

WEST VIRGINIA MEDICAL CANNABIS PROGRAM

Frequently Asked Questions: General Information

What is medical cannabis?

Under Senate Bill 386 (“West Virginia Medical Cannabis Act” or “the Act”), the term “medical cannabis” refers to cannabis for certified medical use by a West Virginia resident with a serious medical condition and is limited by law to the following forms:

- Pill;
- Oil;
- Topical forms, including gels, creams or ointments;
- A form medically appropriate for administration by vaporization or nebulization, excluding dry leaf or plant form unless dry leaf or plant forms become acceptable under rules adopted by the Bureau for Public Health;
- Tincture;
- Liquid; or
- Dermal patch.

What is a “serious medical condition” under the Act?

The statute defines a “serious medical condition” as any one of the following:

- Cancer.
- Positive status for human immunodeficiency virus or acquired immune deficiency syndrome.
- Amyotrophic lateral sclerosis.
- Parkinson’s disease.
- Multiple sclerosis.
- Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.
- Epilepsy.
- Neuropathies.
- Huntington’s disease.
- Crohn’s disease.
- Post-traumatic stress disorder.
- Intractable seizures.
- Sickle cell anemia.

- Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or has proved ineffective as determined as part of continuing care.
- Terminal illness that is defined as a medical prognosis of life expectancy of approximately one year or less if the illness runs its normal course.

Does the Medical Cannabis Program protect against federal prosecution?

No. The U.S. Department of Justice (DOJ) has the authority to enforce civil and criminal federal laws relating to marijuana possession and use, regardless of state law. Growing, distributing, and/or possessing marijuana in any capacity, except through a federally-approved research program, is a violation of federal law, and no state or local law provides a legal defense to a violation of federal law. In light of current DOJ guidance, however, it may be unlikely that federal authorities would bring civil enforcement actions or criminal investigations and prosecutions against growers/processors, dispensaries, physicians, seriously ill individuals or caregivers as long as they are acting pursuant to the Act. A [memorandum](#) from the DOJ, dated August 29, 2013, explains the priorities of federal authorities regarding marijuana possession and use, including state medical marijuana programs.

When will the Bureau for Public Health begin issuing regulations to implement the Medical Cannabis Program?

The Bureau is in the early stages of the development of the program. S.B. 386 was signed into law on April 19, 2017, by Governor Jim Justice and afterwards the Bureau began the process of drafting temporary rules that are needed to implement the Act. Those temporary rules will explain the program's operation, including how applications are to be submitted by growers/processors, dispensaries, patients and caregivers, and physicians. Under the Act, the Bureau may not issue the patient and caregiver identification cards necessary to obtain medical cannabis until July 1, 2019. Up to that time, the Bureau will be preparing to issue formal rules in a sequential manner to implement the Act. Those rules will begin with requirements for growers/processors so that those entities can come online and begin to produce products, then requirements for dispensaries and physicians, followed closely by requirements for the registration of caregivers and patients.

When will applications to become growers/processors, dispensaries, patients, caregivers and registered physicians become available?

The Bureau began the process of implementing the state's Medical Cannabis Program when Governor Jim Justice signed Senate Bill 386 into law on April 19, 2017. The implementation of the program is expected to be complete by early 2019. When implementation is completed, patients who are residents of West Virginia and under a West Virginia-licensed physician's care for the treatment of one of the 15 serious medical conditions may lawfully and safely obtain medical cannabis in the state as permitted by the Act. Applications for growers/processors and dispensaries are expected to become available during the first quarter of 2018.