entities, and organizations exempt from licensure, discipline for lawful use,
 35 possession, or manufacture of medical cannabis.

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 this chapter.

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

7 ~~(3)~~ "Bureau" means 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 18
 10 years of age, an individual authorized under §16A-5-1 *et seq.* of this code, to deliver medical
 11 cannabis.

12 ~~(5)~~ "Certified medical use" means the acquisition, possession, use, or transportation of
 13 medical cannabis by a patient, or the acquisition, possession, delivery, transportation, or
 14 administration of medical cannabis by a caregiver, for use as part of the treatment of the patient's

15 serious medical condition, as authorized in a certification under this act, including enabling the
16 patient to tolerate treatment for the serious medical condition.

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

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

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

25 "Compassion certificate" means a temporary certification issued by a practitioner for
26 patients and caregivers to grow, possess, use, or give away cannabis without remuneration for
27 the purpose of obtaining access to medical cannabis as authorized under this article.

28 ~~(9)~~ "Controlling interest" means:

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

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

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

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

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

41 ~~(13)~~ “Financial institution” means a bank, a national banking association, a bank and trust
42 company, a trust company, a savings and loan association, a building and loan association, a
43 mutual savings bank, a credit union, or a savings bank.

44 ~~(14)~~ “Form of medical cannabis” means the characteristics of the medical cannabis
45 recommended or limited for a particular patient, including the method of consumption and any
46 particular dosage, strain, variety and quantity, or percentage of medical cannabis or particular
47 active ingredient.

48 ~~(15)~~ “Fund” means the Medical Cannabis Program Fund established in §16A-9-2 of this
49 code.

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

54 ~~(17)~~ “Grower/processor” means either a grower or a processor.

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

57 ~~(19)~~ “Individual dose” means a single measure of medical cannabis.

58 ~~(20)~~ “Medical cannabis” means cannabis for certified medical use as set forth in this act.

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

62 ~~(22)~~ “Patient” means an individual who:

63 (A) Has a serious medical condition;

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

65 (C) Is a resident of this state.

66 ~~(23)~~ “Permit” means an authorization issued by the bureau to a medical cannabis

67 organization to conduct activities under this act.

68 ~~(24)~~ “Physician” or “practitioner” means a doctor of allopathic or osteopathic medicine who
69 is fully licensed pursuant to the provisions of either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this
70 code to practice medicine and surgery in this state.

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

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

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

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

84 ~~(29)~~ “Registry” means the registry established by the bureau for practitioners.

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

87 (A) Cancer;

88 (B) Positive status for human immunodeficiency virus or acquired immune deficiency
89 syndrome;

90 (C) Amyotrophic lateral sclerosis;

91 (D) Parkinson’s disease;

92 (E) Multiple sclerosis;

- 93 (F) Damage to the nervous tissue of the spinal cord with objective neurological indication
- 94 of intractable spasticity;
- 95 (G) Epilepsy;
- 96 (H) Neuropathies;
- 97 (I) Huntington’s disease;
- 98 (J) Crohn’s disease;
- 99 (K) Post-traumatic stress disorder;
- 100 (L) Intractable seizures;
- 101 (M) Sickle cell anemia;
- 102 (N) Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable
- 103 pain;
- 104 (O) ~~Terminally ill~~ A terminal illness; or
- 105 (P) Any medical condition for which the commissioner approves the use of medical
- 106 cannabis pursuant to a recommendation to do so by the advisory board.
- 107 ~~(31) “Terminally ill~~ “Terminal illness” means a medical prognosis of life expectancy of
- 108 approximately 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 or
- 5 dispense medical cannabis and ensure their compliance with this act.
- 6 (2) Register practitioners and ensure their compliance with this act.
- 7 (3) Have regulatory and enforcement authority over the growing, processing, sale, and
- 8 use of medical cannabis in this state.

9 (4) 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~~ Assurance that medical cannabis is not diverted or otherwise used for
14 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) 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~~ practitioners regarding the latest
30 scientific research on medical cannabis, including the risks and benefits of medical cannabis and
31 other 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) Develop ~~a two-hour~~ an eight-hour course for the principals and employees of a medical
36 cannabis organization who either have direct contact with patients or caregivers or who physically
37 handle medical cannabis. Employees must successfully complete the course no later than 90
38 days after commencing employment. Principals must successfully complete the course prior to
39 commencing initial operation of the medical cannabis organization. The subject matter of the
40 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 ~~(C)~~ (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; or

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

21 (H) A form approved by the commissioner upon a recommendation of the advisory board.

22 ~~(4)~~ (3) An individual may not act as a caregiver for more than five patients.

23 ~~(5)~~ (4) A patient may designate up to two caregivers at any one time.

24 ~~(6)~~ (5) 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)~~ (6) A patient or caregiver shall possess an identification card whenever the patient or
27 caregiver is in possession of medical cannabis.

28 ~~(8)~~ (7) Products packaged by a grower/processor or sold by a dispensary shall may only
29 be identified by the name of the grower/processor, the name of the dispensary, the form and
30 species of medical cannabis, the percentage of tetrahydrocannabinol and cannabinal contained
31 in the product.

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

1 ~~(a) Except as provided in section two of this article, section four of article seven, article~~
2 ~~thirteen or article fourteen of this chapter, the use of medical cannabis is unlawful and shall, in~~
3 ~~addition to any other penalty provided by law, be deemed a violation of the Uniform Controlled~~
4 ~~Substances Act under chapter sixty-a 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) Grow medical cannabis unless the grower/processor has received a permit from the~~

10 ~~bureau under this act.~~

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

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

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

18 Except as provided in this chapter, the provisions of chapter 60A of this code relating to
19 cannabis remain in full force and effect.

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

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

5 (b) The commissioner may enter into reciprocity agreements with any state that has
6 comparable requirements for medical cannabis patients and caregivers to possess, transport,
7 use, and transfer without remuneration, medical cannabis in this and any other such approved
8 state.

9 (c) Nothing in this chapter authorizes patients or caregivers to sell cannabis in any form.

ARTICLE 4. PRACTITIONERS.

§16A-4-2. Practitioner restrictions.

1 [Repealed.]

§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 condition.

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

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

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

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

19 (b) Compassion certificate. – The bureau shall create a registry of all applicable patients
20 and caregivers granted a compassion certificate by a practitioner pursuant to the provisions of
21 this section. A compassion certificate authorizes a patient or caregiver to lawfully grow no more
22 than 12 mature flowering cannabis plants and up to 12 cannabis seedlings at any one time:
23 Provided, That a caregiver is authorized 12 mature and 12 seedlings per patient. A compassion
24 certificate authorizes each patient to possess no more than four ounces of dry flower or leaf
25 medical cannabis per patient: Provided, however, That compassion certificates and the authority
26 authorized thereby become void upon the bureau declaring that there is sufficient medical
27 cannabis to meet demand through the other means authorized by this article.

28 ~~(b)~~ (c) Contents. — The certification shall include:

- 29 (1) The patient's name, date of birth, and address.
- 30 (2) The specific serious medical condition of the patient.
- 31 (3) A statement by the practitioner that the patient has a serious medical condition and the
32 patient is under the practitioner's continuing care for the serious medical condition.
- 33 (4) The date of issuance.
- 34 (5) The name, address, telephone number, and signature of the practitioner.
- 35 (6) Any requirement or limitation concerning the appropriate form of medical cannabis and
36 limitation on the duration of use, if applicable, including whether the patient is terminally ill.
- 37 (7) A statement by the practitioner attesting that he or she has performed the requirements
38 contained in subsection (a) of this section on a form to be issued by the West Virginia Department
39 of Health and Human Resources, Bureau for Public Health.

40 ~~(e)~~ (d) *Consultation.* —

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

- 42 (A) Issuing a certification to determine the controlled substance history of a patient.
- 43 (B) Recommending a change of amount or form of medical cannabis.

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

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

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

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

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

54 ~~(e)~~ (f) *Duties of practitioner.* — The practitioner shall:

55 (1) Provide the certification to the patient.

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

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

60 ~~(f)~~ (g) *Prohibition.* — A practitioner may not issue a certification for the practitioner's own
61 use 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 determined by the
3 commissioner to be appropriate for a 30-day period, by the appropriate measure of volume,
4 weight or concentration level. During the last seven days of any 30-day period during the term of
5 the identification card, a patient may obtain and possess a 30-day supply for the subsequent 30-
6 day period. Additional 30-day supplies may be provided in accordance with this section for the
7 duration of the authorized period of the identification card unless a shorter period is indicated on
8 the certification.

ARTICLE 5. PATIENTS.

§16A-5-1. Identification cards.

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

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

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

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

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

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

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

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

15 (3) The certification issued by the practitioner.

16 (4) The name, address, and telephone number of the practitioner and documentation from
17 the practitioner that all of the requirements of §16A-4-3 (a) of this code have been met.

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

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

21 (7) Other information required by the bureau.

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

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

27 (f) *Separate cards to be issued.* — The bureau shall issue separate identification cards
28 for eligible patients and caregivers as soon as reasonably practicable after receiving completed
29 applications, unless it determines that an application is incomplete or factually inaccurate, in which
30 case it shall promptly notify the applicant.

31 (g) *Change in name or address.* — A patient or caregiver who has been issued an
32 identification card shall notify the bureau within 10 days of any change of name or address. In
33 addition, the patient shall notify the bureau within 10 days if the patient no longer has the serious
34 medical condition noted on the certification.

35 (h) *Lost or defaced card.* — In the event of a lost, stolen, destroyed, or illegible
36 identification card, the patient or caregiver shall apply to the bureau within 10 business days of
37 discovery of the loss or defacement of the card for a replacement card. The application for a first
38 replacement card shall be on a form furnished by the bureau and accompanied by a \$25 \$10 fee.
39 The bureau may establish higher fees for issuance of second and subsequent replacement
40 identification cards. The bureau may waive or reduce the fee in cases of demonstrated financial
41 hardship. The bureau shall issue a replacement identification card as soon as practicable. A
42 patient or caregiver may not obtain medical cannabis until the bureau issues the replacement
43 card.

ARTICLE 6. MEDICAL CANNABIS ORGANIZATIONS.

§16A-6-2. Permits.

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

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

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

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

9 (4) A criminal history record check. Medical cannabis organizations applying for a permit
10 shall submit fingerprints of principals, financial backers, operators and employees to the West
11 Virginia State Police for the purpose of obtaining criminal history record checks and the West
12 Virginia State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of
13 Investigation for the purpose of verifying the identity of the principals, financial backers, operators,
14 and employees and obtaining a current record of any criminal arrests and convictions. Any
15 criminal history record information relating to principals, financial backers, operators, and

16 employees obtained under this section by the bureau may be interpreted and used by the bureau
17 only to determine the principal's, financial backer's, operator's and employee's character, fitness,
18 and suitability to serve as a principal, financial backer, operator and employee under this act. This
19 subdivision ~~shall~~ does not apply to an owner of securities in a publicly traded corporation or an
20 owner of five percent or less in a privately held business entity if the bureau determines that the
21 owner of the securities is not substantially involved in the activities of the medical cannabis
22 organization.

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

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

27 (7) A statement that the applicant:

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

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

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

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

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

41 (A) Any position of management or ownership during the preceding 10 years of a

42 controlling interest in any other business, located inside or outside this state, manufacturing or
 43 distributing controlled substances.

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

47 (9) Any other information the bureau may require.

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

§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 business entity, majority ownership in~~
 8 ~~the business entity must be held by a state resident or residents~~

9 ~~(4)~~ (3) The applicant is ready, willing, and able to properly carry on the activity for which a
 10 permit is sought.

11 ~~(5)~~ (4) The applicant possesses the ability to obtain in an expeditious manner sufficient
 12 land, buildings, and equipment to properly grow, process, or dispense medical cannabis.

13 ~~(6)~~ (5) It is in the public interest to grant the permit.

14 ~~(7)~~ (6) The applicant, including the any financial backer or principal, is of good moral
 15 character and has the financial fitness necessary to operate.

16 ~~(8)~~ (7) The applicant is able to implement and maintain security, tracking, recordkeeping,
 17 and surveillance systems relating to the acquisition, possession, growth, manufacture, sale,

18 delivery, transportation, distribution, or the dispensing of medical cannabis as required by the
19 bureau.

20 ~~(9)~~ (8) The applicant satisfies any other conditions as determined by the bureau.

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

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

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

25 (1) Geographic location;

26 (2) Regional population;

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

28 (4) The types of serious medical conditions;

29 (5) Access to public transportation;

30 (6) Approval by local health departments;

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

32 and

33 (8) Any other factor the bureau deems relevant.

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

§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/processor in the amount of \$50,000 shall be paid. The
6 permit shall be valid for one year. Applicants shall submit the permit fee at the time of submission
7 of the application. The fee shall be returned if the permit is not granted.

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

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

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

14 (2) For a dispensary:

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

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

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

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

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

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

28 (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, ~~or conspiracy thereof~~ convicted of any provision of §61-5A-1, *et seq.* of this code or
 6 substantially similar laws of other states or the federal government, convicted of any misdemeanor
 7 or felony offense involving fraud, deceit, crimes against the government, or crimes of dishonesty,
 8 or conspiracy of any of the foregoing offenses, any offense requiring the individual to register as
 9 a sex offender in this state or to register on the state child abuse registry:

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~~ is at the discretion of the bureau: *Provided, That under no circumstances may*
 18 a 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 10 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 10 processors.

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

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

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

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

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

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

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

16 (b) Before a permit may be issued, the bureau shall obtain ~~the following: (1) A written~~
17 ~~approval from the board of health for the county in which the permit is to be located and operate~~
18 ~~business. (2) a written statement from the county commission for the county in which the permit is~~
19 to be located and conduct business that the county has not voted, pursuant to §16A-7-6 of this
20 code, to disapprove a medical cannabis organization to be located or operate within the county.

§16A-6-14. Employee licensure requirements.

1 (a) Any person employed by a medical cannabis organization involved in the growing,
2 processing, or dispensing of medical cannabis shall be 18 years of age or older, and registered
3 with the bureau.

4 (b) The bureau shall establish a registry of medical cannabis organization employees and
5 may charge a registration fee not to exceed \$25. for each registrant.

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~~ and the Department of Revenue determine that the prices
 7 become unreasonable or excessive following the expiration of a six-month cap, additional caps
 8 may be imposed for periods not to exceed six months.

ARTICLE 8. DISPENSARIES.

§16A-8-2. Facility requirements.

1 (a) General rule. —

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

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

6 (3) A dispensary may not be located within 1,000 feet of ~~the property line of~~ a public,
 7 private, or parochial school or a daycare center, measured from front door to front door, along the
 8 street or streets.

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.

ARTICLE 12. OFFENSES RELATED TO MEDICAL CANNABIS.

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

1 (a) ~~In addition to any other penalty provided by law~~ Any employee, financial backer,
 2 operator, or principal of any qualifying entities who intentionally and knowingly sells, dispenses,
 3 trades, delivers, or otherwise provides medical cannabis to a person who is not lawfully permitted
 4 to receive medical cannabis, is guilty of a felony, and upon conviction thereof, shall be imprisoned

5 in a state correctional facility for not less than one nor more than five years.

6 (b) For purposes of this section, “qualifying entity” ~~shall mean~~ means:

7 (1) A medical cannabis organization;

8 (2) A ~~health care medical cannabis organization or~~ college, university, or medical school
9 participating in a research study under §16A-13-1 *et seq.* of this code;

10 (3) A clinical registrant or academic clinical research center under §16A-14-1 *et seq.* of
11 this code; and

12 (4) A laboratory ~~utilized~~ used to test medical cannabis under §16A-7-4 of this code.

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

1 (a) ~~In addition to any other penalty provided by law, any~~ No employee, financial backer,
2 operator, or principal ~~who discloses~~ of a medical cannabis organization, an accredited college,
3 university, or medical school engaging in approved research may disclose except to authorized
4 persons for ~~official governmental~~ law-enforcement purposes, research, or health care purposes,
5 any information related to the ~~use of medical cannabis:~~ (1) ~~A medical cannabis organization.~~(2)
6 ~~A health care medical cannabis organization or university participating in a research study under~~
7 ~~article thirteen of this chapter.~~ (3) ~~A clinical registrant or academic clinical research center under~~
8 ~~article fourteen of this chapter.~~(4) ~~An employee of the bureau~~ identity of a person holding a
9 medical cannabis certificate.

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

§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
17 upon 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 is 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) Suspend a permit or registration of a person pending the outcome of a hearing in a

32 case in which the permit or registration could be revoked.

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

35 (F) 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~~ is 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~~ does not 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.

ARTICLE 13. RESEARCH PROGRAM.

§16A-13-1. Definitions.

1 [Repealed.]

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

1 (a) *Program to be established.* — The bureau shall establish and develop a research
2 program to study the impact of medical cannabis on the treatment and symptom management of
3 serious medical conditions. The program ~~shall~~ may not include a ~~clinical registrant~~ medical
4 cannabis organization or academic clinical research center under §16A-14-1 *et seq.* of this code.

5 (b) *Bureau duties.* — The bureau shall:

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

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

11 (3) When the database contains 25 or more patients with the same serious medical
12 condition ~~petition the United States Food and Drug Administration and the United States Drug~~
13 ~~Enforcement Administration for approval~~ to study the condition and the impact of medical
14 cannabis on the condition.

15 (4) ~~Concurrent with the request to the United States Food and Drug Administration and~~
16 ~~United States Drug Enforcement Administration~~ Publicly announce the formation of a research
17 study to which a ~~vertically integrated health system and a~~ an accredited college, university, or
18 medical school within this state may submit a request to participate.

19 (5) ~~Upon approval of a research study by the United States Food and Drug Administration~~
20 ~~and the United States Drug Enforcement Administration, select a vertically integrated health~~
21 ~~system or systems~~ Select an accredited college, university, or medical school to conduct the
22 research study. ~~and designate the form or forms of medical cannabis which will be used to treat~~
23 ~~the serious medical condition~~

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

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

27 (B) Where the patient may secure medical cannabis through a health care medical
28 cannabis organization at no cost to the patient in accordance with subsection (c) of this section.

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

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

37 (d) *Geographic accessibility.* — The bureau shall take into consideration the geographic
 38 location of the ~~health care~~ medical cannabis organization when assigning a patient to a ~~health~~
 39 ~~care medical~~ cannabis organization for the purposes of research. The bureau shall make an effort
 40 to assign a patient to a health care medical cannabis organization that is located within 50 miles
 41 of the patient's residence.

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

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

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

- 6 (1) Real time inventory tracking.
- 7 (2) Real time tracking of the medical cannabis dispensed.
- 8 (3) Recall of defective medical cannabis.

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

- 15 (1) The form or forms of medical cannabis to be studied.
- 16 (2) The serious medical condition to be studied.

17 (c) *Research reports.* —

- 18 ~~(1) A vertically integrated health system~~ An accredited college, university, or medical

19 school engaged in research shall report to the bureau on the effectiveness of the use of medical
 20 cannabis for the treatment of the serious medical condition studied and all counterindications and
 21 noted side effects. After the accredited college, university, or medical school engaged in research
 22 reports to the bureau, the bureau shall make the report publicly available within 180 days.

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

27 ~~(3) The first report, including the data required under subdivision (2), shall be submitted~~
 28 ~~to the bureau, and made publicly available within 180 days of the initiation of a research study for~~
 29 ~~a specific serious medical condition.~~

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

§16A-13-4. Approval.

1 ~~A vertically integrated health system~~ An accredited college, university, or medical school
 2 located in this state may petition the bureau to participate in a research study to study a serious
 3 medical condition. Approval of ~~the vertically integrated health system as a health care medical~~
 4 ~~cannabis organization~~ by the bureau shall authorize access ~~within a region under subsection (d),~~
 5 ~~section three, article six of this chapter~~ to medical cannabis for all patients included in an approved
 6 research study.

§16A-13-5. Requirements.

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

3 (1) Maintain licensure with the bureau.

4 (2) Secure the medical cannabis ~~within the associated pharmacies of the health care~~

5 ~~medical cannabis organization~~ in a manner and method prescribed by the bureau.

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

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

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

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

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

18 (1) Maintain licensure with the bureau.

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

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

§16A-13-6. Restrictions.

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

§16A-13-8. Nonentitlement.

1 ~~Nothing in~~ This chapter ~~shall be construed to~~ does not create an entitlement under law or
2 right of a ~~patient~~ person to receive medical cannabis or to participate in a research study.

ARTICLE 14. ACADEMIC CLINICAL RESEARCH CENTERS.

§16A-14-1. Definitions.

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

3 (1) "Academic clinical research center" means an accredited college, university, or medical
4 school within this state that operates or partners with an acute care hospital licensed within this
5 state.

6 (2) "Clinical registrant" means an entity that:

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

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

§16A-14-2. Clinical registrants.

1 Notwithstanding the limitations in §16A-6-13 of this code, the bureau may register up to
2 ~~four~~ eight clinical registrants, and subject to the following:

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

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

§16A-14-3. Research study.

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

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

7 application:

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

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

11 (iii) The anticipated duration of the study.

12 (iv) Evidence of approval of the trial by ~~an accredited institutional review board, including~~
13 ~~any other required regulatory approvals~~ the governing body of the academic clinical research
14 center.

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

18 (2) The academic clinical research center shall provide its findings to the bureau within
19 365 days of the conclusion of the research study or within 365 days of publication of the results
20 of the research study in a peer-reviewed medical journal, whichever is later.

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

ARTICLE 15. MISCELLANEOUS PROVISIONS.

§16A-15-2. Financial and employment interests.

1 (a) *Financial interests.* — A public official, or an immediate family member thereof, ~~shall~~
2 whose position involves the direct administration of this chapter, may not intentionally or
3 knowingly hold a financial interest in a medical cannabis organization or in a holding company,
4 affiliate, intermediary or subsidiary thereof, while the individual is a public official and for one year
5 following termination of the individual's status as a public official.

6 (b) *Employment.* — No public official ~~or an immediate family member thereof, shall~~ may
7 be employed by a medical cannabis organization or by any holding company, affiliate,
8 intermediary, or subsidiary thereof, while ~~the individual~~ he or she is a public official and for one

9 year following termination of the individual's status as a public official.

10 (c) For purposes of this section, "public official" and "immediate family" shall have the
11 same definitions as those phrases are defined in §6B-1-3 of this code.

§16A-15-4. Protections for patients and caregivers.

1 (a) *Licensure.* — None of the following shall be are subject to arrest, prosecution, or
2 penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action
3 by a state licensing board or commission, solely for lawful use of medical cannabis or manufacture
4 or sale or dispensing of medical cannabis, or for any other action taken in accordance with this
5 act:

6 (1) A patient.

7 (2) A caregiver.

8 (3) A practitioner.

9 (4) A medical cannabis organization.

10 (5) ~~A health care medical cannabis organization or~~ An accredited college, university, or
11 medical school participating in a research study under §16A-13-1 *et seq.* of this code.

12 (6) A clinical registrant or academic clinical research center under §16A-14-1 *et seq.* of
13 this code.

14 (7) An employee, principal, or financial backer of a medical cannabis organization.

15 (8) An employee of a ~~health care~~ medical cannabis organization or an employee of a an
16 accredited college, university, or medical school participating in a research study under §16A-13-
17 1 *et seq.* of this code.

18 (9) An employee of a clinical registrant or an employee of an academic clinical research
19 center under §16A-14-1 *et seq.* of this code.

20 (b) *Employment.* —

21 (1) No employer may discharge, threaten, refuse to hire, or otherwise discriminate or
22 retaliate against an employee regarding an employee's compensation, terms, conditions, location,

23 or privileges solely on the basis of such employee's status as an individual who is certified to use
24 medical cannabis.

25 (2) ~~Nothing in~~ This act ~~shall~~ does not require an employer to make any accommodation of
26 the use of medical cannabis on the property or premises of any place of employment. This act
27 ~~shall in no way~~ does not limit an employer's ability to discipline an employee for being under the
28 influence of medical cannabis in the workplace or for working while under the influence of medical
29 cannabis when the employee's conduct falls below the standard of care normally accepted for
30 that position.

31 (3) ~~Nothing in~~ This act ~~shall~~ does not require an employer to commit any act that would
32 put the employer or any person acting on its behalf in violation of federal law.

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.