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# West Virginia Kicks Off Applications for Medical Cannabis Growers, Processors, Dispensaries and Laboratories

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The West Virginia Department of Health and Human Resources Bureau for Public Health ("BPH") kicks off the online [application process](#) for medical cannabis growers, processors, dispensaries and laboratories on December 19, 2019 at 3:00 p.m. (EST), and the deadline for all applications to be submitted is February 18, 2020 at 3:00 p.m.

Jason Frame, director of the West Virginia Office of Medical Cannabis ("WVOMC") stated, "this is a key step in the process to make medical cannabis available to West Virginians with serious medical conditions." Jason Frame further stated that the WVOMC looks forward to providing eligible West Virginia residents the ability to procure quality-tested medical cannabis.

The West Virginia Medical Cannabis Act provides that the BPH may not approve more than 10 growers (growers are allowed to have [2 locations per permit](#)), 10 processors, and 100 dispensaries.

Dispensaries are to be reviewed on a geographical basis to assure a sufficient availability of medical cannabis throughout the state.

In an FAQ, The BPH has outlined the requirements for applicants to become growers and processors of medical cannabis:

- Applicants must provide verification as to the principals, operators, financial backers and employees and describe their responsibilities.
- Provide a release for background checks.
- Successfully undergo a criminal record check.
- Detail any licenses and permits for medical cannabis operations in other states.
- Describe in detail their business operations.

- Demonstrate good moral character, an ability to implement the program, and sound security and compliance practices.
- Identify each principal and financial backer.
- Complete a 2-hour training course.
- Submit the permit application fee.
- Meet all other requirements outlined in the on-line application.

The BPH has also outlined the requirements for applicants to become dispensaries. On its website, even though the WVOMC still notes that a grower or a processor may not be a dispensary, applicants should be aware that the [Medical Cannabis Act](#) was amended in 2019 to allow growers and processors to also be permitted as a dispensary.

Applicants must submit with their permit application a non-refundable fee of \$5,000, which is intended to cover the costs and expenses associated with reviewing the permit application, and a \$50,000 permit fee, which is refundable if the permit is not granted. Applicants for multiple types of permits will be required to meet the separate requirement for each permit, and should be aware that separate permit fees for the different types of permits may be required by BPH.

It is further noted by the BPH that the residency requirements for growers, processors, dispensaries and laboratories, as set forth in the West Virginia Medical Cannabis Act, will not be enforced based upon a United States Supreme Court ruling.

In Tennessee, a wine and spirits retail association sued the Tennessee Alcoholic Beverage Commission, challenging the approval of two wine retailers that did not comply with the state's onerous residency requirement that wine retailers must be Tennessee residents for 2 years and upon renewal demonstrate residency for 10 years — effectively requiring applicants to be residents for 12 years. The Court of Appeals for the Sixth Circuit upheld a summary judgment against the applicants.

But the United States Supreme Court later reversed the lower court's decision, and found the residency requirements were

discriminatory against interstate commerce and non-resident applicants. The BPH tried unsuccessfully to amend the WVMCA to address the residency requirements and this ruling, but these efforts have been unsuccessful to date. As a result, the BPH now intends to interpret the WVMCA to be open to West Virginia residents and entities and non-resident persons and entities alike.

For more information or questions about the application process for medical cannabis-related businesses, you may contact Chuck Johnson at [cmjohnson@fbtlaw.com](mailto:cmjohnson@fbtlaw.com) or 304 348-2420.

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