

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5588

By Delegates Hillenbrand, Worrell, and Ridenour

[Introduced February 16, 2026; referred to the
Committee on Health and Human Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding ~~thereto~~ a new article,
2 designated §16-67-1, §16-67-2, §16-67-3, §16-67-4, §16-67-5, §16-67-6, §16-67-7, §16-
3 67-8, §16-67-9, §16-67-10, §16-67-11, §16-67-12, §16-67-13, §16-67-14, §16-67-15, §16-
4 67-16, §16-67-17, §16-67-18, §16-67-19, §16-67-20, §16-67-21, §16-67-22, §16-67-23,
5 §16-67-24, §16-67-25, §16-67-26, §16-67-27, §16-67-28, §16-67-29, §16-67-30, §16-67-
6 31, §16-67-32, §16-67-33, §16-67-34, §16-67-35, §16-67-36, §16-67-37, and §16-67-38,
7 relating to adopting the Therapeutic Psilocybin Act; establishing legislative findings;
8 creating a short title; establishing a purpose; establishing general provisions; defining
9 terms; providing for applicability; creating medical use of psilocybin program; requiring
10 psilocybin production establishments and providers to maintain inventory control systems;
11 providing notice to employees; establishing psilocybin production establishment licensing
12 board; requiring licenses for psilocybin production; requiring criminal background checks
13 for psilocybin production, establishment, owners and directors; providing process for
14 license renewal; requiring applicants to have an operating plan that needs certain
15 requirements; establishing requirements for psilocybin, production, establishment, agent;
16 establishing operation requirements for psilocybin production, establishments; providing
17 inspection requirements; creating limitations in advertising for psilocybin production
18 establishments; creating requirements for psilocybin transportation; creating requirements
19 for disposal of psilocybin; creating requirements for psilocybin cultivation facilities;
20 requiring independent psilocybin, testing laboratory to test product; requiring inspections
21 for independent psilocybin, testing laboratories; creating a psilocybin electronic verification
22 system; requiring the department to register individuals who provide medical psilocybin
23 treatment; establishing standard of care for therapy providers who recommend or
24 administer psilocybin treatment; establishing that providers are not liable in certain
25 circumstances; providing that the use of psilocybin may not be used to discriminate against
26 a patient; requiring insurance to cover psilocybin treatment; establishing that act should

27 not be construed to affect dispensing of product approved by the Food and Drug
 28 Administration; requiring individuals to be registered by the department to be a qualified
 29 medical psilocybin therapist; requiring registration with the department to be a qualified
 30 therapy provider agent; providing reporting; providing for enforcement of article;
 31 authorizing rulemaking; creating presumption that contracts related to psilocybin treatment
 32 be enforceable; and establishing the department conduct a study regarding use of
 33 psilocybin compounds in the treatment of medical conditions.

Be it enacted by the Legislature of West Virginia:

**ARTICLE. 67. THE THERAPEUTIC PSILOCYBIN ACT FOR VETERANS AND FIRST
 RESPONDERS.**

§16-67-1. Legislative Findings.

1 (a) Post-traumatic stress disorder (PTSD) is a severe mental health condition with limited
 2 effective treatments, as standard therapies like Selective Serotonin Reuptake Inhibitors and
 3 psychotherapy have high dropout rates and limited efficacy.

4 (b) Psilocybin, a naturally occurring psychedelic, shows promise in treating PTSD by
 5 promoting neuroplasticity, reducing emotional avoidance, and supporting emotional processing
 6 and self-compassion.

7 (c) Animal studies demonstrate psilocybin’s ability to reduce fear responses and stimulate
 8 neuroplasticity, suggesting efficacy for trauma-related disorders.

9 (d) Psilocybin’s rapid and sustained effects on anxiety and depression in cancer patients
 10 suggest broader potential to treat other psychiatric conditions;

11 (e) Preliminary clinical studies have found psilocybin-assisted therapy to be safe, well-
 12 tolerated, and associated with clinically meaningful reductions in PTSD symptoms and
 13 improvements in mental health outcomes.

14 (f) Trusted institutions, including the Department of Veterans Affairs, are actively

15 supporting and investing in research on psychedelic-assisted therapies, including psilocybin, for
16 PTSD and related mental health conditions.

17 (g) Nonprofit organizations that facilitate thousands of veterans traveling to legal psilocybin
18 retreats in Oregon or other countries have released anecdotal evidence and observational studies
19 reporting substantial improvements in PTSD symptoms, depression, anxiety, sleep, and quality of
20 life.

21 (h) Regulated psilocybin-assisted therapy offers a promising and safe treatment option to
22 improve PTSD outcomes and address gaps in current treatments.

§16-67-2. Short Title.

1 This act may be cited as the "Therapeutic Psilocybin Act."

§16-67-3. Purpose.

1 The purpose of the Therapeutic Psilocybin Act is to allow the beneficial use of psilocybin in
2 a regulated system for alleviating qualified medical conditions.

§16-67-4. General Provisions.

1 A person may knowingly or intentionally recommend, possess, use, dispense, deliver,
2 transport, or administer psilocybin if the recommendation, possession, use, dispensing, delivery,
3 transporting, or administering is in accordance with the provisions of this chapter.

§16-67-5. Definitions.

4 For the purposes of this chapter, unless the context otherwise requires:

5 (1) "Active psilocybin" means the psychoactive chemical with the chemical abstracts
6 service registry number 520-52-5.

7 (2) "Adulterant" means a poisonous or deleterious substance in a quantity that may be
8 injurious to health.

9 (3) "Adverse event" means an injury or suspected injury to a patient that results in an
10 escalation of care, harm to a patient, or rescue of a patient and occurs during a psilocybin
11 administration session or within 24 hours from when the administration session ended.

12 (4) "Community location" means a public or private elementary or secondary school, a
13 church, a public library, a public playground, or a public park.

14 (5) "Cultivation space" means, quantified in square feet, the horizontal area in which a
15 psilocybin cultivation facility cultivates psilocybin, including each level of horizontal area if the
16 psilocybin cultivation facility hangs, suspends, stacks, or otherwise positions plants above other
17 plants in multiple levels.

18 (6) "Department" means the Department of Health.

19 (7) "Family member" means a parent, stepparent, spouse, child, sibling, stepsibling, uncle,
20 aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-
21 law, daughter-in-law, grandparent, or grandchild.

22 (8) "Independent psilocybin testing laboratory" means a person that does any of the
23 following:

24 (A) Conducts a chemical or other analysis of psilocybin or a psilocybin product.

25 (B) Acquires, possesses, and transports psilocybin or a psilocybin product with the intent
26 to conduct a chemical or other analysis of the psilocybin or psilocybin product.

27 (9) "Independent psilocybin testing laboratory agent" means an individual who holds a
28 valid psilocybin production establishment agent registration card with a psilocybin testing
29 laboratory designation.

30 (10) "Inventory control system" means a system described in Chapter 60A.

31 (11) "Licensing board" or "board" means the psilocybin production establishment licensing
32 board created pursuant to Chapter 60A.

33 (12) "Patient" means an individual for whom a qualified medical psilocybin provider
34 recommends psilocybin.

35 (13) "Payment provider" means an entity that contracts with a psilocybin production
36 establishment to facilitate transfer of funds between the establishment and another business or
37 individual.

38 (14) "Psilocybin" means:

39 (A) Fungi that contain naturally occurring psilocybin and psilocin compounds produced by
40 such fungi, including but not limited to members of the genus Psilocybin.

41 (B) Fungi that include psilocin.

42 (C) Psilocybin-producing fungi and mixtures or a substance containing a detectable
43 amount of psilocybin.

44 (15) "Psilocybin administration session" means the time from when a qualified medical
45 provider administers psilocybin to a patient to the time the patient leaves the qualified therapy
46 provider location.

47 (16) "Psilocybin biomass" means any part of a psilocybin-containing fungus.

48 (17) "Psilocybin byproduct" means any part of a psilocybin-containing mushroom which is
49 not used or intended for sale.

50 (18) "Psilocybin cultivation facility" means a person that possesses psilocybin, grows or
51 intends to grow psilocybin, and sells or intends to sell psilocybin to a qualified therapy provider.

52 (19) "Psilocybin cultivation facility agent" means an individual who holds a valid psilocybin
53 production establishment agent registration card with a cultivation facility designation.

54 (20) "Psilocybin product" means any portion of a psilocybin-containing mushroom that has
55 been dried and is intended for oral consumption by a patient.

56 (21) "Psilocybin production establishment" or "establishment" means a psilocybin
57 cultivation facility or an independent psilocybin testing laboratory.

58 (22) "Psilocybin production establishment agent registration card" means a registration
59 card issued by the department that authorizes an individual to act as a psilocybin production
60 establishment agent, and that designates the type of psilocybin production establishment for
61 which an individual is authorized to act as an agent.

62 (23) "Qualified medical psilocybin provider" means a physician and surgeon or osteopathic
63 physician and surgeon, a physician assistant, an advanced registered nurse practitioner, and an

64 advanced practice registered nurse licensed under Chapter 30 of this code, who is registered by
65 the department under Chapter 60A to recommend treatment with psilocybin.

66 (24) "Qualified therapy provider" means a physician and surgeon or osteopathic physician
67 and surgeon, a physician assistant, an advanced registered nurse practitioner, an advanced
68 practice registered nurse, a psychologist, or a social worker, licensed under Chapter 30 of this
69 code, and who is registered by the department to administer treatment with psilocybin.

70 (25) "Qualified therapy provider agent" means an individual who holds a valid qualified
71 therapy provider agent registration card.

72 (26) "Qualified therapy provider agent registration card" means a registration card issued
73 by the department that authorizes an individual to act as a qualified therapy provider agent.

74 (27) "Qualified therapy provider location" or "provider location" means a facility with all of
75 the following:

76 (A) A single, secure public entrance.

77 (B) A security system with a backup power source that detects and records entry and
78 provides notice of an unauthorized entry to law enforcement when the facility is closed.

79 (C) A lock or equivalent restrictive security feature on any area where the psilocybin or
80 psilocybin product is stored at the facility.

§16-67-6. **Applicability.**

1 Federal Food and Drug Administration-approved products that contain psilocybin shall be
2 exempt from the Therapeutic Psilocybin Act, with the exception that such products shall be
3 authorized for use:

4 (1) In any research conducted by state research universities or health care providers
5 pursuant to grants.

6 (2) By qualified patients.

§16-67-7. **Department** **Program.**

1 (a) The "medical use of psilocybin program" is created in the department. In developing the

2 program, the department shall establish:

3 (1) Appropriate education and resources for patients.

4 (2) Guidance on roles and responsibilities of qualified medical psilocybin providers,
5 qualified therapy providers, and psilocybin cultivators.

6 (3) Necessary initial and ongoing training for providers and cultivators.

7 (4) Treatment protocols, including patient selection criteria, medical service standards,
8 dosage standards and approved settings for administration of psilocybin to patients.

9 (5) Safety protocols for producing psilocybin from mushrooms, transporting, storing and
10 handling psilocybin and treating patients.

11 (6) Other best practices for cultivators and providers.

12 (7) Requirements for data collection to evaluate the program and the use of best practices
13 by cultivators and providers.

14 (8) Recommend program expansion to additional psychedelic substances proving of
15 medical and/or therapeutic value for patients.

16 (9) Other requirements, restrictions and limitations promulgated by the department to
17 ensure an efficacious program.

18 (b) The department shall monitor cultivators and clinicians to ensure compliance with the
19 Therapeutic Psilocybin Act and rules promulgated in accordance with that act.

20 (c) The department shall collaborate with the board, state higher education institutions and
21 health care providers to collect and analyze data to develop best practices, and within 180 days of
22 the effective date of this act, implement the program.

23 (d) The department shall collaborate with the board regarding recommended
24 programmatic changes and expansion of the program, including consideration of additional
25 psychedelic therapeutics

§16-67-8. Inventory Control System.

1 (a) Each psilocybin production establishment and qualified therapy provider shall maintain

2 an inventory control system that meets all the requirements of this section.

3 (b) An inventory control system shall do all the following:

4 (1) Track, in real time, psilocybin and psilocybin products using a unique identifier from the
5 time psilocybin is ready to be harvested.

6 (2) Maintain in real time a record of the amount of psilocybin or psilocybin product in the
7 possession of the establishment or provider.

8 (3) Include a video recording system that is tamper proof and does all the following:

9 (A) Tracks all handling and processing of psilocybin or psilocybin product in the
10 establishment or provider location.

11 (B) Stores each video record for at least 45 days.

12 (C) A psilocybin production establishment or qualified therapy provider shall allow the
13 department, or a financial institution designated by the department, to validate transactions to
14 access the inventory control system at any time.

15 (D) The department shall propose legislative rules pursuant to §29A-3-1 et seq. of this
16 code to implement this section, and the rules shall include requirements for aggregate or batch
17 records regarding the planting and propagation of psilocybin before being tracked, and which may
18 include compatibility standards for inventory control systems.

§16-67-9. Notice to Prospective and Current Public Employees.

1 Prior to giving a current employee an assignment or duty that arises from or directly relates
2 to an obligation under this chapter, or hiring a prospective employee whose assignments or duties
3 would include an assignment or duty that arises from or directly relates to an obligation under this
4 article, a state employer or a political subdivision employer shall give the employee or prospective
5 employee a written notice that the employee’s or prospective employee’s job duties may require
6 the employee or prospective employee to engage in conduct which is in violation of the criminal
7 laws of the United States.

§16-67-10. Psilocybin Production Establishment Licensing Board.

1 (a) There is created within the department the psilocybin production establishment
2 licensing board.

3 (1) The board shall consist of the following members, appointed by the director of the
4 department:

5 (A) One member of the public with knowledge of psilocybin.

6 (B) One member with knowledge and experience in the pharmaceutical or nutraceutical
7 manufacturing industry.

8 (C) One member representing law enforcement.

9 (D) One member who is a chemist or researcher with experience in manufacturing and
10 who is associated with a research university.

11 (E) One member who has a background in fungus or mushroom cultivation and
12 processing.

13 (F) One member shall be licensed to provide behavioral health care services.

14 (G) The director or the director's designee, who shall serve as the chairperson of the board
15 and as a nonvoting member, except to cast a deciding vote in the event of a tie.

16 (2) A person is ineligible for appointment to the board if any of the following apply:

17 (A) The person has any commercial or ownership interest in a psilocybin production
18 establishment.

19 (B) The person is associated with a business that has an owner, officer, director, or
20 employee whose family member holds a license or has an interest in a psilocybin production
21 establishment.

22 (C) The person is employed or contracted to lobby on behalf of a psilocybin production
23 establishment.

24 (3) The director shall ensure that no two members of the board are employed by or
25 represent the same business or nonprofit organization.

26 (4) Members of the board shall serve a term of four years, except that initial members of the

27 board shall be appointed for staggered terms such that the director appoints two or three board
28 members every two years. The director shall fill a vacancy on the board for the balance of the
29 unexpired term.

30 (5) The director may remove a member of the board for cause, neglect of duty, inefficiency,
31 or malfeasance.

32 (6) Members of the board shall serve without compensation but may be reimbursed for
33 actual expenses.

34 (b) A majority of the members constitute a quorum, and a quorum of the members present,
35 and a majority vote are needed to take any action.

36 (c) The board shall meet as called by the chairperson to do all the following:

37 (1) Review each license application for compliance with this chapter and rules adopted by
38 the department.

39 (2) Conduct a public hearing to consider a license application.

40 (3) Decide on a license application.

41 (4) Review and recommend to the department medical conditions that may benefit from the
42 medical use of psilocybin;

43 (5) Recommend for approval programmatic expansion to additional psychedelic
44 substances proving of medical and/or therapeutic value for patients;

45 (6) Assist the department in establishing, monitoring and evaluating best practices for
46 cultivators and providers.

47 (d) The board shall hold a public hearing to review a psilocybin production establishment's
48 license if the establishment changes location or as necessary based on the recommendation of
49 the department.

50 (e) The board is not subject to dissolution pursuant to subsection (b) or (c) of this section.

§16-67-11. Psilocybin Production Establishment – License.

1 (a) A person shall not operate a psilocybin production establishment unless the person

2 holds a psilocybin production establishment license issued by the licensing board pursuant to this
3 article.

4 (b) The department shall adopt rules to develop a process for soliciting and evaluating
5 applications for a psilocybin production establishment license.

6 (c) An applicant for a psilocybin production establishment license shall submit all the
7 following:

8 (1) The proposed name of the establishment and the address where the establishment will
9 be located, except as provided in subdivision (2) of this subsection.

10 (2) The board may issue a provisional license to an applicant who submits an application
11 that does not include the address at which the establishment will be located. The department shall
12 convert a provisional license to a license if the provisional licensee submits documentation
13 confirming that the provisional licensee has purchased or leased a location meeting the
14 requirements of subsection (d) of this section.

15 (3) The name and address of any individual who has any of the following:

16 (A) For a privately held company, a financial or voting interest in the proposed psilocybin
17 production establishment.

18 (B) The power to direct the management or control of the proposed psilocybin production
19 establishment.

20 (4) An operating plan, approved by the department, that complies with current state law
21 and any laws that the municipality or county in which the person is located adopt regarding the
22 operation of psilocybin production establishments.

23 (5) A statement that the applicant will obtain and maintain a performance bond that a
24 surety authorized to transact surety business in this state issues in an amount of at least \$100,000
25 for each psilocybin cultivation facility license, or at least \$50,000, for each independent psilocybin
26 testing laboratory license.

27 (6) An application fee in an amount determined by the department.

28 (7) A description of any investigatory or adverse action taken by a licensing jurisdiction,
29 government agency, law enforcement agency, or court in any state for any violation or detrimental
30 conduct in relation to any of the applicant's psilocybin-related operations or businesses.

31 (d) A psilocybin production establishment shall not be located within 1,000 feet of a
32 community location or in or within 500 feet of an area that is zoned as primarily residential. The
33 board may grant a waiver to reduce the proximity requirements in this subsection by up to 20
34 percent if the board determines that it is not reasonably feasible for the applicant to site the
35 proposed psilocybin production establishment without the waiver.

36 (e) Upon the approval of an application for a license under this section, the applicant shall
37 pay to the department the initial licensing fee, as determined by the department by rule, and the
38 department shall inform the department of public safety of the license approval.

39 (f) A psilocybin production establishment may be located at the same location as a medical
40 cannabidiol manufacturer licensed if a separate license is obtained for each.

41 (g) If the licensing board receives more than one application for a psilocybin production
42 establishment within the same city or town, the licensing board shall consult with the local land use
43 authority before approving any of the applications pertaining to that city or town.

44 (h) The licensing board shall not issue a license to operate an independent psilocybin
45 testing laboratory to any of the following persons:

46 (1) A person who holds a license or has an ownership interest to operate a psilocybin
47 cultivation facility.

48 (2) A person who has an owner, officer, director, or employee whose family member holds
49 a license or has an ownership interest in a psilocybin cultivation facility.

50 (3) A person who has an ownership interest in a psilocybin cultivation facility.

51 (i) The licensing board shall not issue a license to operate a psilocybin production
52 establishment to an applicant if an individual described in subdivision (2), subsection (c) of this
53 section, has been convicted of a misdemeanor for drug distribution, or convicted of a felony, or is

54 younger than twenty-one years old.

55 (j) The licensing board may, at the discretion of the licensing board, grant preference to an
56 applicant who currently holds a medical cannabidiol manufacturer.

57 (k) The licensing board may revoke a license issued pursuant to this section if any of the
58 following apply:

59 (1) The psilocybin production establishment does not begin operations within one year
60 after the date on which the licensing board issues the initial license.

61 (2) An individual psilocybin production establishment operated by the licensee has violated
62 the same provision of this chapter three times.

63 (3) An individual described in subdivision (2), subsection (c) of this section, is convicted of
64 a misdemeanor for drug distribution, or is convicted of a felony.

65 (4) The licensee fails to cooperate with an investigation of the psilocybin production
66 establishment conducted by the licensing board.

67 (5) The psilocybin production establishment demonstrates a willful or reckless disregard
68 for the requirements of this chapter or the rules of the department.

69 (6) The licensing board determines that the psilocybin production establishment no longer
70 meets the minimum standards for licensure and operation of the psilocybin production
71 establishment.

72 (7) For an independent psilocybin testing laboratory, the independent psilocybin testing
73 laboratory fails to substantially meet the performance standards adopted by the department by
74 rule.

75 (l) If the municipality or county where the licensed psilocybin production establishment will
76 be located requires a local land use permit, a person who is issued a psilocybin production
77 establishment license under this chapter shall submit to the licensing board a copy of the
78 licensee's approved land use permit within 120 days after the date on which the licensing board
79 issues the license.

80 (m) The department shall deposit fees imposed under this section into the general fund of
81 the state.

82 (n) The department shall begin accepting applications under this chapter on July 1, 2026.

83 (o) The licensing board’s authority to issue a license under this section shall be plenary and
84 not subject to review.

85 (p) The licensing board shall not issue more than four licenses to operate an independent
86 psilocybin testing laboratory.

87 (q) The department may operate or partner with a research university to operate an
88 independent psilocybin testing laboratory.

89 (r) A psilocybin production establishment license shall not be transferable or assignable.

§16-67-12. Psilocybin production establishment owners and directors – Criminal

Background

Checks.

1 (a) The division of criminal investigation of the department of public safety shall conduct a
2 thorough investigation of each applicant for a psilocybin production establishment. The division
3 shall report the results of the investigation to the department.

4 (b) The department shall collect a fee from the applicant, determined by the department by
5 rule, to cover the costs of the investigation by the division of criminal investigation of the
6 department of public safety. The department shall remit the fee to the division.

§16-67-13.

License

Renewal.

1 The director of the department shall renew a license issued on an annual basis if all the
2 following apply:

3 (1) The licensee meets all the requirements for initial licensure.

4 (2) The director of the department does not identify a significant failure of compliance with
5 this chapter or grounds for revocation.

6 (3) The licensee pays a renewal fee as determined by the department by rule.

§16-67-14.

Operating

Plan.

1 A person applying for a psilocybin production establishment license or license renewal
2 shall submit to the department for the department's review a proposed operating plan that includes
3 all the following:

4 (1) A description of the physical characteristics of the proposed facility or, for a psilocybin
5 cultivation facility, no more than two facility locations, including a floor plan and an architectural
6 elevation.

7 (2) A description of the credentials and experience of each officer, director, and owner of
8 the proposed psilocybin production establishment, and of any highly skilled or experienced
9 prospective employee.

10 (3) The psilocybin production establishment's employee training standards.

11 (4) A security plan.

12 (5) A description of the psilocybin production establishment's inventory control system.

13 (6) Storage protocols to ensure that psilocybin is stored in a manner that is sanitary and
14 preserves the integrity of the psilocybin.

15 (7) For a psilocybin cultivation facility:

16 (A) Psilocybin cultivation practices, including the facility's intended pesticide and fertilizer
17 use.

18 (B) Square footage under cultivation and anticipated psilocybin yield.

19 (8) For an independent psilocybin testing laboratory:

20 (A) Psilocybin and psilocybin product testing capacity.

21 (B) Psilocybin and psilocybin product testing equipment.

22 (C) Testing methods, standards, practices, and procedures for testing psilocybin or
23 psilocybin product.

§16-67-15. Psilocybin Production Establishment Agent – Registration.

1 (a) An individual shall not act as a psilocybin production establishment agent unless the
2 department registers the individual as a psilocybin production establishment agent, regardless of

3 whether the individual is a seasonal, temporary, or permanent employee.

4 (b) None of the following individuals shall serve as a psilocybin production establishment
5 agent or have the power to direct or cause the management or control of a psilocybin production
6 establishment:

7 (1) An advanced registered nurse practitioner or an advanced practice registered nurse.

8 (2) An individual licensed to practice medicine and surgery or osteopathic medicine and
9 surgery.

10 (3) A physician assistant.

11 (c) An independent psilocybin testing laboratory agent may not act as a psilocybin
12 cultivation facility agent.

13 (d) The department shall, within 15 business days from the date on which the department
14 receives a complete application from a psilocybin production establishment on behalf of a
15 prospective psilocybin production establishment agent, register and issue a psilocybin production
16 establishment agent registration card to the prospective psilocybin production establishment
17 agent who successfully passes a criminal background investigation if the psilocybin production
18 establishment does all of the following:

19 (1) Provides the department with the prospective psilocybin production establishment
20 agent's name and address.

21 (2) Pays a fee to the department in an amount determined by the department by rule.

22 (e) The department shall designate, on an individual's psilocybin production establishment
23 agent registration card, the type of psilocybin production establishment for which the individual is
24 authorized to act as an agent.

25 (f)(1) A psilocybin production establishment agent shall comply with either a certification
26 standard developed by the department by rule, or a certification standard that the department has
27 reviewed and approved.

28 (2) A certification standard described in subdivision (1) of this subsection shall include

29 training in all the following:

30 (A) West Virginia medical psilocybin law.

31 (B) For a psilocybin cultivation facility agent, psilocybin cultivation best practices.

32 (C) For an independent psilocybin testing laboratory agent, psilocybin laboratory testing
33 best practices.

34 (g) A psilocybin production establishment agent registration card shall expire two years
35 from the date the department issued the card. A psilocybin production establishment agent may
36 renew the agent's registration card if the agent is still eligible to hold a psilocybin production
37 establishment registration card and pays a fee determined by the department by rule.

38 (h)(1) A psilocybin production establishment agent shall always carry the individual's
39 psilocybin production card with the agent when the agent is on the premises of a psilocybin
40 production establishment where the agent is registered, or when the agent is transporting
41 psilocybin or psilocybin product.

42 (2) If a psilocybin production establishment agent possesses psilocybin or psilocybin
43 product and produces the registration card while handling or transporting psilocybin or psilocybin
44 product, there is a rebuttable presumption that the agent possesses the psilocybin or psilocybin
45 product legally and a law enforcement officer does not have probable cause, based solely on the
46 agent's possession of the psilocybin or psilocybin product, to believe that the individual is
47 engaging in illegal activity.

48 (3) A psilocybin production establishment agent who fails to carry the individual's
49 psilocybin production card as required by subdivision (1) of this subsection is guilty of the following
50 offenses:

51 (A) For a first offense, or second offense within a two-year period, a simple misdemeanor
52 punishable by a fine of \$100.

53 (B) For a third or subsequent offense within a two-year period, a simple misdemeanor
54 punishable as provided by law.

55 (4) For each violation of subdivision (3) of this subsection, the department may assess the
56 relevant psilocybin production establishment a fine of up to \$5,000 dollars.

§16-67-16. Psilocybin Production Establishment – General Operation Requirements.

1 (a) A psilocybin production establishment shall operate in accordance with the operating
2 plan submitted by the psilocybin production establishment pursuant to §16-67-14 of this code. A
3 psilocybin production establishment shall notify the department prior to implementing a change to
4 the establishment's operating plan. The department shall inform the establishment of any
5 deficiencies in the new operating plan.

6 (b)(1) Except as provided in subdivision (2) of this subsection, a psilocybin production
7 establishment shall operate in a facility that is accessible only by an individual with a valid
8 psilocybin production establishment agent registration card.

9 (2) A psilocybin production establishment may authorize an individual who is at least 18
10 years of age and who is not a psilocybin production establishment agent to access the psilocybin
11 production establishment if the psilocybin production establishment tracks and monitors the
12 individual at all times while the individual is at the psilocybin production establishment, and
13 maintains a record of the individual's access, including arrival and departure.

14 (c) A psilocybin production establishment shall not employ an individual who is younger
15 than 21 years of age or who has been convicted of a misdemeanor for drug distribution or
16 convicted of a felony.

17 (d) A psilocybin production establishment shall operate in a facility that has all the
18 following:

19 (1) A single, secure public entrance.

20 (2) A security system with a backup power source that does all the following:

21 (A) Detects and records entry into the psilocybin production establishment.

22 (B) Provides notice of an unauthorized entry to law enforcement when the psilocybin
23 production establishment is closed.

24 (e) Secure any area where the psilocybin production establishment stores psilocybin or a
25 psilocybin product.

§16-67-17.

Inspections.

1 (a) The department may inspect the records and facility of a psilocybin production
2 establishment at any time during business hours to determine if the psilocybin production
3 establishment complies with this article.

4 (b) An inspection under this section may include all the following:

5 (1) Inspection of a site, facility, vehicle, book, record, paper, document, data, and other
6 physical or electronic information.

7 (2) Questioning of any relevant individual.

8 (3) Observation of an independent psilocybin testing laboratory's methods, standards,
9 practices, and procedures.

10 (4) The sampling of a specimen of psilocybin or psilocybin product sufficient for testing
11 purposes.

12 (5) Inspection of equipment, an instrument, a tool, or machinery, including a container or
13 label.

14 (c) In conducting an inspection under this section, the department may review and make
15 copies of a book, record, paper, document, data, or other physical or electrical information,
16 including financial data, sales data, shipping data, pricing data, and employee data.

17 (d) The department may impose a fee, or a license or registration suspension or
18 revocation, if a psilocybin production establishment fails to comply with this section.

§16-67-18.

Advertising.

1 (a) A psilocybin production establishment shall not advertise to the general public in any
2 medium, except that a psilocybin production establishment may advertise an employment
3 opportunity at the psilocybin production establishment.

4 (b) The department shall propose rules for legislative approval in accordance with §29A-3-

5 1 et seq. of this code for standards relating to advertising by a qualified medical psilocybin provider
6 or qualified therapy provider. The rules shall ensure that advertising by a qualified medical
7 psilocybin provider or qualified therapy provider does not imply that the psilocybin may be used for
8 recreational purposes.

§16-67-19. Psilocybin Transportation.

1 (a) No individual other than the following may transport psilocybin or a psilocybin product:

2 (1) A registered psilocybin production establishment agent.

3 (2) A qualified therapy provider.

4 (3) A registered qualified therapy provider agent.

5 (4) An agent of the department conducting an inspection pursuant to Chapter 60A.

6 (b) An individual transporting psilocybin or psilocybin product shall be employed by the
7 individual authorizing the transportation and possess a manifest that includes all the following:

8 (1) A unique identifier that links the psilocybin or psilocybin product to a relevant inventory
9 control system.

10 (2) The origin and destination information for any psilocybin or psilocybin product that the
11 person is transporting.

12 (3) The departure and arrival times of the individual transporting the psilocybin or
13 psilocybin product.

14 (c) A registered psilocybin production establishment agent transporting psilocybin or
15 psilocybin product without a manifest as provided in subsection (b) is guilty of a simple
16 misdemeanor punishable by a fine of \$100. However, if the registered psilocybin production
17 establishment agent is carrying more psilocybin or psilocybin products than is indicated on the
18 manifest, other than a de minimis amount, the registered psilocybin production establishment
19 agent is subject to penalties as provided in Chapter 60A.

20 (d) This section shall not prohibit the department from taking administrative enforcement
21 action against a psilocybin production establishment or another person for failing to make a

22 transport in compliance with this section.

§16-67-20. Psilocybin – Excess and Disposal.

1 (a) As used in this section, "psilocybin waste" means waste and unused material from the
2 cultivation and production of psilocybin or psilocybin product under this chapter.

3 (b) A psilocybin production establishment shall do all of the following:

4 (1) Render psilocybin waste unusable and unrecognizable before transporting it from the
5 psilocybin production establishment.

6 (2) Dispose of the psilocybin waste in compliance with all applicable state and federal laws.

7 (c) A person shall not transport or dispose of psilocybin waste other than as provided in this
8 section.

§16-67-21. Psilocybin Cultivation Facility – Growing and Harvesting.

1 (a) A psilocybin cultivation facility shall use a unique identifier that is connected to the
2 facility's inventory control system to identify all the following:

3 (1) Each unique harvest of psilocybin.

4 (2) Each batch of psilocybin that the facility transfers to an independent psilocybin testing
5 laboratory.

6 (3) Any psilocybin waste, of which the psilocybin cultivation facility disposes.

7 (b) A psilocybin cultivation facility shall identify psilocybin biomass as psilocybin byproduct
8 or psilocybin product before transferring the psilocybin biomass from the facility.

9 (c) A psilocybin cultivation facility shall destroy psilocybin cultivation byproducts as
10 provided in Chapter 60A.

§16-67-22. Psilocybin Cultivation Facility – Sales.

1 (a) A psilocybin cultivation facility shall not sell a product other than a psilocybin product or
2 educational material related to the medical use of psilocybin.

3 (b) A psilocybin cultivation facility shall not sell a product to a person other than a qualified
4 therapy provider or a registered agent of a qualified therapy provider.

§16-67-23. Psilocybin Cultivation Facility – Labeling.

1 (a) A psilocybin cultivation facility shall label a psilocybin or psilocybin product with the
2 amount of active psilocybin in the psilocybin or psilocybin product.

3 (b) The department may adopt rules to establish labeling requirements for a psilocybin
4 product.

§16-67-24. Independent Psilocybin Testing Laboratory – Psilocybin and Psilocybin Product

Testing.

1 (a) The department shall adopt to do all the following:

2 (1) Identify the adulterant analyses required to be performed on psilocybin or psilocybin
3 product.

4 (2) Determine the level of each adulterant that is safe for human consumption.

5 (3) Establish protocols for a recall of psilocybin or psilocybin product by a psilocybin
6 production establishment.

7 (b) The department may require an independent psilocybin testing laboratory to test for a
8 toxin if the department receives information indicating the potential presence of a toxin, or the
9 department’s inspector has reason to believe a toxin may be present based on the inspection of a
10 facility.

11 (c) A psilocybin production establishment may not transfer psilocybin or psilocybin product
12 to a qualified therapy provider until an independent psilocybin testing laboratory tests a
13 representative sample of the psilocybin or psilocybin product as provided by the department by
14 rule.

15 (d) Before the sale of a psilocybin product, an independent psilocybin testing laboratory
16 shall identify and quantify the amount of active psilocybin present in the psilocybin product.

17 (e) The department shall propose rules for legislative approval in accordance with the
18 provisions of §29A-3-1 et seq. of this code for standards, methods, practices, and procedures for
19 the testing of psilocybin and psilocybin products by an independent psilocybin laboratory.

20 (f) The department may require an independent psilocybin testing laboratory to participate
21 in a proficiency evaluation that the department conducts, or that an organization that the
22 department approves conducts.

§16-67-25. Independent Psilocybin Testing Laboratory – Inspections.

1 (a) If an independent psilocybin testing laboratory determines that the results of a
2 laboratory test indicate that a psilocybin or psilocybin product batch may be unsafe for human use:

3 (1) The independent psilocybin testing laboratory shall report the laboratory test results
4 and the psilocybin or psilocybin product batch to the department and the psilocybin cultivation
5 facility from which the batch originated.

6 (2) The department shall place a hold on the psilocybin or psilocybin products to conduct a
7 root cause analysis of the defective batch and make a determination as to the root cause. The
8 psilocybin cultivation facility that grew the psilocybin may appeal the determination of the
9 department.

10 (b) If the department determines that psilocybin or psilocybin product prepared by a
11 psilocybin cultivation establishment is unsafe for human consumption, the department may seize,
12 embargo, or destroy the psilocybin or psilocybin product.

13 (c) If an independent psilocybin testing laboratory determines that the results of a lab test
14 indicate that the active psilocybin content of psilocybin or a psilocybin product batch diverges more
15 than ten percent from the amount the label indicates, the psilocybin cultivation facility shall not sell
16 the psilocybin or psilocybin product batch unless the facility replaces the incorrect label with a label
17 that correctly indicates the active psilocybin content.

§16-67-26. Psilocybin Electronic Verification System.

1 (a) The department, in consultation with the West Virginia Department of Agriculture and
2 the West Virginia Department of Homeland Security, shall propose rules for legislative approval
3 pursuant to §29A-3-1 et seq. for the creation and operation of an electronic verification system
4 that, at minimum, does all the following:

5 (1) Allows a qualified medical psilocybin provider to access dispensing information
6 regarding a patient of the qualified medical psilocybin provider, electronically recommend or renew
7 a recommendation for psilocybin or a psilocybin product, connect with an inventory control system
8 that a psilocybin production establishment uses to track in real time and archive purchases of any
9 psilocybin or psilocybin product, and connect with an inventory control system that a psilocybin
10 production establishment utilizes.

11 (2) Allows access by all the following:

12 (A) The department to the extent necessary to carry out the department's functions and
13 responsibilities.

14 (B) The department of inspections, appeals, and licensing to carry out the functions and
15 responsibilities related to the participation of qualified medical psilocybin providers and qualified
16 therapy providers in the recommendation and administration of psilocybin.

17 (C) Creates a record each time a person accesses the system that identifies the person
18 who accessed the system and the individual whose records the person accessed.

19 (D) Keeps a current record of the total number of individuals who have a psilocybin
20 recommendation.

21 (b) The department may release limited data from the electronic verification system for the
22 purposes of conducting research, issuing required reports, or for other official department
23 purposes.

24 (c)(1) A person who knowingly and intentionally releases any information from the state
25 electronic verification system in violation of this section is guilty of a felony, and, upon conviction
26 shall be fined not more than \$5,000, or imprisoned in a state correctional facility not less than one
27 year, nor more than 5 years, or both.

28 (2) A person who negligently or recklessly releases any information from the state
29 electronic verification system in violation of this section is guilty of a serious misdemeanor.

30 (d)(1) A person who obtains or attempts to obtain information from the state electronic

31 verification system by misrepresentation or fraud is guilty of a felony, and, upon conviction shall be
32 fined not more than \$5,000, or imprisoned in a state correctional facility not less than one year, nor
33 more than 3 years, or both.

34 (2) A person who obtains or attempts to obtain information from the state electronic
35 verification system for a purpose other than a purpose authorized in this chapter is guilty of a
36 felony, and, upon conviction shall be fined not more than \$5,000, or imprisoned in a state
37 correctional facility not less than one year, nor more than 3 years, or both.

38 (e)(1) Except as provided in subdivision (2) of this subsection, a person who knowingly and
39 intentionally uses, releases, publishes, or otherwise makes available to any other person
40 information obtained from the state electronic verification system for any purpose other than a
41 purpose specified in this section is guilty of a felony, and, upon conviction shall be fined not more
42 than \$5,000, or imprisoned in a state correctional facility not less than one year, nor more than 5
43 years, or both.

44 (2) This subsection shall not prohibit a person who rightfully obtains information from the
45 state electronic verification system from including the information in the person's medical chart or
46 file for access by a person authorized to review the medical chart or file, providing the information
47 to a person in accordance with the requirements of the federal Health Insurance Portability and
48 Accountability Act of 1996, Pub. L. No. 104-191, or discussing or sharing that information about
49 the patient with the patient.

§16-67-27. Qualified Medical Psilocybin Provider Registration – Continuing Education –

Treatment

Recommendation.

1 (a) An individual shall not recommend a medical psilocybin treatment unless the
2 department registers the individual as a qualified medical psilocybin provider under this section.

3 (b) The department shall, within 15 days after the date the department receives an
4 application from an individual, register and issue a qualified medical psilocybin provider
5 registration card to the individual if the individual does all the following:

6 (1) Provides the department with the individual's name and address.

7 (2) Provides with the department a report detailing the individual's completion of the
8 applicable continuing education requirements described in subsection (c) of this section.

9 (3) Provides to the department evidence that the individual holds a license that qualifies the
10 individual as a qualified medical psilocybin provider.

11 (4) Pays an application fee as determined by the department by rule.

12 (5) For an applicant on or after January 1, 2026, provides the information required by
13 subsection (i) of this section.

14 (c)(1) An individual applying for initial registration or renewal of a registration shall
15 complete a continuing education program as determined by the department by rule. The
16 continuing education program shall be offered by the department or a continuing education
17 provider approved by the department. The continuing education program shall address all of the
18 following:

19 (A) This chapter.

20 (B) General information about psilocybin under federal and state law.

21 (C) The latest scientific research on medical psilocybin, including risks and benefits.

22 (D) Best practices for recommending the form and dosage of psilocybin.

23 (E) Systems and receptors affected by psilocybin.

24 (F) Mechanisms of action.

25 (G) Drug interactions.

26 (H) Diagnostic criteria.

27 (I) Contraindications.

28 (J) Side effects and mitigation of side effects.

29 (K) Administrative set and setting, including physical patient safety.

30 (L) Integration.

31 (M) Potential outcomes.

32 (N) Ethical considerations.

33 (O) Discharge safety planning.

34 (2) An applicant for initial registration shall complete sixteen hours of continuing education.

35 A qualified medical psilocybin provider shall complete four hours of continuing education every
36 two years.

37 (d) A qualified medical psilocybin provider shall not recommend psilocybin to a patient, or
38 renew a recommendation for psilocybin, unless the qualified medical psilocybin provider has done
39 all the following:

40 (1) Completed and documented in the patient's medical record a thorough assessment of
41 the patient's condition and medical history based on the appropriate standard of care.

42 (2) Verified that the patient is at least 21 years old.

43 (3) Met with the patient face to face if the qualified medical psilocybin provider has not
44 recommended a psilocybin treatment to the patient in the past.

45 (e)(1) Except as provided in subdivision (2) of this subsection, an individual shall not
46 advertise that the individual recommends medical psilocybin treatment.

47 (2) A qualified medical psilocybin provider, or a clinic or office that employs a qualified
48 medical psilocybin provider, may advertise the following:

49 (A) The provider's or clinic's name and logo.

50 (B) That the individual is registered as a qualified medical psilocybin provider and
51 recommends medical psilocybin.

52 (C) Scientific study regarding medical psilocybin use.

53 (f)(1) A qualified medical psilocybin provider registration card shall expire two years from
54 the date the department issued the card.

55 (2) The department shall adopt for the renewal of a medical psilocybin provider registration
56 card.

57 (g) The department may revoke a medical psilocybin provider registration card if a qualified

58 medical psilocybin provider fails to maintain compliance with this section.

59 (h) A qualified medical psilocybin provider shall not receive any compensation or benefit
60 for the qualified medical psilocybin provider's medical psilocybin treatment recommendation from
61 a psilocybin production establishment or an owner, officer, director, board member, employee, or
62 agent of a psilocybin production establishment.

63 (i) On or before January 1 of each year, a qualified medical provider shall report to the
64 department all the following:

65 (1) That the qualified medical psilocybin provider, or the entity that employs the qualified
66 medical psilocybin provider, represents online or in printed material that the qualified medical
67 psilocybin provider is a qualified medical psilocybin provider or offers medical psilocybin
68 recommendations to patients, if applicable.

69 (2) The fee amount that the qualified medical psilocybin provider, or the entity that employs
70 the qualified medical psilocybin provider, charges a patient for a medical psilocybin
71 recommendation, either as an actual cash rate or, if the psilocybin provider or entity bills
72 insurance, an average cash rate.

§16-67-28. Standard of Care – Provider Not Liable – No Private Right of Action.

1 (a) A qualified medical psilocybin provider or a qualified therapy provider who recommends
2 or administers psilocybin in compliance with this chapter shall not be subject to a civil or criminal
3 penalty, or license discipline, solely for violating a federal law or regulation that prohibits
4 recommending, prescribing, possessing, or dispensing psilocybin or a psilocybin product.

5 (b) This chapter shall not be construed to reduce or negate the duty of a qualified medical
6 psilocybin provider or qualified therapy provider to use reasonable and ordinary care in the
7 treatment of a patient.

8 (c) Exemption from criminal and civil penalties for the medical use of psilocybin.

9 (1) A cultivator, therapist, clinician or qualified patient shall not be subject to arrest,
10 prosecution or penalty for participating in the program.

11 (2) The following conduct is lawful and shall not constitute grounds for detention, search or
12 arrest of a person or for a violation of probation or parole, and psilocybin that relates to the conduct
13 is not contraband or subject to seizure or forfeiture pursuant to the Controlled Substances Act or
14 the Forfeiture Act:

15 (A) A cultivator or provider possessing or transporting not more than an adequate supply of
16 psilocybin for medical purposes as defined by department rule; and

17 (B) A provider administering or a qualified patient taking psilocybin in an approved setting
18 in accordance with the Therapeutic Psilocybin Act or rules promulgated in accordance with that
19 act.

20 (3) A clinician shall not be subject to arrest or prosecution or denied any right or privilege
21 for recommending the program or providing medical services authorized in the Therapeutic
22 Psilocybin Act.

23 (4) A person shall not be subject to arrest or prosecution for a psilocybin-related offense for
24 simply being in the presence of the medical use of psilocybin as allowed under the provisions of
25 the Therapeutic Psilocybin Act.

26 (5) The Therapeutic Psilocybin Act does not apply to federal food and drug administration-
27 approved clinical trials.

§16-67-29. Nondiscrimination for Use of Psilocybin.

1 (a) For purposes of medical care, including an organ or tissue transplant, a patient's use of
2 psilocybin as provided in this chapter is the equivalent of authorized use of any other medication
3 used at the discretion of a physician, and does not constitute the use of an illicit substance or
4 otherwise disqualify an individual from needed medical care.

5 (b)(1) Except as provided in subdivision (2) of this subsection, the state or a political
6 subdivision of the state shall treat an employee's use of medical psilocybin as provided in this
7 chapter in the same way the state or political subdivision treats an employee's use of any
8 prescribed controlled substance, and an employee's medical psilocybin recommendation from a

9 qualified medical psilocybin provider in the same way the state or political subdivision treats an
10 employee's prescription for any prescribed controlled substance.

11 (2) A state or political subdivision employee who has a valid medical psilocybin registration
12 shall not be subject to adverse action for failing a drug test due to psilocybin or psilocin without
13 evidence that the employee was impaired or otherwise adversely affected in the employee's job
14 performance due to the use of medical psilocybin. This paragraph shall not apply in any of the
15 following circumstances:

16 (A) The employee's use of psilocybin jeopardizes federal funding, a federal security
17 clearance, or any other federal background determination required for the employee's position.

18 (B) The employee's position is dependent on a license or peace officer certification that is
19 subject to federal regulations, including 18 U.S.C. §922(g)(3).

20 (C) An employee who uses medical psilocybin during the 12 hours immediately preceding
21 the employee's shift or during the employee's shift.

22 (D) An agency of this state or a political subdivision thereof, including any law enforcement
23 agency, shall not remove or initiate proceedings to remove a child under the age of 18 from the
24 home of a parent based solely upon the parent's possession or use of psilocybin as authorized
25 under this chapter.

§16-67-30. Insurance – Coverage Requirement.

1 This chapter shall not be construed to require an insurer, a third-party administrator, or an
2 employer to pay for or reimburse an employee for psilocybin or psilocybin product.

§16-67-31. Approved Drugs.

1 This chapter shall not be construed to restrict or otherwise affect the prescription,
2 distribution, or dispensing of a product that the United States Food and Drug Administration has
3 approved.

§16-67-32. Qualified Therapy Provider Registration – Continuing Education – Psilocybin Administration.

1 (a) An individual shall not administer a medical psilocybin treatment unless the department
2 registers the individual as a qualified medical psilocybin therapist as provided in this section.

3 (b) The department shall, within 15 days after the date the department receives an
4 application from an individual, register and issue a qualified medical psilocybin therapist
5 registration card to the individual if the individual does all the following:

6 (1) Provides to the department the individual's name and address.

7 (2) Provides to the department the address of the clinic at which the individual will be
8 administering psilocybin to patients.

9 (3) Provides to the department a report detailing the individual's completion of the
10 applicable continuing education requirements described in subsection (c) of this section.

11 (4) Certifies to the department that the individual has installed and maintains an inventory
12 control system.

13 (5) Provides to the department evidence that the individual holds a license that qualifies the
14 individual as a qualified medical psilocybin provider.

15 (6) Pays an application fee as determined by the department by rule.

16 (7) Provides to the department an emergency transport plan for patients who experience a
17 medical emergency during treatment.

18 (c)(1) An individual applying for initial registration or renewal of a registration shall
19 complete a continuing education program as determined by the department by rule. The
20 continuing education program shall be offered by the department or a continuing education
21 provider approved by the department. The continuing education program shall address all of the
22 following:

23 (A) This article.

24 (B) General information about psilocybin under federal and state law.

25 (C) The latest scientific research on medical psilocybin, including risks and benefits.

26 (D) Best practices for recommending the form and dosage of psilocybin.

- 27 (E) Systems and receptors affected by psilocybin.
- 28 (F) Mechanisms of action.
- 29 (G) Drug interactions.
- 30 (H) Diagnostic criteria.
- 31 (I) Contraindications.
- 32 (J) Side effects and mitigation of side effects.
- 33 (K) Administrative set and setting, including physical patient safety.
- 34 (L) Integration.
- 35 (M) Potential outcomes.
- 36 (N) Ethical considerations.
- 37 (O) Discharge safety planning.
- 38 (2) An applicant for initial registration shall complete 80 hours of continuing education. A
- 39 qualified therapy provider shall complete four hours of continuing education every two years.
- 40 (d) A qualified therapy provider shall only administer psilocybin to a patient when all the
- 41 following requirements are met:
- 42 (1) The patient has a recommendation issued by a qualified medical psilocybin provider.
- 43 (2) The qualified medical therapy provider has obtained and reviewed the patient's mental
- 44 health history.
- 45 (3) The qualified therapy provider has provided the patient with a safety data sheet created
- 46 by the department which outlines the potential risks of psilocybin use.
- 47 (4) There are unexpired rescue medications on site, as determined by the department by
- 48 rule.
- 49 (5) The administration session is video-recorded, and the video recording is preserved for
- 50 one year from the date of the session, or the patient gives written, informed consent waiving the
- 51 video-recording requirement.
- 52 (6) The qualified therapy provider has a contractual relationship with a licensed physician

53 and surgeon or osteopathic physician and surgeon who remains on call during the administration
54 session in case the patient requires nonemergency medical intervention.

55 (e) A qualified therapy provider shall only administer psilocybin or a psilocybin product in a
56 qualified therapy provider location.

57 (f)(1) Except as provided in subdivision (2) of this subsection, an individual shall not
58 advertise that the individual administers medical psilocybin treatment.

59 (2) A qualified therapy provider or clinic or office that employs a qualified therapy provider
60 may advertise the following:

61 (A) The provider's or clinic's name and logo.

62 (B) That the individual is registered as a qualified therapy provider and administers medical
63 psilocybin.

64 (C) A scientific study regarding medical psilocybin use.

65 (g)(1) A qualified therapy provider registration card expires two years from the date the
66 department issues the card.

67 (2) The department shall adopt for the renewal of a qualified therapy provider registration
68 card.

69 (h) Within seven days of the date on which an adverse event occurs, a qualified therapy
70 provider shall submit to the department a report containing all the following:

71 (1) The age and sex of the patient.

72 (2) The patient's preexisting health conditions, if any.

73 (3) The amount of psilocybin administered to the patient.

74 (4) Factors which contributed to the adverse event.

75 (5) The nature and severity of the adverse event.

76 (6) The ultimate outcome of the adverse event.

77 (i) The department may revoke a qualified therapy provider registration card if a qualified
78 therapy provider fails to maintain compliance with this section.

§16-67-33. Qualified Therapy Provider Agent – Registration.

1 (a) An individual shall not act as a qualified therapy provider agent unless the department
2 registers the individual as a qualified therapy provider agent, regardless of whether the individual
3 is a seasonal, temporary, or permanent employee.

4 (b) The department shall, within 15 business days after the date the department receives a
5 complete application from a qualified therapy provider agent, register and issue a qualified therapy
6 provider agent registration card to the prospective agent who successfully passes a criminal
7 background investigation if the prospective agent does all the following:

8 (1) Provides to the department with the prospective agent's name and address.

9 (2) Pays a fee to the department in an amount determined by the department by rule.

10 (c)(1) A qualified therapy provider agent shall comply with either a certification standard
11 developed by the department by rule, or a certification standard that the department has reviewed
12 and approved.

13 (2) A certification standard described in subdivision (1) of this subsection shall include
14 training in West Virginia medical psilocybin law.

15 (d) A qualified therapy provider agent registration card shall expire two years from the date
16 the department issued the card. A qualified therapy provider agent may renew the agent's
17 registration card if the agent is still eligible to hold a qualified therapy provider agent registration
18 card and pays a fee determined by the department by rule.

19 (e)(1) A qualified therapy provider agent shall always carry the individual's qualified
20 therapy provider agent card with the agent when the agent is handling psilocybin or psilocybin
21 product.

22 (2) If a qualified therapy provider agent possesses psilocybin or psilocybin product and
23 produces the registration card in the agent's possession, there is a rebuttable presumption that the
24 agent possesses the psilocybin or psilocybin product legally and a law enforcement officer does
25 not have probable cause, based solely on the agent's possession of the psilocybin or psilocybin

26 product, to believe that the individual is engaging in illegal activity.

27 (3) A qualified therapy provider agent who fails to carry the individual's qualified therapy
28 provider agent card with the agent as required by subdivision (1) of this subsection is guilty of the
29 following offenses:

30 (A) For a first offense, or a second offense within a two-year period, a simple misdemeanor
31 punishable by a fine of \$100.

32 (B) For a third offense, or a subsequent offense within a two-year period, a simple
33 misdemeanor.

34 (C) For each violation of subdivision (3) of this subsection, the department may assess the
35 relevant qualified therapy provider a fine of up to \$2,500.

§16-67-34.

Reports.

1 (a)(1) On or before November 1, 2026, and by November 1 of each year thereafter, the
2 department shall submit a report to the Joint Committee on Government and Finance including all
3 of the following:

4 (A) The number of patients for whom psilocybin has been recommended.

5 (B) The age and county of patients.

6 (C) The number of qualified medical psilocybin providers.

7 (D) The number of license applications and renewal applications received.

8 (E) The number of licenses the department has issued in each county.

9 (F) The number of licenses the department has revoked.

10 (G) The expenses incurred and revenues generated from the medical psilocybin program.

11 (H) The number and nature of adverse events reported.

12 (2) The department shall not include personally identifying information in the report
13 submitted pursuant to subdivision (1) of this subsection.

14 (b) The department shall submit a report to the Joint Committee on Government and
15 Finance regarding the efficacy of medical psilocybin, including recommendations, by June 1,

16 2028.

§16-67-35.

Enforcement.

1 (a) If a person that is licensed or registered under this chapter violates a provision of this
2 chapter or rules adopted by the department pursuant to this chapter, or fails to comply with an
3 enforcement action taken under this article, the department may do any of the following, subject to
4 the requirements of this section:

5 (1) Revoke the person's license or registration card.

6 (2) Decline to renew the person's license or registration card.

7 (3) Assess an administrative fee, as determined by the department by rule.

8 (b) If the department finds that a person produced a psilocybin or psilocybin product batch
9 that contains a substance, other than active psilocybin, that poses a significant threat to human
10 health the department shall do all the following:

11 (1) Issue the person a written administrative citation.

12 (2) Attempt to negotiate a stipulated settlement.

13 (3) Seize, embargo, or destroy the psilocybin or psilocybin product batch.

14 (4) Order the person to cease and desist from the action that creates a violation.

15 (c) The department may, for a person subject to an uncontested citation, a stipulated
16 settlement, or a finding of a violation in an adjudicative proceeding under this section, if a fine is not
17 already specified by law, assess a person who is not an individual a fine of up to \$5,000 per
18 violation.

19 (d) The department shall not revoke a license or registration issued under this chapter
20 without first conducting a contested case proceeding.

21 (e) Except where a criminal penalty is expressly provided for a specific violation of this
22 chapter, the following criminal penalties apply:

23 (1) Except as provided in subdivision (2) of this subsection, an individual who violates a
24 provision of this chapter is guilty of a simple misdemeanor punishable by a fine of \$100.

25 (2) An individual who intentionally or knowingly violates a provision of this article, or
 26 violates a provision of this article three or more times, is guilty of a serious misdemeanor
 27 punishable by a fine of \$1,000.

§16-67-36. Psilocybin and Psilocybin Products – Consumable Goods – Rules.

1 The department shall propose rules for legislative approval pursuant to §29A-3-1 et seq. of
 2 this code to allow for the production and sale of consumable goods containing psilocybin and
 3 psilocybin product.

§16-67-37. Contracts Enforceable.

1 It is the public policy of this state that contracts related to the production, sale, and
 2 administration of psilocybin pursuant to this article shall be enforceable. It is the public policy of
 3 this state that no contract entered into by a psilocybin production establishment, qualified medical
 4 psilocybin provider, or qualified therapy provider, or its employees or agents as permitted pursuant
 5 to a valid registration, or by an entity who allows property to be used by an establishment, qualified
 6 medical psilocybin provider, or qualified therapy provider, its employees, or its agents as permitted
 7 pursuant to a valid registration, shall be unenforceable on the basis that cultivating, obtaining,
 8 manufacturing, distributing, dispensing, transporting, selling, possessing, or using psilocybin is
 9 prohibited by federal law.

§16-67-38. Psychedelic Compounds – Study.

1 The department shall conduct a study regarding the use of psychedelic compounds other
 2 than psilocybin in the treatment of medical conditions. The department shall submit a report to the
 3 Joint Committee on Government and Finance, including the department's findings and
 4 recommendations.

NOTE: The purpose of this bill is to adopt the Therapeutic Psilocybin Act.

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