

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Engrossed**

**Committee Substitute**

**for**

**Senate Bill 231**

BY SENATORS TAKUBO, STOLLINGS, MARONEY, LINDSAY,

CAPUTO, ROMANO, AND WOELFEL

[Originating in the Committee on the Judiciary; reported on March 29, 2021]



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 said code by adding  
5 thereto a new section, designated §16A-4-6; to amend and reenact §16A-5-1 of said code;  
6 to amend and reenact §16A-6-2, §16A-6-3, §16A-6-6, §16A-6-12, and §16A-6-13 of said  
7 code; to amend said code by adding thereto a new section, designated §16A-6-14; to  
8 amend and reenact §16A-7-5 of said code; to amend and reenact §16A-8-2 of said code;  
9 to amend and reenact §16A-9-1 of said code; to amend and reenact §16A-12-2, §16A-12-  
10 7, and §16A-12-8 of said code; to amend and reenact §16A-13-2, §16A-13-3, §16A-13-4,  
11 §16A-13-5, §16A-13-6, and §16A-13-8 of said code; to amend and reenact §16A-14-1,  
12 §16A-14-2, and §16A-14-3 of said code; and to amend and reenact §16A-15-2 and §16A-  
13 15-4 of said code, all relating to medical cannabis generally; defining terms; increasing  
14 medical conditions which constitute a serious medical condition; modifying and expanding  
15 allowable forms of medical cannabis; authorizing the Commissioner of the Bureau for  
16 Public Health to approve additions to the forms of lawful medical cannabis which may be  
17 used and the conditions for which medical cannabis use is authorized pursuant to  
18 recommendations of the Medical Cannabis Advisory Board; clarifying the duties of  
19 practitioners; declaring practitioners immune from civil and criminal liability if acting in  
20 compliance with chapter; requiring employees of medical cannabis organizations and  
21 establishing a registration fee; authorizing the commissioner to enter into reciprocity  
22 agreements with other jurisdictions for terminally ill cancer patients; authorizing the  
23 commissioner to promulgate rules relating to 30-day supplies of medical cannabis;  
24 removing the residency requirement for medical cannabis organization owners, operators,  
25 shareholders, partners, and members; adding certain convictions which preclude  
26 participation as or in a medical cannabis organization; clarifying that the Tax Division of

27 the Department of Revenue is charged with monitoring medical cannabis pricing;  
28 modifying and clarifying the distance a medical cannabis dispensary must be from certain  
29 educational facilities; modifying and clarifying entities engaged in medical cannabis  
30 research subject to nondisclosure provisions; removing requirement that certain federal  
31 agencies must preapprove medical cannabis research projects; authorizing accredited  
32 colleges and medical schools to be eligible to engage in approved medical cannabis  
33 research; increasing the number of clinical registrants; clarifying that the governing body  
34 of an academic clinical research center must approve the institution's participation in a  
35 medical cannabis research project; clarifying that only those public officials directly  
36 involved in the administrations of the medical cannabis program are prohibited from having  
37 a monetary interest in a medical cannabis organization; and adding accredited educational  
38 institutions engaged in research to the list of persons, entities, and organizations exempt  
39 from licensure, discipline for lawful use, 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 (9) "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)~~ (10) "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 ~~(40)~~ (11) "Dispensary" means a person, including a natural person, corporation,  
34 partnership, association, trust, or other entity, or any combination thereof, which holds a permit

35 issued by the bureau to dispense medical cannabis. The term does not include a health care  
36 medical cannabis organization as defined in §16A-13-1 *et seq.* of this code.

37 ~~(11)~~ (12) “Family or household member” means the same as defined in §48-27-204 of this  
38 code.

39 ~~(12)~~ (13) “Financial backer” means an investor, mortgagee, bondholder, note holder, or  
40 other source of equity, capital, or other assets, other than a financial institution.

41 ~~(13)~~ (14) “Financial institution” means a bank, a national banking association, a bank and  
42 trust company, a trust company, a savings and loan association, a building and loan association,  
43 a mutual savings bank, a credit union, or a savings bank.

44 ~~(14)~~ (15) “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)~~ (16) “Fund” means the Medical Cannabis Program Fund established in §16A-9-2 of  
49 this code.

50 ~~(16)~~ (17) “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)~~ (18) “Grower/processor” means either a grower or a processor.

55 ~~(18)~~ (19) “Identification card” means a document issued under §16A-5-1 *et seq.* of this  
56 code that authorizes access to medical cannabis under this act.

57 ~~(19)~~ (20) “Individual dose” means a single measure of medical cannabis.

58 ~~(20)~~ (21) “Medical cannabis” means cannabis for certified medical use as set forth in this  
59 act.

60           ~~(24)~~ (22) “Medical cannabis organization” means a dispensary, grower, or processor. The  
61 term does not include a health care medical cannabis organization as defined in §16A-13-1 *et*  
62 *seq.* of this code.

63           ~~(22)~~ (23) “Patient” means an individual who:

64           (A) Has a serious medical condition;

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

66           (C) Is a resident of this state.

67           ~~(23)~~ (24) “Permit” means an authorization issued by the bureau to a medical cannabis  
68 organization to conduct activities under this act.

69           ~~(24)~~ (25) “Physician” or “practitioner” means a doctor of allopathic or osteopathic medicine  
70 who is fully licensed pursuant to the provisions of either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this  
71 code to practice medicine and surgery in this state.

72           ~~(25)~~ (26) “Post-traumatic stress disorder” means a diagnosis made as part of continuing  
73 care of a patient by a medical doctor, licensed counselor, or psychologist.

74           ~~(26)~~ (27) “Prescription drug monitoring program” means the West Virginia Controlled  
75 Substances Monitoring Program under §60A-9-101 *et seq.* of this code.

76           ~~(27)~~ (28) “Principal” means an officer, director, or person who directly owns a beneficial  
77 interest in or ownership of the securities of an applicant or permittee, a person who has a  
78 controlling interest in an applicant or permittee, or who has the ability to elect the majority of the  
79 board of directors of an applicant or permittee, or otherwise control an applicant or permittee,  
80 other than a financial institution.

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

85           ~~(29)~~ (30) “Registry” means the registry established by the bureau for practitioners.

86           ~~(30)~~ (31) "Serious medical condition" means any of the following, as has been diagnosed  
87 as part of a patient's continuing care:

88           ~~(A) Cancer;~~

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

91           ~~(C) Amyotrophic lateral sclerosis;~~

92           ~~(D) Parkinson's disease;~~

93           ~~(E) Multiple sclerosis;~~

94           ~~(F) Damage to the nervous tissue of the spinal cord with objective neurological indication~~  
95 ~~of intractable spasticity;~~

96           ~~(G) Epilepsy;~~

97           ~~(H) Neuropathies;~~

98           ~~(I) Huntington's disease;~~

99           ~~(J) Crohn's disease;~~

100          ~~(K) Post-traumatic stress disorder;~~

101          ~~(L) Intractable seizures;~~

102          ~~(M) Sickle cell anemia;~~

103          ~~(N) Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable~~  
104 ~~pain;~~

105          (A) Autism;

106          (B) Agitation of Alzheimer's disease;

107          (C) Amyotrophic lateral sclerosis (ALS);

108          (D) Anorexia nervosa;

109          (E) Arnold-Chiari malformation;

110          (F) Cancer;

111          (G) Cachexia/wasting syndrome;



- 112        (H) Causalgia;
- 113        (I) Chronic inflammatory demyelinating polyneuropathy;
- 114        (J) Chronic pain;
- 115        (K) Connective tissue disease;
- 116        (L) Crohn's disease;
- 117        (M) CRPS (complex regional pain syndrome Type II);
- 118        (N) Dystonia;
- 119        (O) Ehlers-Danlos syndrome;
- 120        (P) Fibrous Dysplasia;
- 121        (Q) Glaucoma;
- 122        (R) Hepatitis C;
- 123        (S) HIV/AIDS;
- 124        (T) Huntington's Disease;
- 125        (U) Hydrocephalus;
- 126        (V) Hydromyelia;
- 127        (W) Interstitial cystitis;
- 128        (X) Irritable bowel syndrome;
- 129        (Y) Lupus;
- 130        (Z) Migraines;
- 131        (AA) Multiple Sclerosis;
- 132        (BB) Muscular Dystrophy;
- 133        (CC) Myasthenia Gravis;
- 134        (DD) Myoclonus;
- 135        (EE) Nail-patella syndrome;
- 136        (FF) Neuro-Bechet's autoimmune disease;
- 137        (GG) Neurofibromatosis;

- 138           (HH) Neuropathy;
- 139           (II) Osteoarthritis;
- 140           (JJ) Parkinson's disease;
- 141           (KK) Polycystic kidney disease (PKD);
- 142           (LL) Post-Concussion Syndrome;
- 143           (MM) Post-Traumatic Stress Disorder (PTSD);
- 144           (NN) Reflex sympathetic dystrophy;
- 145           (OO) Residual limb pain;
- 146           (PP) Rheumatoid arthritis;
- 147           (QQ) Seizures (including those characteristic of Epilepsy);
- 148           (RR) Severe fibromyalgia;
- 149           (SS) Sickle Cell Anemia;
- 150           (TT) Sjogren's syndrome;
- 151           (UU) Spinal cord disease (including but not limited to arachnoiditis);
- 152           (VV) Spinal cord injury is damage to the nervous tissue of the spinal cord with objective
- 153 neurological indication of intractable spasticity;
- 154           (WW) Spinocerebellar ataxia;
- 155           (XX) Superior canal dehiscence syndrome;
- 156           (YY) Syringomyelia;
- 157           (ZZ) Tarlov cysts;
- 158           (AAA) Tourette syndrome;
- 159           (BBB) Traumatic brain injury;
- 160           (CCC) Ulcerative colitis;
- 161           ~~(DDD) Terminally ill~~ A terminal illness; or
- 162           (EEE) Any medical condition for which the commissioner approves the use of medical
- 163 cannabis pursuant to a recommendation to do so by the advisory board.

164           ~~(31)~~ (32) “~~Terminally ill~~ Terminal illness” means a medical prognosis of life expectancy of  
165 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,  
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) 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) ~~Ensurance~~ 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; and

20           (E) The tracking system under §16A-7-1 *et seq.* of this code ~~must~~ shall 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~~ one-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~~ determined necessary by the bureau; ~~Successful completion of the~~  
32 ~~course shall be 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~~ shall successfully complete the course no later than  
38 90 days after commencing employment. Principals ~~must~~ shall 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; and

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; and

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 and

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

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

19          (I) Edible food and beverage: *Provided*, That no edible cannabis product produced or sold  
20 in this state may be shaped or designed to entice children to consume it, including, but not limited  
21 to, the shape of people, animals, or fruits; or

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

25          (J) A form approved by the commissioner upon a recommendation of the advisory board;

- 26           ~~(4)~~ (3) An individual may not act as a caregiver for more than five patients;
- 27           ~~(5)~~ (4) A patient may designate up to two caregivers at any one time;
- 28           ~~(6)~~ (5) Medical cannabis that has not been used by the patient shall be kept in the original  
29 package in which it was dispensed;
- 30           ~~(7)~~ (6) A patient or caregiver shall possess an identification card whenever the patient or  
31 caregiver is in possession of medical cannabis; and
- 32           ~~(8)~~ (7) Products packaged by a grower/processor or sold by a dispensary shall may only  
33 be identified by the name of the grower/processor, the name of the dispensary, the form and  
34 species of medical cannabis, and the percentage of tetrahydrocannabinol and cannabidiol  
35 contained 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; and
- 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, B 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; or
- 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 determined 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; and
- 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~~ an amount determined by the commissioner  
3 to be appropriate for a 30-day period, by the appropriate measure of volume, weight or  
4 concentration level. During the last seven days of any 30-day period during the term of the  
5 identification card, a patient may obtain and possess a 30-day supply for the subsequent 30-day  
6 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.

**§16A-4-6 Immunity for practitioners acting in conformity with chapter.**

1            Notwithstanding any provision of law to the contrary, a practitioner acting in conformity  
2 with the provisions of this chapter is immune from civil and criminal liability for issuing or declining  
3 to issue certifications.

**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~~ authorizes the patient to obtain and use medical cannabis  
4 as authorized by this act. An identification card issued to a caregiver ~~shall authorize~~ authorizes  
5 the caregiver to 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; and  
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 by  
11 the bureau, for issuance or renewal of an identification card. A caregiver ~~must~~ shall submit a  
12 separate application for issuance or renewal. Each application ~~must~~ shall 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; and

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~~ expires  
25 within one year from the date of issuance, upon the death of the patient, or as otherwise provided  
26 in this section.

27 (f) *Separate cards to be issued*. — The bureau shall issue separate identification cards for  
28 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.  
19 This subdivision ~~shall~~ does not apply to an owner of securities in a publicly traded corporation or  
20 an owner of five percent or less in a privately held business entity if the bureau determines that  
21 the 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 ~~sub~~paragraph, 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 land,  
32 buildings, and other premises and equipment to properly carry on the activity described in the  
33 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; and

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; and

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 financial backer or principal, is of good moral character  
15 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; and

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~~ considers 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~~ The  
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~~ shall 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; and

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; and

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 these offenses, any offense requiring the individual to register as a sex  
9 offender in this state or to register on the state child abuse registry:

- 10 (1) Financial backers;
- 11 (2) Principals; and
- 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 the individual may seek a waiver from the bureau in order to hold ~~such a~~ the position with a  
16 dispensary. The allowance of the waiver, including any additional restrictions or conditions as part  
17 of the waiver, ~~shall be in~~ is at the discretion of the bureau: Provided, That under no circumstances  
18 may a person prohibited under subsection (a) of this section from holding a position or being  
19 affiliated with a medical cannabis organization serve as a principal, financial backer, or manager  
20 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; and

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.

3 If 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)~~ subdivision (3), subsection (a) of this section if it is shown by clear and  
13 convincing evidence that the amendment is necessary to provide adequate access to patients.  
14 An amendment may include additional security, physical plant of a facility, or other conditions  
15 necessary to protect children.

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

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

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

4 (b) *Rate and measure of tax.* — The rate of tax imposed by this section shall be 10 percent  
5 of the gross receipts the dispensary receives or accrues during the reporting period, depending  
6 upon its method of accounting for federal income tax purposes, from the sale of medical cannabis  
7 to a patient or to a caregiver: Provided, That beginning on and after July 1, 2021, the rate of tax  
8 imposed by this section shall be 20 percent of the gross receipts the dispensary receives or  
9 accrues during the reporting period, depending upon its method of accounting for federal income  
10 tax purposes, from the sale of medical cannabis to a patient or to a caregiver. The tax imposed  
11 by this section shall not be added by the dispensary as a separate charge or line item on any  
12 sales slip, invoice, receipt, other statement, or memorandum of the price paid by a patient, or  
13 caregiver.

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

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

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

22 (d) *Payment of tax and reports.* — Every person subject to the tax imposed by this section  
23 shall make quarterly payments under this section for each calendar quarter at the rate prescribed  
24 in subsection (b) of this section on the gross receipts received or accrued for the calendar quarter,  
25 depending upon the person’s method of accounting for federal income tax purposes. The tax shall  
26 be due and payable on the 20th day of January, April, July, and October for the preceding

27 calendar quarter. When the payment of tax is due, the person shall file a tax return in a form  
28 prescribed by the Tax Commissioner. The Tax Commissioner may require ~~such~~ any forms,  
29 schedules, and returns and impose ~~such~~ any filing and remittance requirements ~~as may be~~  
30 necessary or convenient for the efficient administration of taxes imposed by this section.

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

35 (f) *Liability for reporting and payment of tax.* — If any dispensary does not renew its permit,  
36 gives up its permit, loses its permit to operate a dispensary, or otherwise ceases business then  
37 any tax, additions to tax, penalties, and interest imposed by this article and by §11-10-1 *et seq.*  
38 of this code, ~~shall~~ become due and payable immediately and the dispensary shall make a final  
39 return or returns and pay any tax which is due within 30 days after not renewing its permit, giving  
40 up its permit, losing its permit to operate a dispensary, or otherwise ceasing business. The unpaid  
41 amount of any tax is a lien upon the property of the dispensary and of its owners.

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

45 (h) *Exemption.* — Sales of medical cannabis ~~shall~~ are not ~~be~~ subject to the taxes imposed  
46 by §11-15-1 *et seq.* and §11-15A-1 *et seq.* of this code, if gross receipts from the sale thereof are  
47 included in the measure of tax under this section and the tax has been paid as provided in this  
48 section. Additionally, sales of medical cannabis ~~shall not be~~ are not subject to a special district  
49 excise tax imposed by a county or municipality pursuant to this code, or to a county or municipal  
50 sales tax: Provided, That on and after July 1, 2021, sales of medical cannabis are subject to the  
51 taxes imposed by §11-15-1 *et seq.* and §11-15A-1 *et seq.* of this code. Sales of medical cannabis  
52 are subject to any special district excise tax lawfully imposed by a county or municipality pursuant

53 to this code, and to any lawfully imposed county or municipal sales and use tax. Notwithstanding  
54 any provision of this code to the contrary, any exemption from the Consumer Sales and Service  
55 Tax and use tax on sales of prescription drugs set forth in §11-15-1, et seq. of this code, or any  
56 other provision of this code, shall not apply to sales of medical cannabis.

57 (i) *Information.* —

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

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

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

## **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~~ An 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 not disclose except to  
4 authorized persons for ~~official governmental~~ law-enforcement purposes, research, or health care  
5 purposes, any information related to the ~~use of medical cannabis:~~ (1) ~~A medical cannabis~~  
6 ~~organization.~~(2) ~~A health care medical cannabis organization or university participating in a~~  
7 ~~research study under article thirteen of this chapter.~~ (3) ~~A clinical registrant or academic clinical~~  
8 ~~research center under article fourteen of this chapter.~~ (4) ~~An employee of the bureau~~ identity of a  
9 person holding a 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; and

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; and

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~~  
20 be 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; or  
34 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 are  
9 cited by practitioners in the certifications of patients; ~~The database shall also include the form of~~  
10 ~~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 ~~and designate the form or forms of medical cannabis which will be used to~~  
23 ~~treat 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; and  
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; and

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~~ authorizes access ~~within a region under~~

5 ~~subsection (d), section three, article six of this chapter~~ to medical cannabis for all patients included  
6 in an approved 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 accredited college, university, or medical center participating in the research study on a  
9 weekly basis;

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

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

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

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

20 (1) Maintain licensure with the bureau;

21 (2) Only make available medical cannabis to health care medical cannabis organizations  
22 that dispense medical cannabis; and

23 (3) Keep a daily log of medical cannabis intended for ultimate use by patients participating  
24 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; and

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; and

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 A public official or an immediate family member thereof, shall~~ may  
7 not 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 the  
4 manufacture or sale or dispensing of medical cannabis, or for any other action taken in  
5 accordance with this 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; or

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~~ An employer may not discharge, threaten, refuse to hire, or otherwise discriminate  
22 or retaliate against an employee regarding an employee's compensation, terms, conditions,  
23 location, or privileges solely on the basis of ~~such~~ the employee's status as an individual who is  
24 certified to use 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.