

## VIRGINIA BOARD OF PHARMACY

### Use of Telemedicine by Registered Practitioners of Cannabis Oil

The following guidance is provided to assist registered practitioners of cannabis oil in complying with requirements when employing the use of telemedicine, consistent with federal requirements for the prescribing of Schedule II through V controlled substances:

- The registered practitioner of cannabis oil should maintain a DEA registration as a practitioner, unless exempted under federal requirements;
- The patient being examined or treated via telemedicine should be in the physical presence of a DEA-registered practitioner or be physically located in a hospital or clinic that maintains a DEA registration.
- The telecommunication system used is consistent with that which is required under federal requirements for the prescribing of Schedule II-V controlled substances.

#### *Code of Virginia (Effective July 1, 2020):*

§ **54.1-3408.3**. *Certification for use of cannabis oil for treatment.*

*A. As used in this section:*

*“Cannabis oil” means any formulation of processed Cannabis plant extract or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or tetrahydrocannabinolic acid (THC-A) and no more than 10 milligrams of tetrahydrocannabinol per dose. “Cannabis oil” does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.*

*“Practitioner” means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.*

*“Registered agent” means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.*

*B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis oil for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. **The practitioner shall use his professional judgement to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine consistent with federal requirements for the prescribing of Schedule II through V controlled substances.***

*C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.*

*D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for dispensing or distributing cannabis oil for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.*

*E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of patients to whom a practitioner may issue a written certification.*

*F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and shall register such patient with the Board.*

*G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis oil pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number patients for whom any individual is authorized to act as a registered agent.*

*H. The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during any given time period.*

*I. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a registered patient, or (v) a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such registered patient.*