

The West Virginia Medical Cannabis Act

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WV Medical Cannabis Advisory Board Meeting
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WEST VIRGINIA
Department of
**Health & Human
Resources**
BUREAU FOR PUBLIC HEALTH
Office of Medical Cannabis

West Virginia Medical Cannabis Act

- Senate Bill 386 (April 6, 2017)
- Signed by Governor Jim Justice on April 9, 2017
- Authorizes, under limited conditions, the use, possession, growing, processing and dispensing of cannabis for the treatment of serious medical conditions.

Serious Medical Condition

- 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 proven to be ineffective as determined as part of continuing care
- Terminally ill

Uniform Controlled Substances Act

- The manufacture, distribution, possession and processing in compliance with the Act are exempted from the provisions of the Uniform Controlled Substances Act.

Dispensaries

- Permitted dispensaries may lawfully dispense medical cannabis to a patient or caregiver upon presentation to the dispensary of a valid identification card for the patient or caregiver.

Lawful Forms of Medical Cannabis

- 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 West Virginia Department of Health and Human Resources, Bureau for Public Health (Bureau)
- Tincture
- Liquid
- Dermal patch

Unlawful Forms of Medical Cannabis

- Unless otherwise provided in rules adopted by Bureau, the medical cannabis may not be dispensed to a patient or a caregiver in dry leaf or plant form.

Lawful Uses

- Establishes lawful uses and forms of medical cannabis.
- Requires the registration of physicians who will be permitted to issue certificates to patients allowing them to obtain medical cannabis.
- Patients and their caregivers who hold identification cards issued by the Bureau may purchase medical cannabis from licensed dispensers.
- Authorizes minors to obtain medical cannabis through caregivers.

Medical Cannabis Organizations

- Growers
 - Processors
 - Dispensers
-
- Annual permits to grow, process and dispense medical cannabis.
 - Criminal background checks for caregivers, growers, processors and dispensers.
 - Process to suspend or revoke permits of medical cannabis growers, processors, and dispensers for violations of law.
 - Restrictions on who may hold permits as a medical cannabis organizations, including establishing restrictions on who may hold positions or be employed by growers, processors and dispensers.

Limits on Number of Permits

- Up to 10 growers, however, each grower may have up to two locations per permit.
- Up to 10 processors.
- Up to 30 dispensaries, with no more than five in any region, and not more than two individual dispensary permits to one person.
- Not more than one individual grower permit per person.
- Not more than one individual processor permit per person.

Limitations

- A dispensary may only obtain medical cannabis from a grower or processor holding a valid permit.
- A grower or processor may only provide medical cannabis to a dispensary holding a valid permit.
- A grower or a processor may not be a dispensary.

Tracking System and Rules

- Medical cannabis inventory tracking system and reporting by medical cannabis organizations.
- The Bureau is required to promulgate rules for storage and transportation of medical cannabis.
- Medical cannabis organizations are required to contract with permitted laboratories for testing of medical cannabis.

Monitoring Medical Cannabis Prices

- The Bureau and the West Virginia Department of Revenue must monitor the prices of medical cannabis.
- If the Bureau and the West Virginia Department of Revenue determine that the prices are unreasonable or excessive, the Bureau may implement a cap on the price of medical cannabis being sold for a period of six months.
- The cap may be amended during the six-month period.
- If continued to be unreasonable, additional caps may be imposed for periods not to exceed six months.

- Imposition and collection of a tax
- Medical cannabis program fund (taxes and fees)
- The tax:
 - On the gross receipts of a grower/processor received from the sale of medical cannabis by a grower/processor to a dispensary, is to be paid by the grower/processor, at the rate of 10% percent.
 - Is to be charged against and be paid by the grower/processor and may not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement or memorandum of the price paid by a dispensary, patient or caregiver.

Local Government Control

- Before a permit may be issued, the Bureau must obtain:
 - The written approval from the local Board of Health for the county in which the permit is to be located and operate business.
 - A written statement from the county commission for the county in which the permit is to be located and conduct business that the county has not voted to disapprove a medical cannabis organization to be located or operate within the county.
- County commissions are authorized, by ordinance upon the vote of the county's residents, to prohibit medical cannabis organizations from being located within their jurisdiction. § 16A-7-6.
- Medical cannabis organizations are subject to zoning restrictions.

Public Officials

- A public official, or an immediate family member of the public official, may not intentionally or knowingly hold a financial interest in a medical cannabis organization or in a holding company, affiliate, intermediary or subsidiary thereof, while the individual is a public official and for one year following termination of the individual's status as a public official.
- A public official or an immediate family member of the public official may not be employed by a medical cannabis organization or by any holding company, affiliate, intermediary or subsidiary thereof, while the individual is a public official and for one year following termination of the individual's status as a public official.

Patients

- Patients must obtain a physician's certification that they suffer from one of the 15 serious medical conditions.
- With this certification, patients may then apply for a medical cannabis ID card.
- After receiving an ID card, a patient can then obtain medical cannabis from a Bureau approved dispensary.
- Caregivers:
 - 21 years of age or older unless otherwise authorized by the Bureau
 - Designated by a patient or, if the patient is under 18 years of age, an individual who is a parent or legal guardian of the patient, or an individual designated by a parent or legal guardian, or an appropriate individual approved by the Bureau
 - Criminal history background check
 - May be designated by up to five patients

Reciprocity Agreements

The Bureau may enter into reciprocity agreements to purchase medical cannabis in another state.

- Comparable requirements for the use and lawful purchase of medical cannabis

- Terminally ill cancer patients

Identification Cards

- The Bureau is currently working to develop the process to obtain a medical cannabis ID card and will make it possible for patients to apply for a medical cannabis ID, including making applications available on its website.
- Patients under the age of 18 with a serious medical condition may obtain medical cannabis through a caregiver.
- The Bureau may not issue the patient and caregiver identification cards necessary to obtain medical cannabis until July 1, 2019.

Health Insurance Coverage

- Insurance companies are **not** required to provide medical cannabis coverage.

Medical Cannabis and Schools

The Department of Education is required to promulgate rules regarding possession and use of medical cannabis.

- In school
- By a student on the grounds of a preschool, primary school and a secondary school
- By an employee of a preschool, primary school and a secondary school on the grounds of the school

Child-Care or Social Service Center

The DHHR is required to promulgate rules regarding possession and use of medical cannabis by:

- A child under the care of a child-care or social service center licensed or operated by the DHHR;
- An employee of a child-care or social service center licensed or operated by the DHHR; and
- Employees of a youth development center or other facility which houses children adjudicated delinquent.

Miscellaneous Provisions

- Criminal and civil penalties for violations of the medical cannabis act.
- Research in medical cannabis is authorized.
- Academic research regarding medical cannabis and its uses is authorized.

Effective Dates

Internal effective date of passage* except for:

- Criminal penalties - 90 days from the bill's passage (July 5, 2017)
- Issuance of identification cards - may not be issued until July 1, 2019

*Const., Art. VI, § 30 (And no act of the Legislature, except such as may be passed at the first session under this constitution, shall take effect until the expiration of ninety days after its passage, unless the Legislature shall by a vote of two thirds of the members elected to each house, taken by yeas and nays, otherwise direct.)

Administration of Program

- Medical Cannabis Program to be administered by the Bureau which will be known as the Office of Medical Cannabis.
- Rule-making authority, including emergency rules.
- Early stages of the development of the program and is currently in the process of drafting the rules needed for implementation.
- Rules will explain the program's operation, including how applications are to be submitted by growers/processors, dispensaries, patients and caregivers, and physicians.
- Application for growers, processors and dispensaries are expected to be released during the first quarter of 2018, with full implementation expected by early 2019.

Medical Cannabis Advisory Board

- Commissioner of the Bureau for Public Health;
- Superintendent of the West Virginia State Police or a designee;
- Four physicians licensed to practice in the state to be appointed by the State Medical Association with one from each of the following specialized fields of medicine:
 - Family Practice/Neurologist/General Practitioner;
 - Pain Management;
 - Oncologist/Palliative Care; and
 - Psychiatrist.
- A pharmacist licensed to practice in the state, to be designated by the Board of Pharmacy;
- A pharmacologist who has experience in the science of cannabis and a knowledge of the uses, effects, and modes of actions of drugs, to be appointed by the Governor;
- A horticulturalist, to be designated by the West Virginia Commissioner of Agriculture;
- A person designated by the West Virginia Association of Alcoholism and Drug Counselors;
- An attorney licensed in the state who is knowledgeable about medical cannabis laws.
- A prosecuting attorney appointed by the West Virginia Prosecuting Attorneys Institute;
- A person appointed by the Governor, who shall be a patient, a family or household member of a patient or a patient advocate.

Advisory Board Duties

- Examine and analyze the statutory and regulatory law relating to medical cannabis within this state.
- Examine and analyze the law and events in other states and the nation with respect to medical cannabis.
- Accept and review written comments from individuals and organizations about medical cannabis.
- Issue written report to the Governor, the Senate and the House of Delegates that includes recommendations on:
 - Whether there should be changes to the types of medical professionals who can issue certifications to patients.
 - Whether to change, add or reduce the types of medical conditions which qualify as serious medical conditions.
 - Whether to change the form of medical cannabis permitted.
 - Whether to change, add or reduce the number of growers, processors or dispensaries.
 - How to ensure affordable patient access to medical cannabis.
 - Whether to permit medical cannabis to be dispensed in dry leaf or plant form, for administration by vaporization.

Advisory Board Operation

- The initial members appointed by the Governor have terms of 4 years.
- Staggered terms for other appointees to be for periods of one, two, three or four years so that terms of all the members do not end at the same time.
- The Commissioner serves as Chair of the Board.
- A quorum, for purposes of organizing, conducting business and fulfilling Board duties, is constituted as a majority of the Board members in attendance.
- A member who fails to attend three consecutive meetings shall be deemed to have vacated their appointment unless excused by the Commissioner for good cause.
- Board meetings may be attended electronically.

Advisory Board Compensation

- Members will not receive compensation.
- Reasonable reimbursement for travel, hotel and other necessary expenses incurred in the performance of their duties.

Recommendations and Final Report

- Bureau may incorporate the recommendations into proposed legislative rules for consideration by the Legislature.
- The Commissioner is required to issue notice in the State Register within 12 months of the receiving Board's report.
- The notice will include recommendations of the Board and state the specific reasons for the Commissioner's decisions on each of the Board's recommendations.

Contact Information

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West Virginia Office of Medical Cannabis Structure

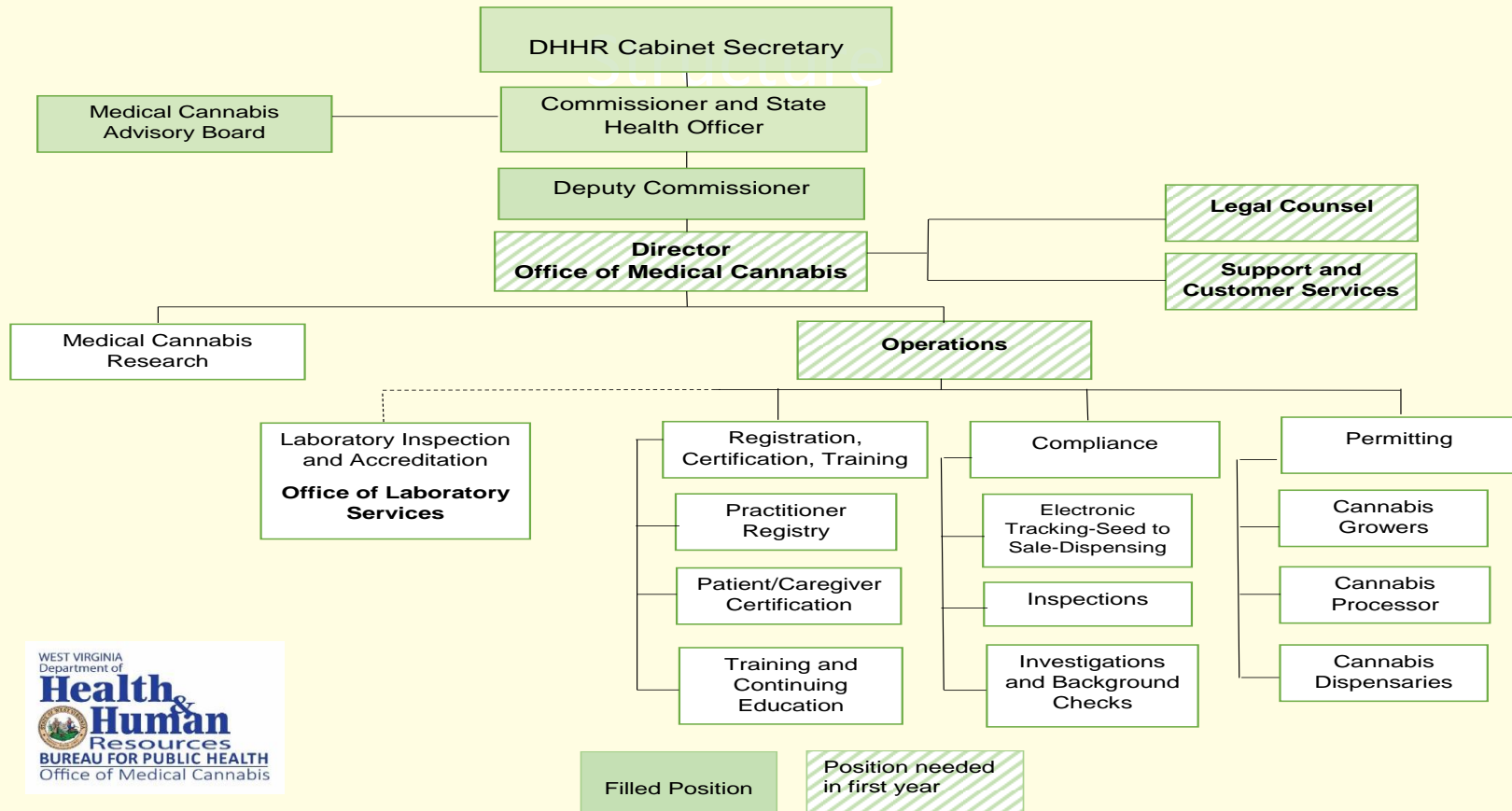
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Office of Medical Cannabis Structure

Office of Medical Cannabis



Office of Medical Cannabis Milestones

- Establish Medical Cannabis Program Start Up Structure within the West Virginia Department of Health and Human Resources, Bureau for Public Health (BPH)
- Implement a Medical Cannabis Act website
- Confirm Medical Cannabis Advisory Board Membership
- Initial Advisory Board Meeting
- Finalize and Public Notice Medical Cannabis Dispensary Regions
- Complete a Population Study to Determine Dispensary Location Distribution
- File Emergency/Temporary Rules
- Complete 2-hour Training Course for Growers, Processors and Distributors
- Medical Cannabis Grower, Processor, Dispensary Permit Program Operational

Office of Medical Cannabis Milestones (Cont.)

- Applications for Growers, Processors and Dispensaries Available
- File Legislative Rules for Growers, Processors and Dispensaries
- Complete 4-hour Training Course for Physician Prescribers
- Electronic Seed to Sale Tracking Procured Tested and Operational
- Finalize Physician Registry
- Electronic Physician Registry active
- Reciprocity Agreements in place with surrounding states as necessary
- Draft Report to Legislature and Governor available for public comment
- Submit a report to Legislature and Governor
- Electronic Patient Registry System active
- Patient and Caregiver Identification Cards available

Office of Medical Cannabis – First Year Work Plan

Objectives	Code Citation
<p>Activity/Action: Establish draft start up organizational structure and long term tentative structure</p> <p>Justification: Required</p>	16A-3-1(a)
<p>Activity/Action: Identify all members of the Advisory Board and convene meeting</p> <p>Justification: Required</p>	16A-11-1
<p>Activity/Action: Draft position description for Office Director and key staff</p> <p>Justification: Required/necessary for Office of Medical Cannabis</p>	16A-3-1(a)
<p>Activity/Action: Conduct cost analysis of implementing Medical Cannabis Act; FY 2019 funds needed through improvement; supplemental FY 2018 funds for personnel and procurement</p> <p>Justification: Required</p>	16A-3-1(a)
<p>Activity/Action: Draft plan for conducting population study (patient health study/survey), oversee implementation and compile results</p> <p>Justification: Required</p>	16A-6-3(d)

Office of Medical Cannabis – First Year Work Plan (Cont.)

Objectives	Code Citation
<p>Activity/Action: Draft Emergency Rule for Laboratory certification, inspection and testing Justification: Required</p>	16A-3-1(b)
<p>Activity/Action: Procure electronic seed to sale agency facing tracking system Justification: Tracking required</p>	Cannabis Tracking 16A-7-1
<p>Activity/Action: Procedure for Certification of Trainers and Course Content for 2-hour grower, processor, dispensary training course Justification: Required</p>	16A-3-1(a)(7)
<p>Activity/Action: Procedure for Certification of Trainers and Course Content for 4-hour training course for physicians Justification: Required</p>	16A-3-1(a)(6)
<p>Activity/Action: Develop application/establish review and scoring process for Grower Permit Application Justification: Required</p>	Medical Cannabis Organizations 16A-6-2
<p>Activity/Action: Develop application/establish review and scoring process for Processor Permit Application Justification: Required</p>	Medical Cannabis Organizations 16A-6-2

Office of Medical Cannabis – First Year Work Plan (Cont.)

Objectives	Code Citation
<p>Activity/Action: Develop application/establish review and scoring process for Dispensary Permit Application Justification: Required</p>	<p>Medical Cannabis Organizations 16A-6-2</p>
<p>Activity/Action: Develop and implement Physician Registry and any associated rules or procedures Justification: Required</p>	<p>16A-4-1</p>
<p>Activity/Action: Develop/Implement Patient Registry, card issuance and associated rules or procedures Justification: Required</p>	<p>16A-5-1</p>
<p>Activity/Action: Obtain written approval from all local boards of health in counties and county commissions where a grower, processor or dispensary permit may be located. Justification: Required</p>	<p>16A-6-3(d)(6) 16A-6-13(b)</p>
<p>Activity/Action: Public notice WV Grower Permit Application availability Justification: Required</p>	<p>16A-6-2</p>
<p>Activity/Action: Public notice WV Processor Permit Application availability Justification: Required</p>	<p>16A-6-2</p>

Office of Medical Cannabis – First Year Work Plan (Cont.)

Objectives	Code Citation
Activity/Action: Public notice WV Processor Permit Application availability Justification: Required	16A-6-2
Activity/Action: Public notice WV Dispensary Permit Application availability Justification: Required	16A-6-2
Activity/Action: Seed to Sale tracking final testing and operational Justification: Required	16A-7-1
Activity/Action: Initiate review, scoring and issuance of permits for growers, processors, dispensaries Justification: Required	16A-6-2
Activity/Action: Develop application for laboratory certification and public notice availability Justification: Required	16A-7-4
Activity/Action: Issue Laboratory Certifications and initiate inspections Justification: Required	16A-7-4

Contact Information

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