



Cabell-Huntington Health Department

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Physician Director

CABELL-HUNTINGTON BOARD OF HEALTH OFFICIAL RESOLUTION

REGARDING THE PERMITTING OF MEDICAL CANNABIS GROWING, PROCESSING, AND DISPENSARY OPERATIONS LOCATED IN CABELL COUNTY AND THE CITY OF HUNTINGTON, WEST VIRGINIA

WHEREAS, The West Virginia Medical Cannabis Act establishes a medical cannabis program for patients suffering from serious medical conditions as defined in W. VA. CODE §16A-1-1 ET SEQ., and further defines a serious medical condition in W. VA. CODE §16A-2-1 (A)(30), excerpted as follows:

"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) Terminally ill

WHEREAS, W. VA. CODE §16A-1-1 ET SEQ restricts the use of medical marijuana in that:

W. VA. CODE §16A-3-2 (a)(1) states the following:

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.

W. VA. CODE §16A-3-2 (a)(2) further states the following:

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.

W. VA. CODE §16A-3-3 states the following:

- (a) Except as provided in section 2 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 Substance 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.

W. VA. CODE §16A-5-6 defines dispensing for a minor, stating that if a patient is under eighteen years of age, the following shall apply:

- (1) The patient shall have a caregiver.

- (2) A caregiver must be one of the following:
 - (A) A parent or legal guardian of the patient.
 - (B) An individual designated by a parent or legal guardian.
 - (C) An appropriate individual approved by the bureau upon a sufficient showing that no parent or legal guardian is appropriate or available

WHEREAS, W. VA. CODE §16A-1-1 ET SEQ. allows, defines, and establishes regulations regarding permitting procedure for operation and location of specified numbers of cannabis growers, processors, and dispensaries in the State of West Virginia as found in W. VA. CODE §16A-3-1, W. VA. CODE §16A-6-2, W. VA. CODE §16A-6-3, W. VA. CODE §16A-6-7, W. VA. CODE §16A-6-13;

WHEREAS, on or about the 22nd of June, 2020, the Office of Medical Cannabis of the West Virginia Bureau of Public Health provided the Cabell-Huntington Board of Health with 31 permit applications for consideration and approval or rejection by the Cabell-Huntington Board of Health, consistent with the requirements of W. Va. Code §16A-6-13(b)(1), as a condition precedent to the issuance of any permits in Cabell County by the Office of Medical Cannabis;

WHEREAS, the Cabell-Huntington Board of Health understands that no permit for the location and operation of a dispensary of medical cannabis, as defined in W. Va. Code §16A-2-1(a)(10) shall be issued by the Office of Medical Cannabis if the proposed location is within one thousand feet of the property line of a public, private or parochial school or daycare center;

WHEREAS, the Cabell-Huntington Board of Health understands that it is the obligation of the Office of Medical Cannabis to verify that any proposed dispensary meets the distance requirements of W. Va. Code §16A-2-1(a)(10) before any permit is issued;

WHEREAS, The Cabell County Commission, “has not voted, pursuant to W. VA. CODE §16A-7-6, to disapprove a medical cannabis organization to be located or operate within the county”

WHEREAS, The City of Huntington passed Resolution No. 2020-R-41 stating, “that medical cannabis growers, processors and dispensaries with state permits should be permitted within the City”

WHEREAS, pursuant to W. VA. CODE §16A-6-13 (b)(1) provides that before a permit may be issued, the bureau shall obtain a written approval from the board of health for the county in which the permit is to be located and operate business.

NOW, THEREFORE, with regard to the growing, processing, and dispensing of only medical cannabis as it is defined in W. VA. CODE §16A-1-1 ET SEQ on the date of this action, the issue having been thoroughly reviewed and having received and considered public comment, the Cabell-Huntington Board of Health approves those medical cannabis organizations determined to be in compliance with statutes and regulations to be located or operate within Cabell County and those located or operated within City of Huntington, West Virginia , and further authorizes the appropriate officer of the Cabell-Huntington Health Department to execute documents as required to carry forth this resolution.

Enacted on the 19th of August, 2020

Kevin Yingling MD

Kevin Yingling, MD, RPh
Chair, Cabell-Huntington Board of Health

Date 8/19/20

Michael E. Kilkenny MD

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Physician Director, Cabell-Huntington Health Department

Date 8/19/20