

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 2356**

BY DELEGATES HIGGINBOTHAM, WALKER AND ROWE

[Introduced February 12, 2021; Referred to the  
Committee on Health and Human Resources then the  
Judiciary]

1 A BILL to amend and reenact §16A-3-2 and §16A-3-3 of the Code of West Virginia, 1931, as  
 2 amended, all relating to the use of medical cannabis; allowing medical cannabis to be  
 3 dispensed as dry flower or plant flower and in edible forms; removing the restriction that  
 4 medical cannabis not be dispensed in dry leaf or plant form; and removing the prohibition  
 5 on smoking medical cannabis.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 3. MEDICAL CANNABIS PROGRAM.**

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

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

3 (1) Medical cannabis may only be dispensed to:

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

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

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

9 (A) Pill;

10 (B) Oil;

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

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

15 (E) Tincture;

16 (F) Liquid; ~~or~~

17 (G) Dermal patch; or

18 (H) Edible forms.

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

22 ~~(4)~~ (3) An individual may not act as a caregiver for more than five patients.

23 ~~(5)~~ (4) A patient may designate up to two caregivers at any one time.

24 ~~(6)~~ (5) Medical cannabis that has not been used by the patient shall be kept in the original  
25 package in which it was dispensed.

26 ~~(7)~~ (6) A patient or caregiver shall possess an identification card whenever the patient or  
27 caregiver is in possession of medical cannabis.

28 ~~(8)~~ (7) Products packaged by a grower/processor or sold by a dispensary shall only be  
29 identified by the name of the grower/processor, the name of the dispensary, the form and species  
30 of medical cannabis, the percentage of tetrahydrocannabinol and cannabinal contained in the  
31 product.

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

1 (a) Except as provided in §16A-3-2, §16A-7-4, §16A-13-1 *et seq.* or 16A-14-1 *et seq.* of  
2 this code, the use of medical cannabis is unlawful and shall, in addition to any other penalty  
3 provided by law, be ~~deemed~~ considered a violation of the Uniform Controlled Substances Act  
4 under chapter-60A of this code.

5 (b) It shall be unlawful to:

6 ~~(1) Smoke medical cannabis.~~

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

9 ~~(3)~~ (1) Grow medical cannabis unless the grower/processor has received a permit from  
10 the bureau under this ~~act~~ article.

11 ~~(4)~~ (2) Grow or dispense medical cannabis unless authorized as a health care medical  
12 cannabis organization under §16A-13-1 *et seq.* of this code.

13           ~~(5)~~ (3) Dispense medical cannabis unless the dispensary has received a permit from the  
14 bureau under this ~~act~~ article.

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

NOTE: The purpose of this bill is to allow medical cannabis to be dispensed as dry flower or plant flower and in edible forms. It also removes the restriction that medical cannabis not be dispensed in dry leaf or plant form. It removes the prohibition on smoking medical cannabis.

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