

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 4345

BY DELEGATES MOORE, PUSHKIN, UPSON, HILL,
PAYNTER, DEAN, WHITE, FOLK, LANE, WALTERS AND
MCGEEHAN

[Reported February 23, 2018.]

1 A BILL to amend and reenact §16A-4-3 of the Code of West Virginia, 1931, as amended; to amend
2 and reenact §16A-6-13 of said code; and to amend and reenact §16A-16-1 of said code,
3 all relating to medical cannabis; adding requirements for practitioners to issue a
4 certification; adding a requirement that practitioners provide an attestation; increasing the
5 number of permits that the bureau may issue for growers, processors and dispensaries of
6 medical cannabis; permitting a grower to be a processor and a processor to be a grower;
7 allowing growers and processors to be dispensaries; permitting dispensaries to be
8 growers and processors and authorizing the bureau to implement a process for pre-
9 registration.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. PRACTITIONERS.

§16A-4-3. Issuance of certification.

1 (a) *Conditions for issuance.* — A certification to use medical cannabis may be issued by
2 a practitioner to a patient if all of the following requirements are met:

3 (1) The practitioner has been approved by the bureau for inclusion in the registry and has
4 a valid, unexpired, unrevoked, unsuspended license to practice medicine in this state at the time
5 of the issuance of the certification.

6 (2) The practitioner has determined that the patient has a serious medical condition and
7 has included the condition in the patient's health care record.

8 (3) The patient is under the practitioner's continuing care for the serious medical
9 condition.

10 (4) In the practitioner's professional opinion and review of past treatments, the practitioner
11 determines the patient is likely to receive therapeutic or palliative benefit from the use of medical
12 cannabis, and other treatments, including treatments involving opioids, have proven ineffective or
13 otherwise are contraindicated.

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

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

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

21 (b) *Contents.* — The certification shall include:

22 (1) The patient's name, date of birth and address.

23 (2) The specific serious medical condition of the patient.

24 (3) A statement by the practitioner that the patient has a serious medical condition and
25 the patient is under the practitioner's continuing care for the serious medical condition.

26 (4) The date of issuance.

27 (5) The name, address, telephone number and signature of the practitioner.

28 (6) Any requirement or limitation concerning the appropriate form of medical cannabis
29 and limitation on the duration of use, if applicable, including whether the patient is terminally ill.

30 (7) A statement by the practitioner attesting that he/she has performed the requirements
31 contained in subsection (a) of the section on a form to be issued by the West Virginia Department
32 of Health and Human Resources, Bureau for Public Health.

33 (c) *Consultation.* — (1) A practitioner shall review the prescription drug monitoring
34 program prior to:

35 (A) Issuing a certification to determine the controlled substance history of a patient.

36 (B) Recommending a change of amount or form of medical cannabis.

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

39 (d) *Other access by practitioner.* — A practitioner may access the prescription drug
40 monitoring program to do any of the following:

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

43 (2) Allow the practitioner to review the patient’s controlled substance history as deemed
44 necessary by the practitioner.

45 (3) Provide to the patient, or caregiver on behalf of the patient if authorized by the patient,
46 a copy of the patient’s controlled substance history.

47 (e) *Duties of practitioner.* — The practitioner shall:

48 (1) Provide the certification to the patient.

49 (2) Provide a copy of the certification to the bureau, which shall place the information in
50 the patient directory within the bureau’s electronic database. The bureau shall permit electronic
51 submission of the certification.

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

53 (f) *Prohibition.* — A practitioner may not issue a certification for the practitioner’s own use
54 or for the use of a family or household member.

ARTICLE 6. MEDICAL CANNABIS ORGANIZATIONS.

§16A-6-13. Limitations on permits.

1 (a) The following limitations apply to approval of permits for growers, processors and
2 dispensaries, subject to the limitations in subsection (b) of this section:

3 (1) The bureau may not issue permits to more than ~~ten~~ 50 growers: *Provided*, That each
4 grower may have up to two locations per permit.

5 (2) The bureau may not issue permits to more than ~~ten~~ 50 processors.

6 (3) The bureau may not issue permits to more than ~~thirty~~ 165 dispensaries. ~~with no more~~
7 ~~than five in any region~~

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

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

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

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

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

15 (9) ~~A grower or a processor may not be a dispensary~~ A grower may be a processor, and
16 a processor may be a grower. Growers and processors may be dispensaries. Dispensaries may
17 be growers and processors.

18 (b) Before a permit may be issued, the bureau shall obtain the following:

19 (1) A written approval from the board of health for the county in which the permit is to be
20 located and operate business.

21 (2) A written statement from the county commission for the county in which the permit is
22 to be located and conduct business that the county has not voted, pursuant to §16A-7-6 of this
23 code to disapprove a medical cannabis organization to be located or operate within the county.

ARTICLE 16. EFFECTIVE DATE.

§16A-16-1. Effective date.

1 (a) Unless excepted in subsection (b) or (c), the provisions of this act shall be effective
2 upon passage.

3 (b) The provisions of article twelve of this chapter, and any other criminal provisions or
4 penalties contained in this act, shall not be effective until ninety days from passage of Senate Bill
5 386 during the 2017 regular session.

6 (c) Notwithstanding any provision of this chapter to the contrary, no identification cards
7 may be issued to patients until July 1, 2019. The Bureau may take sufficient steps through rule
8 to implement the preliminary provisions in preparation for implementation of the provisions of this
9 act.

10 (d) Notwithstanding the prohibition contained in subsection (c) on the issuance of
11 identification cards until July 1, 2019, the bureau may implement a process for the pre-
12 registration of patients with a serious medical condition who have been issued a certification
13 approved by the bureau and to a caregiver designated by the patient: *Provided, That a patient*
14 who is pre-registered must nevertheless comply with the provisions of §16A-5-1 and may not be
15 issued an identification card necessary to obtain and use medical cannabis as authorized by
16 this act until July 1, 2019.

NOTE: The purpose of this bill concerns the limitations on permits for growers, processors and dispensaries of medical cannabis. The bill increases the number of permits that the bureau may issue for growers, processors and dispensaries of medical cannabis. The bill permits a grower to be a processor and a processor to be a grower. The bill allows growers and processors to be dispensaries. The bill and permits dispensaries to be growers and processors.

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