

West Virginia Continues Cultivation of Medical Cannabis Rules

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First, Jason Frame was introduced as the new Director of the West Virginia Office of Medical Cannabis.

Second, State Senator Ron Stollings, M.D., and Delegate Mike Pushkin conducted a panel discussion as to issues being considered by the 2018 Legislature, addressing changes to the West Virginia Medical Cannabis Act and the rules proposed by the Bureau for Public Health ("Bureau"). The panel discussion concluded that the Legislature is considering several important changes to the Medical Cannabis Act, including adjustments to the current requirements making physician and pharmacist participation at dispensaries mandatory (a requirement that was ultimately excluded in Ohio's final rules); decreasing or eliminating the minimum time period for a physician/patient relationship to be established prior to certifying that a patient has a serious medical condition; expanding the scope of certifying professionals to include physician assistants and nurse practitioners; and other changes.

Third, Bureau General Counsel Brian Skinner provided an overview of the Bureau's response to comments to the rules it proposed on December 14, 2017. The workgroups established by the Advisory Board announced that they will be meeting over the next two weeks to consider changes to current rules governing medical professionals; additions or changes to the serious medical conditions that would qualify a patient to use medical cannabis; the forms of medical cannabis that can be used and whether dry leaf forms should be allowed; and access issues. Also being considered by the Advisory Board is a recommendation that growers and processors not be limited to geographic areas. On the other hand, the limitations on geographic areas for dispensaries would be retained to assure adequate patient access to medical cannabis. Changes are also being considered that would allow vertical integration among the types of licensees – in other words, allowing a single licensee to apply for a grower license, a processor license, and a dispensary license.

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Recommendation for further changes to the Medical Cannabis Act and the proposed regulations must be forwarded to the Legislature quickly given that February 28, 2018, is the cross-over day or the last day for the House of Delegates and the Senate to exchange respective bills to allow action by both houses.

The Advisory Board and its working groups will meet again over the next couple of weeks to consider proposed changes to the statute and regulations, and to present recommendations to the Legislature. Stakeholders should remain vigilant as to the dates of these meetings to allow their input and suggestions to be heard.

Finally, Brian Skinner also announced at the meeting that the West Virginia Supreme Court of Appeals is considering comments on proposed ethical rules to authorize West Virginia licensed attorneys to represent growers, processors, dispensaries and physicians in matters related to compliance with the West Virginia Medical Cannabis Act. The deadline for comments regarding the proposed rule is February 16, 2018.

If you have any questions regarding the above, please contact Chuck Johnson (cmjohnson@fbtlaw.com) from Frost Brown Todd's Health Care Industry Team.

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