WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

Senate Bill 752

SENATORS TAKUBO, STOLLINGS, ROMANO, AND

WOELFEL, *original sponsors*

[Originating in the Committee on the Judiciary;

reported on February 21, 2020]

A BILL to repeal §16A-4-2 of the Code of West Virginia, 1931, as amended; to repeal §16A-6-4 of said code; to repeal §16A-13-1 of said code; to amend and reenact §16A-2-1 of said code; to amend and reenact §16A-3-1, §16A-3-2, §16A-3-3, and §16A-3-5 of said code; to amend and reenact §16A-4-3 and §16A-4-5 of said code; to amend and reenact §16A-5-1 of said code; to amend and reenact §16A-6-2, §16A-6-3, §16A-6-6, §16A-6-12, and §16A-6-13 of said code; to amend said code by adding thereto a new section, designated §16A-6-14; to amend and reenact §16A-7-5 of said code; to amend and reenact §16A-8-2 of said code; to amend and reenact §16A-12-2, §16A-12-7, and §16A-12-8 of said code; to amend and reenact §16A-13-2, §16A-13-3, §16A-13-4, §16A-13-5, §16A-13-6, and §16A-13-8 of said code; to amend and reenact §16A-14-1, §16A-14-2, and §16A-14-3 of said code; and to amend and reenact §16A-15-2 and §16A-15-4 of said code, all relating to medical cannabis generally; defining terms; authorizing the Commissioner of the Bureau for Public Health to approve additions to the forms of lawful medical cannabis which may be used and the conditions for which medical cannabis use is authorized pursuant to recommendations of the Medical Cannabis Advisory Board; adding certain qualifying medical conditions; removing requirement for training course for physicians; requiring an eight-hour training course for principals and employees; providing unlawful use of medical cannabis is subject to the criminal code; removing restriction on dispensing dry leaf or plant form medical cannabis to a patient by a caregiver; clarifying public officials and family members who cannot own or operate medical cannabis organizations; requiring employees of medical cannabis organizations to be registered and establishing a registration fee; authorizing the commissioner to enter into reciprocity agreements with other jurisdictions for terminally ill cancer patients; authorizing the commissioner to promulgate rules relating to 30-day supplies of medical cannabis; lowering fee to for replacement patient identification card; modifying criminal background check requirement for 5 percent ownership or less in privately held business entity and for publicly held

entities; modifying permit fee for each medical cannabis organization location; removing the residency requirement for medical cannabis organization owners, operators, shareholders, partners, and members; adding certain convictions which preclude participation as or in a medical cannabis organization; clarifying that the Tax Division of the Department of Revenue is charged with monitoring medical cannabis pricing; removing requirement that the bureau must obtain approval of local boards of health for medical cannabis organizations; modifying and clarifying the distance a medical cannabis dispensary must be from certain educational facilities; modifying and clarifying entities engaged in medical cannabis research subject to nondisclosure provisions; removing requirement that certain federal agencies must preapprove medical cannabis research projects; authorizing accredited colleges, universities, and medical schools to be eligible to engage in approved medical cannabis research; clarifying that the governing body of an academic clinical research center must approve the institution's participation in a medical cannabis research project; requiring report of research sent to the bureau be made public within 180 days; increasing the number of clinical registrants; clarifying that only those public officials directly involved in the administrations of the medical cannabis program are prohibited from having a monetary interest in a medical cannabis organization; and adding accredited educational institutions engaged in research to the list of persons, entities, and organizations exempt from licensure, discipline for lawful use, possession, or manufacture of medical cannabis.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. DEFINITIONS.

§16A-2-1. Definitions.

(a) The following words and phrases when used in this chapter ~~shall~~ have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) "Act" means the West Virginia Medical Cannabis Act and the provisions contained in

§60A-1-101 *et seq*. of this code.

(2) "Advisory board" means the advisory board established under §16A-11-1 *et seq.* of this code.

(3) "Bureau" means the Bureau for Public Health within the West Virginia Department of Health and Human Resources.

(4) "Caregiver" means the individual designated by a patient or, if the patient is under 18 years of age, an individual authorized under §16A-5-1 *et seq.* of this code, to deliver medical cannabis.

(5) "Certified medical use" means the acquisition, possession, use, or transportation of medical cannabis by a patient, or the acquisition, possession, delivery, transportation, or administration of medical cannabis by a caregiver, for use as part of the treatment of the patient's serious medical condition, as authorized in a certification under this act, including enabling the patient to tolerate treatment for the serious medical condition.

(6) "Change in control" means the acquisition by a person or group of persons acting in concert of a controlling interest in an applicant or permittee either all at one time or over the span of a 12-consecutive-month period.

(7) "Commissioner" means the Commissioner of the Bureau for Public Health.

(8) "Continuing care" means treating a patient, in the course of which the practitioner has completed a full assessment of the patient's medical history and current medical condition, including an in-person consultation with the patient, and is able to document and make a medical diagnosis based upon the substantive treatment of the patient.

(9) "Controlling interest" means:

(A) For a publicly traded entity, voting rights that entitle a person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of five percent or more of the securities of the publicly traded entity; or

(B) For a privately held entity, the ownership of any security in the entity.

(10) “Dispensary” means a person, including a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, which holds a permit issued by the bureau to dispense medical cannabis. The term does not include a health care medical cannabis organization as defined in §16A-13-1 *et seq.* of this code.

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

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

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

(14) “Form of medical cannabis” means the characteristics of the medical cannabis recommended or limited for a particular patient, including the method of consumption and any particular dosage, strain, variety and quantity, or percentage of medical cannabis or particular active ingredient.

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

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

(17) “Grower/processor” means either a grower or a processor.

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

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

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

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

(22) “Patient” means an individual who:

(A) Has a serious medical condition;

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

(C) Is a resident of this state.

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

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

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

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

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

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

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

(30) “Serious medical condition” means any of the following, as has been diagnosed as part of a patient’s continuing care:

(A) Cancer;

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

(C) Amyotrophic lateral sclerosis;

(D) Parkinson’s disease;

(E) Multiple sclerosis;

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

(G) Epilepsy;

(H) Neuropathies;

(I) Huntington’s disease;

(J) Crohn’s disease;

(K) Post-traumatic stress disorder;

(L) Intractable seizures;

(M) Sickle cell anemia;

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

(O) Ulcerative colitis;

(P) Opioid use disorder;

~~(O)~~ (Q) ~~Terminally ill~~ A terminal illness; or

~~(P)~~ (R) Any medical condition for which the commissioner approves the use of medical cannabis pursuant to a recommendation to do so by the advisory board.

(31) ~~“Terminally ill~~ “Terminal illness” means a medical prognosis of life expectancy of approximately one year or less if the illness runs its normal course.

ARTICLE 3. MEDICAL CANNABIS PROGRAM.

§16A-3-1. Establishment of program.

(a) A medical cannabis program for patients suffering from serious medical conditions is established. The program shall be implemented and administered by the bureau. The bureau shall:

(1) Issue permits to medical cannabis organizations to authorize them to grow, process, or dispense medical cannabis and ensure their compliance with this act;

(2) Register practitioners and ensure their compliance with this act;

(3) Have regulatory and enforcement authority over the growing, processing, sale, and use of medical cannabis in this state;

(4) Establish and maintain an electronic database to include activities and information relating to medical cannabis organizations, certifications, and identification cards issued, practitioner registration, and electronic tracking of all medical cannabis as required under this act to include:

(A) ~~Ensurance~~ Assurance that medical cannabis is not diverted or otherwise used for unlawful purposes by a practitioner or medical cannabis organization;

(B) Ability to establish the authenticity of identification cards;

(C) Recording recommended forms of medical cannabis, if any, provided in a certification filed by the practitioner;

(D) Monitoring all growth, transfer, possession, processing, testing, and dispensing of medical cannabis in this state;

(E) The tracking system under §16A-7-1 *et seq.* of this code must include information under §16A-8-1 of this code and any other information required by the bureau to be used by the bureau and dispensaries to enable a dispensary to lawfully provide medical cannabis. The tracking system and database shall be capable of providing information in real time. The database shall be capable of receiving information from a dispensary regarding the disbursement of medical

cannabis to patients and caregivers. This information shall be immediately accessible to the bureau and other dispensaries to inhibit diversion and ensure compliance with this act;

(5) Maintain a directory of patients and caregivers approved to use or assist in the administration of medical cannabis within the bureau's database;

~~(6) Develop a four-hour training course for physicians regarding the latest scientific research on medical cannabis, including the risks and benefits of medical cannabis and other information deemed necessary by the bureau. Successful completion of the course shall be approved as continuing education credits as determined by:~~

~~(A) The State Board of Medicine.~~

~~(B) The State Board of Osteopathic Medicine~~

~~(7)~~ (6) Develop ~~a two-hour~~ an eight-hour course for the principals and employees of a medical cannabis organization who either have direct contact with patients or caregivers or who physically handle medical cannabis. Employees must successfully complete the course no later than 90 days after commencing employment. Principals must successfully complete the course prior to commencing initial operation of the medical cannabis organization. The subject matter of the course shall include the following:

(A) Methods to recognize and report unauthorized activity, including diversion of medical cannabis for unlawful purposes and falsification of identification cards;

(B) Proper handling of medical cannabis and recordkeeping;

(C) The latest scientific research on medical cannabis, including the risks and benefits of medical cannabis; and

~~(C)~~ (D) Any other subject required by the bureau;

~~(8)~~ (7) Develop enforcement procedures, including announced and unannounced inspections of facilities of the grower/processors and dispensaries and all records of the medical cannabis organizations;

~~(9)~~ (8) Establish a program to authorize the use of medical cannabis to conduct medical

research relating to the use of medical cannabis to treat serious medical conditions, including the collection of data and the provision of research grants;

~~(10)~~ (9) Establish and maintain public outreach programs about the medical cannabis program, including:

(A) A dedicated telephone number for patients, caregivers, and members of the public to obtain basic information about the dispensing of medical cannabis under this act; and

(B) A publicly accessible Internet website with similar information;

~~(11)~~ (10) Collaborate as necessary with other state agencies or contract with third parties as necessary to carry out the provisions of this act;

~~(12)~~ (11) Determine the number and type of medical cannabis products to be produced by a grower/processor and dispensed by a dispensary;

~~(13)~~ (12) Develop recordkeeping requirements for all books, papers, any electronic database or tracking system data, and other information of a medical cannabis organization. Information shall be retained for a minimum period of four years unless otherwise provided by the bureau; and

~~(14)~~ (13) Restrict the advertising and marketing of medical cannabis, which shall be consistent with the federal rules and regulations governing prescription drug advertising and marketing.

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

§16A-3-2. Lawful use of medical cannabis.

(a) Notwithstanding any provision of law to the contrary, the use or possession of medical cannabis as set forth in this act is lawful within this state, subject to the following conditions:

(1) Medical cannabis may only be dispensed to:

(A) A patient who receives a certification from a practitioner and is in possession of a valid identification card issued by the bureau; and

(B) A caregiver who is in possession of a valid identification card issued by the bureau.

(2) Subject to rules promulgated under this act, medical cannabis may only be dispensed to a patient or caregiver in the following forms:

(A) Pill;

(B) Oil;

(C) Topical forms, including gels, creams, or ointments;

(D) A form medically appropriate for administration by vaporization or nebulization, excluding dry leaf or plant form until dry leaf or plant forms become acceptable under rules adopted by the bureau;

(E) Tincture;

(F) Liquid; ~~or~~

(G) Dermal patch; or

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

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

~~(4)~~ (3) An individual may not act as a caregiver for more than five patients;

~~(5)~~ (4) A patient may designate up to two caregivers at any one time;

~~(6)~~ (5) Medical cannabis that has not been used by the patient shall be kept in the original package in which it was dispensed;

~~(7)~~ (6) A patient or caregiver shall possess an identification card whenever the patient or caregiver is in possession of medical cannabis; and

~~(8)~~ (7) Products packaged by a grower/processor or sold by a dispensary ~~shall~~ may only be identified by the name of the grower/processor, the name of the dispensary, the form and

species of medical cannabis, and the percentage of tetrahydrocannabinol and cannabinol contained in the product.

§16A-3-3. Unlawful use of medical cannabis.

~~(a) Except as provided in section two of this article, section four of article seven, article thirteen or article fourteen of this chapter, the use of medical cannabis is unlawful and shall, in addition to any other penalty provided by law, be deemed a violation of the Uniform Controlled Substances Act under chapter sixty-a of this code~~

~~(b) It shall be unlawful to:~~

~~(1) Smoke medical cannabis.~~

~~(2) Except as provided under subsection (c), incorporate medical cannabis into edible form or sell in edible form.~~

~~(3) Grow medical cannabis unless the grower/processor has received a permit from the bureau under this act.~~

~~(4) Grow or dispense medical cannabis unless authorized as a health care medical cannabis organization under article thirteen of this chapter.~~

~~(5) Dispense medical cannabis unless the dispensary has received a permit from the bureau under this act.~~

~~(c) *Edible medical cannabis*. — Nothing in this act shall be construed to preclude the incorporation of medical cannabis into edible form by a patient or a caregiver in order to aid ingestion of the medical cannabis by the patient~~

Except as provided in this chapter, the provisions of chapter 60A of this code relating to cannabis remain in full force and effect.

§16A-3-5. Reciprocity for terminally ill cancer patients.

(a) The ~~bureau~~ commissioner may enter into reciprocity agreements with any ~~states that have~~ state that has comparable requirements for the use and lawful purchase of medical cannabis in a manner consistent with the provisions of this article to allow ~~terminally ill cancer~~ medical

cannabis patients to purchase medical cannabis in another state.

(b) The commissioner may enter into reciprocity agreements with any state that has comparable requirements for medical cannabis patients and caregivers to possess, transport, use, and transfer without renumeration, medical cannabis in this and any other such approved state.

(c) Nothing in this chapter authorizes patients or caregivers to sell cannabis in any form.

ARTICLE 4. PRACTITIONERS.

§16A-4-2. Practitioner restrictions.

[Repealed.]

§16A-4-3. Issuance of certification.

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

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

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

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

(4) In the practitioner's professional opinion and review of past treatments, the practitioner determines the patient is likely to receive therapeutic or palliative benefit from the use of medical cannabis;

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

(6) The practitioner has determined that the patient is experiencing serious pathophysiological discomfort, disability, or dysfunction that may be attributable to a serious medical condition and may possibly benefit from cannabis treatment when current medical

research exhibits a moderate or higher probability of efficacy; and

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

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

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

(2) The specific serious medical condition of the patient;

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

(4) The date of issuance;

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

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

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

(c) *Consultation*. —

(1) A practitioner shall review the prescription drug monitoring program prior to:

(A) Issuing a certification to determine the controlled substance history of a patient; or

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

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

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

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

(2) Allow the practitioner to review the patient's controlled substance history as deemed necessary by the practitioner; and

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

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

(1) Provide the certification to the patient;

(2) Provide a copy of the certification to the bureau, which shall place the information in the patient directory within the bureau's electronic database. The bureau shall permit electronic submission of the certification; and

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

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

§16A-4-5. Duration.

Receipt and possession of medical cannabis by a patient or caregiver from a dispensary may not exceed ~~a 30-day supply of individual doses~~ an amount determined by the commissioner to be appropriate for a 30-day period, by the appropriate measure of volume, weight or concentration level. During the last seven days of any 30-day period during the term of the identification card, a patient may obtain and possess a 30-day supply for the subsequent 30-day period. Additional 30-day supplies may be provided in accordance with this section for the duration of the authorized period of the identification card unless a shorter period is indicated on the certification.

ARTICLE 5. PATIENTS.

§16A-5-1. Identification cards.

(a) *Issuance*. — The bureau may issue an identification card to a patient who has a certification approved by the bureau and to a caregiver designated by the patient. An identification card issued to a patient shall authorize the patient to obtain and use medical cannabis as authorized by this act. An identification card issued to a caregiver shall authorize the caregiver to obtain medical cannabis on behalf of the patient.

(b) *Procedure for issuance*. — The bureau shall develop and implement procedures for:

(1) Review and approval of applications for identification cards;

(2) Issuance of identification cards to patients and caregivers; and

(3) Review of the certification submitted by the practitioner and the patient.

(c) *Application*. — A patient or a caregiver may apply, in a form and manner prescribed by the bureau, for issuance or renewal of an identification card. A caregiver must submit a separate application for issuance or renewal. Each application must include:

(1) The name, address, and date of birth of the patient;

(2) The name, address, and date of birth of a caregiver;

(3) The certification issued by the practitioner;

(4) The name, address, and telephone number of the practitioner and documentation from the practitioner that all of the requirements of §16A-4-3(a) of this code have been met;

(5) A $50 processing fee. The bureau may waive or reduce the fee if the applicant demonstrates financial hardship;

(6) The signature of the applicant and date signed; and

(7) Other information required by the bureau.

(d) *Forms*. — Application and renewal forms shall be available on the bureau's publicly accessible Internet website.

(e) *Expiration*. — ~~An~~ The identification card of a patient or caregiver shall expire within one year from the date of issuance, upon the death of the patient, or as otherwise provided in this section.

(f) *Separate cards to be issued*. — The bureau shall issue separate identification cards for eligible patients and caregivers as soon as reasonably practicable after receiving completed applications, unless it determines that an application is incomplete or factually inaccurate, in which case it shall promptly notify the applicant.

(g) *Change in name or address*. — A patient or caregiver who has been issued an

identification card shall notify the bureau within 10 days of any change of name or address. In addition, the patient shall notify the bureau within 10 days if the patient no longer has the serious medical condition noted on the certification.

(h) *Lost or defaced card*. — In the event of a lost, stolen, destroyed, or illegible identification card, the patient or caregiver shall apply to the bureau within 10 business days of discovery of the loss or defacement of the card for a replacement card. The application for a first replacement card shall be on a form furnished by the bureau and accompanied by a ~~$25~~ $10 fee. The bureau may establish higher fees for issuance of second and subsequent replacement identification cards. The bureau may waive or reduce the fee in cases of demonstrated financial hardship. The bureau shall issue a replacement identification card as soon as practicable. A patient or caregiver may not obtain medical cannabis until the bureau issues the replacement card.

ARTICLE 6. MEDICAL CANNABIS ORGANIZATIONS.

§16A-6-2. Permits.

(a) *Application.* — An application for a grower, processor, or dispensary permit to grow, process, or dispense medical cannabis shall be in a form and manner prescribed by the bureau and shall include:

(1) Verification of all principals, operators, financial backers, or employees of a medical cannabis grower/processor or dispensary;

(2) A description of responsibilities as a principal, operator, financial backer, or employee;

(3) Any release necessary to obtain information from governmental agencies, employers, and other organizations;

(4) A criminal history record check. Medical cannabis organizations applying for a permit shall submit fingerprints of principals, financial backers, operators, and employees to the West Virginia State Police for the purpose of obtaining criminal history record checks and the West Virginia State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of

Investigation for the purpose of verifying the identity of the principals, financial backers, operators, and employees and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to principals, financial backers, operators, and employees obtained under this section by the bureau may be interpreted and used by the bureau only to determine the principal's, financial backer's, operator's, and employee's character, fitness, and suitability to serve as a principal, financial backer, operator, and employee under this act. This subdivision ~~shall~~ does not apply to an owner of securities in a publicly traded corporation or an owner of five percent or less in a privately held business entity if the bureau determines that the owner of the securities is not substantially involved in the activities of the medical cannabis organization;

(5) Details relating to a similar license, permit, or other authorization obtained in another jurisdiction, including any suspensions, revocations, or discipline in that jurisdiction;

(6) A description of the business activities in which it intends to engage as a medical cannabis organization;

(7) A statement that the applicant:

(A) Is of good moral character. For purposes of this paragraph, an applicant shall include each financial backer, operator, employee, and principal of the medical cannabis organization;

(B) Possesses the ability to obtain in an expeditious manner the right to use sufficient land, buildings, and other premises and equipment to properly carry on the activity described in the application and any proposed location for a facility;

(C) Is able to maintain effective security and control to prevent diversion, abuse, and other illegal conduct relating to medical cannabis; and

(D) Is able to comply with all applicable state laws and rules relating to the activities in which it intends to engage under this act;

(8) The name, residential address, and title of each financial backer and principal of the applicant. Each individual, or lawful representative of a legal entity, shall submit an affidavit with

the application setting forth:

(A) Any position of management or ownership during the preceding 10 years of a controlling interest in any other business, located inside or outside this state, manufacturing or distributing controlled substances; and

(B) Whether the person or business has been convicted of a criminal offense graded higher than a summary offense or has had a permit relating to medical cannabis suspended or revoked in any administrative or judicial proceeding; and

(9) Any other information the bureau may require.

(b) *Notice.* — An application shall include notice that a false statement made in the application is punishable under the applicable provisions of law.

§16A-6-3. Granting of permit.

(a) The bureau may grant or deny a permit to a grower, processor, or dispensary. In making a decision under this subsection, the bureau shall determine that:

(1) The applicant will maintain effective control of and prevent diversion of medical cannabis;

(2) The applicant will comply with all applicable laws of this state;

~~(3) The applicant is a resident of this state as defined in §29-22B-327 of this code or is organized under the law of this state. If the applicant is a business entity, majority ownership in the business entity must be held by a state resident or residents~~

~~(4)~~ (3) The applicant is ready, willing, and able to properly carry on the activity for which a permit is sought;

~~(5)~~ (4) The applicant possesses the ability to obtain in an expeditious manner sufficient land, buildings, and equipment to properly grow, process, or dispense medical cannabis;

~~(6)~~ (5) It is in the public interest to grant the permit;

~~(7)~~ (6) The applicant, including ~~the~~ any financial backer or principal, is of good moral character and has the financial fitness necessary to operate;

~~(8)~~ (7) The applicant is able to implement and maintain security, tracking, recordkeeping, and surveillance systems relating to the acquisition, possession, growth, manufacture, sale, delivery, transportation, distribution, or the dispensing of medical cannabis as required by the bureau;

~~(9)~~ (8) The applicant satisfies any other conditions as determined by the bureau.

(b) *Nontransferability*. — A permit issued under this chapter ~~shall be~~ is nontransferable.

(c) *Privilege*. — The issuance or renewal of a permit ~~shall be~~ is a revocable privilege.

(d) *Dispensary location*. — The bureau shall consider the following when issuing a dispensary permit:

(1) Geographic location;

(2) Regional population;

(3) The number of patients suffering from serious medical conditions;

(4) The types of serious medical conditions;

(5) Access to public transportation;

(6) Approval by local health departments;

(7) Whether the county has disallowed the location of a grower, processor, or dispensary; and

(8) Any other factor the bureau deems relevant.

(e) *Application procedure*. — The bureau shall establish a procedure for the fair and objective evaluation of all applications for all medical cannabis organization permits. ~~Such~~ The evaluations shall score each applicant numerically according to standards set forth in this chapter.

§16A-6-4. Notice.

[Repealed.]

§16A-6-6. Fees and other requirements.

The following apply:

(1) For a grower or processor:

(A) An initial application fee in the amount of $5,000 shall be paid. The fee is nonrefundable;

(B) A fee for a permit as a grower/processor in the amount of $50,000 shall be paid. The permit shall be valid for one year. Applicants shall submit the permit fee at the time of submission of the application. The fee shall be returned if the permit is not granted;

(C) A renewal fee for the permit as a grower/processor in the amount of $5,000 shall be paid. ~~and shall cover renewal for all locations~~ The renewal fee shall be returned if the renewal is not granted;

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration; and

(E) All fees shall be paid by certified check or money order.

(2) For a dispensary:

(A) An initial application fee in the amount of $2,500 shall be paid. The fee is nonrefundable;

(B) A permit fee for a dispensary ~~shall be~~ is $10,000. ~~for each location~~ The period of the permit is one year. An applicant shall submit the permit fee at the time of submission of the application. The fee shall be returned if the application is not granted;

(C) A renewal fee for the permit as a dispensary in the amount of $2,500 shall be paid. The fee shall be returned if the renewal is not granted; ~~and shall cover renewal for all locations~~

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration; and

(E) All fees shall be paid by certified check or money order.

(3) A fee of $250 ~~shall be~~ is required when amending the application to indicate relocation within this state or the addition or deletion of approved activities by the medical cannabis organization.

(4) Fees payable under this section shall be deposited into the fund.

§16A-6-12. Convictions prohibited.

(a) The following individuals may not hold volunteer positions or positions with remuneration in or be affiliated with a medical cannabis organization, including a clinical registrant under §16A-14-1 *et seq.* of this code, in any way if the individual has been convicted of any felony criminal offense related to the sale or possession of illegal drugs, narcotics, or controlled substances, ~~or conspiracy thereof~~ convicted of any provision of §61-5A-1, *et seq.* of this code or substantially similar laws of other states or the federal government, convicted of any felony offense involving fraud, deceit, crimes against the government, crimes of dishonesty, or conspiracy to commit any of the foregoing offenses, or convicted of any offense requiring a person to register as a sex offender in this state, or to register on the state child abuse registry:

(1) Financial backers;

(2) Principals; or

(3) Employees.

(b) If an individual seeking to hold a volunteer position or position with remuneration in or be affiliated with a dispensary is otherwise prohibited under subsection (a) of this section, such individual may seek a waiver from the bureau in order to hold such a position with a dispensary. The allowance of the waiver, including any additional restrictions or conditions as part of the waiver, ~~shall be in~~ is at the discretion of the bureau: *Provided*, That under no circumstances may a person prohibited under subsection (a) of this section serve as a principal, financial backer, or manager who oversees conduct of the dispensary.

§16A-6-13. Limitations on permits.

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

(1) The bureau may not issue permits to more than 10 growers: *Provided*, That each grower may have up to two locations per permit;

(2) The bureau may not issue permits to more than 10 processors;

(3) The bureau may not issue permits to more than 100 dispensaries;

(4) The bureau may not issue more than 10 individual dispensary permits to one person;

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

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

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

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

(9) A person may hold a grower permit, a processor permit, and a dispensary permit, or any combination thereof, concurrently.

(b) Before a permit may be issued, the bureau shall obtain ~~the following: (1) A written approval from the board of health for the county in which the permit is to be located and operate business.(2)~~ 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, pursuant to §16A-7-6 of this code, to disapprove a medical cannabis organization to be located or operate within the county.

§16A-6-14. Employee licensure requirements.

(a) Any person employed by a medical cannabis organization involved in the growing, processing, or dispensing of medical cannabis shall be 18 years of age or older and registered with the bureau.

(b) The bureau shall establish a registry of medical cannabis organization employees and may charge a registration fee not to exceed $25 for each registrant.

ARTICLE 7. MEDICAL CANNABIS CONTROLS.

§16A-7-5. Prices.

The bureau and the Tax Division of the Department of Revenue shall monitor the price of medical cannabis sold by growers, processors, and by dispensaries, including a per-dose price. If the bureau and the Tax Division of the 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 the bureau and the Tax Division of ~~and~~ the Department of Revenue determine that the prices become unreasonable or excessive following the expiration of a six-month cap, additional caps may be imposed for periods not to exceed six months.

ARTICLE 8. DISPENSARIES.

§16A-8-2. Facility requirements.

(a) *General rule*. —

(1) A dispensary may only dispense medical cannabis in an indoor, enclosed, secure facility located within this state, as determined by the bureau.

(2) A dispensary may not operate on the same site as a facility used for growing and processing medical cannabis.

(3) A dispensary may not be located within 1,000 feet of ~~the property line of~~ a public, private, or parochial school or a daycare center, measured from front door to front door, along the street or streets.

(4) A dispensary may, pursuant to bureau conditions and limitations, sell medical devices and instruments which are needed to administer medical cannabis under this act.

(b) Adjustment or waiver of prohibition. — The bureau may amend a prohibition under ~~subsection (a)(3)~~ subdivision (3), subsection (a) of this section if it is shown by clear and convincing evidence that the amendment is necessary to provide adequate access to patients. An amendment may include additional security, physical plant of a facility, or other conditions necessary to protect children.

ARTICLE 12. OFFENSES RELATED TO MEDICAL CANNABIS.

§16A-12-2. Criminal diversion of medical cannabis.

(a) ~~In addition to any other penalty provided by law~~ Any employee, financial backer,

operator, or principal of any qualifying entities who intentionally and knowingly sells, dispenses, trades, delivers, or otherwise provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

(b) For purposes of this section, "qualifying entity" ~~shall mean~~ means:

(1) A medical cannabis organization;

(2) A ~~health care medical cannabis organization or~~ college, university, or medical school participating in a research study under §16A-13-1 *et seq.* of this code;

(3) A clinical registrant or academic clinical research center under §16A-14-1 *et seq.* of this code; and

(4) A laboratory ~~utilized~~ used to test medical cannabis under §16A-7-4 of this code.

§16A-12-7. Disclosure of information prohibited.

(a) ~~In addition to any other penalty provided by law, any~~ An employee, financial backer, operator, or principal ~~who discloses~~ of a medical cannabis organization, an accredited college, university, or medical school engaging in approved research may not disclose, except to authorized persons for ~~official governmental~~ law-enforcement purposes, research, or health care purposes, any information related to the ~~use of medical cannabis: (1) A medical cannabis organization.(2) A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter. (3) A clinical registrant or academic clinical research center under article fourteen of this chapter.(4) An employee of the bureau~~ identity of a person holding a medical cannabis certificate.

(b) *Exception*. — Subsection (a) of this section ~~shall~~ does not apply where disclosure is permitted or required by law or by court order.

§16A-12-8. Additional penalties.

(a) *Civil penalties.* — In addition to any other remedy available to the bureau, the bureau may assess a civil penalty for a violation of this act, a rule promulgated under this act, or an order

issued under this act or rule, subject to the following:

(1) The bureau may assess a penalty of not more than $10,000 for each violation and an additional penalty of not more than $1,000 for each day of a continuing violation. In determining the amount of each penalty, the bureau shall take the following factors into consideration:

(A) The gravity of the violation;

(B) The potential harm resulting from the violation to patients, caregivers, or the general public;

(C) The willfulness of the violation;

(D) Previous violations, if any, by the person being assessed; and

(E) The economic benefit to the person being assessed for failing to comply with the requirements of this act, a rule promulgated under this act, or an order issued under this act or rule.

(2) If the bureau finds that the violation did not threaten the safety or health of a patient, caregiver, or the general public and the violator took immediate action to remedy the violation upon learning of it, the bureau may issue a written warning in lieu of assessing a civil penalty; and

(3) A person who aids, abets, counsels, induces, procures, or causes another person to violate this act, a rule promulgated under this act, or an order issued under this act or rule ~~shall be~~ is subject to the civil penalties provided under this subsection.

(b) *Sanctions*. —

(1) In addition to the penalties provided in subsection (a) of this section and any other penalty authorized by law, the bureau may impose the following sanctions:

(A) Revoke or suspend the permit of a person found to be in violation of this act, a rule promulgated under this act, or an order issued under this act or rule;

(B) Revoke or suspend the permit of a person for conduct or activity or the occurrence of an event that would have disqualified the person from receiving the permit;

(C) Revoke or suspend the registration of a practitioner for a violation of this act or a rule

promulgated or an order issued under this act or for conduct or activity which would have disqualified the practitioner from receiving a registration;

(D) Suspend a permit or registration of a person pending the outcome of a hearing in a case in which the permit or registration could be revoked;

(E) Order restitution of funds or property unlawfully obtained or retained by a permittee; or ~~or registrant~~

(F) Issue a cease and desist order.

(2) A person who aids, abets, counsels, induces, procures, or causes another person to violate this act ~~shall be~~ is subject to the sanctions provided under this subsection.

(c) *Costs of action*. — The bureau may assess against a person determined to be in violation of this act the costs of investigation of the violation.

(d) *Minor violations*. — ~~Nothing in~~ This section ~~shall be construed to~~ does not require the assessment of a civil penalty or the imposition of a sanction for a minor violation of this act if the bureau determines that the public interest will be adequately served under the circumstances by the issuance of a written warning.

ARTICLE 13. RESEARCH PROGRAM.

§16A-13-1. Definitions.

[Repealed.]

§16A-13-2. Establishment of medical cannabis research program.

(a) *Program to be established*. — The bureau shall establish and develop a research program to study the impact of medical cannabis on the treatment and symptom management of serious medical conditions. The program ~~shall~~ may not include a ~~clinical registrant~~ medical cannabis organization or academic clinical research center under §16A-14-1 *et seq.* of this code.

(b) *Bureau duties*. — The bureau shall:

(1) Review all serious medical conditions which are cited by a practitioner upon the practitioner's certification that a patient be granted an identification card;

(2) Create a database of all serious medical conditions, including comorbidities, which are cited by practitioners in the certifications of patient; ~~The database shall also include the form of medical cannabis certified to treat each serious medical condition.~~

(3) When the database contains 25 or more patients with the same serious medical condition, ~~petition the United tates Food and Drug Administration and the United States Drug Enforcement Administration for approval~~ to study the condition and the impact of medical cannabis on the condition;

(4) ~~Concurrent with the request to the United States Food and Drug Administration and United States Drug Enforcement Administration~~ Publicly announce the formation of a research study to which ~~a vertically integrated health system and a~~ an accredited college, university, or medical school within this state may submit a request to participate;

(5) ~~Upon approval of a research study by the United States Food and Drug Administration and the United States Drug Enforcement Administration, select a vertically integrated health system or systems~~ Select an accredited college, university, or medical school to conduct the research study; and ~~and designate the form or forms of medical cannabis which will be used to treat the serious medical condition~~

(6) Notify a patient who has been issued an identification card:

(A) That the patient has been selected to participate, at the patient's option, in a research study to study medical cannabis as a treatment; and

(B) Where the patient may secure medical cannabis through a health care medical cannabis organization at no cost to the patient in accordance with subsection (c) of this section.

~~(7) If the United States Food and Drug Administration and the United States Drug Enforcement Administration reject the proposal for the research study, take all reasonable steps to collect and collate data on the serious medical condition and the use of medical cannabis as a treatment for the serious medical condition and consider submitting an additional request to the United States Food and Drug Administration and United States Drug Enforcement Administration~~

~~for a research study on the same condition~~

(c) *Costs*. — The cost of the medical cannabis which is dispensed to patients in accordance with an approved research study shall be paid for by the fund.

(d) *Geographic accessibility*. — The bureau shall take into consideration the geographic location of the ~~health care~~ medical cannabis organization when assigning a patient to a ~~health care medical~~ cannabis organization for the purposes of research. The bureau shall make an effort to assign a patient to a health care medical cannabis organization that is located within 50 miles of the patient's residence.

(e) *Data*. — Any data collected by the ~~health care~~ medical cannabis organization shall be provided to the university participating in the research study for analysis.

§16A-13-3. Medical cannabis research program administration.

(a) The bureau may establish a research study for each serious medical condition. The bureau may engage accredited colleges, universities, and medical schools within this state to participate in the collection, collation, analysis, and conclusive findings of the research studies. The bureau shall, by rule, establish the procedure to be used by ~~health care~~ medical cannabis organizations participating in research with respect to:

(1) Real time inventory tracking;

(2) Real time tracking of the medical cannabis dispensed; and

(3) Recall of defective medical cannabis.

(b) *Request for distributions.* — The bureau shall establish a form and procedure for accredited colleges, universities, and medical schools selected to participate in a research study to request distributions from the fund to conduct research on medical cannabis, including administrative costs. These distributions shall also be used to pay for the cost of the medical cannabis so that it is not borne by the patient participating in the research study. The forms shall include, at a minimum, the following:

(1) The form or forms of medical cannabis to be studied; and

(2) The serious medical condition to be studied.

(c) *Research reports*. —

~~(1) A vertically integrated health system~~ An accredited college, university, or medical school engaged in research shall report to the bureau on the effectiveness of the use of medical cannabis for the treatment of the serious medical condition studied and all counterindications and noted side effects. After the accredited college, university, or medical school engaged in research reports to the bureau, the bureau shall make the report publicly available within 180 days.

~~(2) The bureau shall notify the vertically integrated health system and the university participating in the research study of the data which is required to meet the United States Food and Drug Administration's and the United States Drug Enforcement Administration's approval for the research study.~~

~~(3) The first report, including the data required under subdivision (2), shall be submitted to the bureau, and made publicly available within 180 days of the initiation of a research study for a specific serious medical condition.~~

~~(4) An annual report of the data required under subdivision (2) shall be submitted to the bureau beginning one year after the initiation of a research study for a specific serious medical condition and each year thereafter~~

§16A-13-4. Approval.

~~A vertically integrated health system~~ An accredited college, university, or medical school located in this state may petition the bureau to participate in a research study to study a serious medical condition. Approval ~~of the vertically integrated health system as a health care medical cannabis organization~~ by the bureau shall authorize access ~~within a region under subsection (d), section three, article six of this chapter~~ to medical cannabis for all patients included in an approved research study.

§16A-13-5. Requirements.

(a) *Dispensing*. — A ~~health care~~ medical cannabis organization that dispenses medical

cannabis shall:

(1) Maintain licensure with the bureau;

(2) Secure the medical cannabis ~~within the associated pharmacies of the health care medical cannabis organization~~ in a manner and method prescribed by the bureau;

(3) Keep a daily log of the medical cannabis dispensed and the research study with which the patient and the medical cannabis are associated. Reports shall be delivered to the bureau and the university participating in the research study on a weekly basis;

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

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

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

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

(1) Maintain licensure with the bureau;

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

(3) Keep a daily log of medical cannabis intended for ultimate use by patients participating in a research study.

§16A-13-6. Restrictions.

A ~~health care~~ medical cannabis organization may not participate in a research study of any kind, including the program established under this article, or dispense or grow and process medical cannabis if it has violated its licensure requirements or conditions.

§16A-13-8. Nonentitlement.

~~Nothing in~~ This chapter ~~shall be construed to~~ does not create an entitlement under law or right of a ~~patient~~ person to receive medical cannabis or to participate in a research study.

ARTICLE 14. ACADEMIC CLINICAL RESEARCH CENTERS.

§16A-14-1. Definitions.

The following words and phrases when used in this chapter ~~shall~~ have the meanings given to them in this section unless the context clearly indicates otherwise:

~~(1)~~ "Academic clinical research center" means an accredited college, university, or medical school within this state that operates or partners with an acute care hospital licensed within this state;

~~(2)~~ "Clinical registrant" means an entity that:

(A) Holds a permit as a grower, processor, and a dispensary; and

(B) Is, or has a contractual relationship with, an academic clinical research center under which the academic clinical research center or its affiliate provides advice to the entity, regarding, among other areas, patient health and safety, medical applications, and dispensing and management of controlled substances.

§16A-14-2. Clinical registrants.

Notwithstanding the limitations in §16A-6-13 of this code, the bureau may register up to ~~four~~ eight clinical registrants, and subject to the following:

(1) A clinical registrant must pay the fees and meet all other requirements under this act for obtaining a permit as a grower, processor, and a dispensary.

(2) The clinical registrant must comply with all other requirements of this act regarding growing, processing, and dispensing medical cannabis.

§16A-14-3. Research study.

Notwithstanding any provision of this act to the contrary, the bureau may, upon application, approve the dispensing of medical cannabis by a clinical registrant to the academic clinical

research center for the purpose of conducting a research study. The bureau shall develop the application and standards for approval of such dispensing by the clinical registrant. The following apply to the research study:

(1) The clinical registrant shall disclose the following information to the bureau in its application:

(i) The reason for the research project, including the reason for the trial;

(ii) The strain of medical cannabis to be used and the strength of the medical cannabis to be used in the research study;

(iii) The anticipated duration of the study;

(iv) Evidence of approval of the trial by ~~an accredited institutional review board, including any other required regulatory approvals~~ the governing body of the academic clinical research center; and

(v) Other information required by the bureau, except that the bureau may not require disclosure of any information that would infringe upon the academic clinical research center's exclusive right to intellectual property or legal obligations for patient confidentiality.

(2) The academic clinical research center shall provide its findings to the bureau within 365 days of the conclusion of the research study or within 365 days of publication of the results of the research study in a peer-reviewed medical journal, whichever is later.

(3) The bureau shall allow the exchange of medical cannabis seed between clinical registrants for the conduct of research.

ARTICLE 15. MISCELLANEOUS PROVISIONS.

§16A-15-2. Financial and employment interests.

(a) *Financial interests*. — A public official, or an immediate family member thereof, ~~shall~~ whose position involves the direct administration of this chapter, 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.

(b) *Employment.* — No public official ~~or an immediate family member thereof, shall~~ may be employed by a medical cannabis organization or by any holding company, affiliate, intermediary, or subsidiary thereof while ~~the individual~~ he or she is a public official and for one year following termination of the individual's status as a public official.

(c) For purposes of this section, "public official" and "immediate family" ~~shall~~ have the same definitions as those phrases are defined in §6B-1-3 of this code.

§16A-15-4. Protections for patients and caregivers.

(a) *Licensure.* — None of the following ~~shall be~~ are subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a state licensing board or commission, solely for lawful use of medical cannabis or manufacture or sale or dispensing of medical cannabis, or for any other action taken in accordance with this act:

(1) A patient;

(2) A caregiver;

(3) A practitioner;

(4) A medical cannabis organization;

(5) ~~A health care medical cannabis organization or~~ An accredited college, university, or medical school participating in a research study under §16A-13-1 *et seq.* of this code;

(6) A clinical registrant or academic clinical research center under §16A-14-1 *et seq.* of this code;

(7) An employee, principal, or financial backer of a medical cannabis organization;

(8) An employee of a ~~health care~~ medical cannabis organization or an employee of ~~a~~ an accredited college, university, or medical school participating in a research study under §16A-13-1 *et seq.* of this code; or

(9) An employee of a clinical registrant or an employee of an academic clinical research

center under §16A-14-1 *et seq.* of this code.

(b) *Employment.* —

(1) No employer may discharge, threaten, refuse to hire, or otherwise discriminate or retaliate against an employee regarding an employee's compensation, terms, conditions, location, or privileges solely on the basis of such employee's status as an individual who is certified to use medical cannabis.

(2) ~~Nothing in~~ This act ~~shall~~ does not require an employer to make any accommodation of the use of medical cannabis on the property or premises of any place of employment. This act ~~shall in no way~~ does not limit an employer's ability to discipline an employee for being under the influence of medical cannabis in the workplace or for working while under the influence of medical cannabis when the employee's conduct falls below the standard of care normally accepted for that position.

(3) ~~Nothing in~~ This act ~~shall~~ does not require an employer to commit any act that would put the employer or any person acting on its behalf in violation of federal law.