

CANNABIS USAGE IN THE NURSING PROFESSION

Nurses are not prohibited from receiving a cannabis certification from a healthcare practitioner and possession of a valid identification card issued by the Bureau for Public Health within the West Virginia Department of Health and Human Resources under 16A-1-1 simply by virtue of their profession, however a nurse who is considering a cannabis certification may be subject to certain restrictions and prohibitions under the act.

First, a nurse should note that under § 16A-5-10 “Prohibitions”:

The following prohibitions shall apply:

(4) A patient (for the purpose of this discussion “patient” means the nurse who has a cannabis certification) may be prohibited by an employer from performing any duty which could result in a public health or safety risk while under the influence of medical cannabis. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.

Also, under §16A-12-9 “Other restrictions”:

This act does not permit any person to engage in and does not prevent the imposition of any civil, criminal or other penalty for the following:

- (1) Undertaking any task under the influence of medical cannabis when doing so would constitute negligence, professional malpractice or professional misconduct.
- (2) Possessing or using medical cannabis in a state correctional facility or Regional Jail Authority facility, including a facility owned or operated or under contract with the Bureau of Corrections or the Regional Jail Authority, which houses inmates serving a portion of their sentences on parole or other community correction programs.
- (3) Possessing or using medical cannabis in a youth detention center or other facility which houses children adjudicated delinquent, including the separate, secure state-owned facility or unit utilized for sexually violent delinquent children.

Furthermore, pursuant to WV Code 30-7-1 et seq. and Series 19 of the WV Code of Legislative Rules, registered nurses are responsible and accountable for making decisions that are based upon the individual’s educational preparation and current clinical competence in registered nursing. The scope of practice and delegation booklet for licensed nurses is located under the law/scope tab on the WV RN Board website. The decision-making model to determine any task, skill or activity is located on page 12. Follow written agency policy, procedure and protocols consistent with the definition of registered nursing practice in WV Code 30-7-1 et. seq.

This is not intended to be an all-inclusive list of concerns, nor should this article be construed as legal advice. Any nurse or nursing student who is considering a cannabis certification should read the entire WV Medical Cannabis Act (<https://code.wvlegislature.gov/16A/>) and, if necessary, consult with an attorney.