

[Second Reprint]

SENATE, No. 119

STATE OF NEW JERSEY
213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Senator JIM WHELAN

District 2 (Atlantic)

Co-Sponsored by:

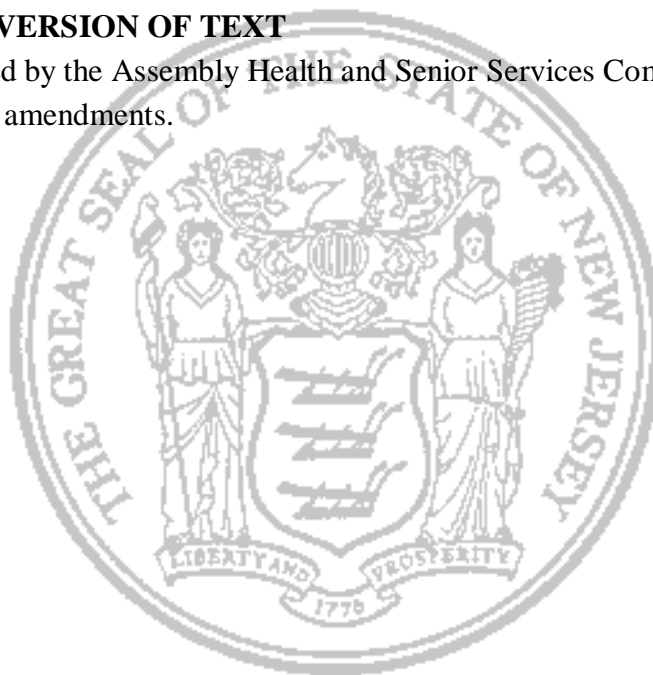
Senators Cunningham, Lesniak, Stack, Sweeney, Weinberg and Vitale

SYNOPSIS

"New Jersey Compassionate Use Medical Marijuana Act."

CURRENT VERSION OF TEXT

As reported by the Assembly Health and Senior Services Committee on June 4, 2009, with amendments.



(Sponsorship Updated As Of: 10/7/2008)

1 AN ACT concerning the medical use of marijuana ²[and
2 supplementing Title 24 of the Revised Statutes] revising parts of
3 statutory law².

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. This act shall be known and may be cited as the "New Jersey
9 Compassionate Use Medical Marijuana Act."

10
11 2. The Legislature finds and declares that:

12 a. Modern medical research has discovered a beneficial use for
13 marijuana in treating or alleviating the pain or other symptoms
14 associated with certain debilitating medical conditions, as found by
15 the National Academy of Sciences' Institute of Medicine in March
16 1999;

17 b. According to the U.S. Sentencing Commission and the
18 Federal Bureau of Investigation, 99 out of every 100 marijuana
19 arrests in the country are made under state law, rather than under
20 federal law. Consequently, changing state law will have the
21 practical effect of protecting from arrest the vast majority of
22 seriously ill people who have a medical need to use marijuana²[.];²

23 c. Although federal law currently prohibits the use of marijuana,
24 the laws of Alaska, California, Colorado, Hawaii, Maine,
25 'Michigan, Montana, Nevada, 'New Mexico, Oregon, 'Rhode
26 Island, Vermont, 'and Washington '[and Montana] permit the
27 use of marijuana for medical purposes, and in Arizona doctors are
28 permitted to prescribe marijuana. New Jersey joins this effort for
29 the health and welfare of its citizens²[.];²

30 d. States are not required to enforce federal law or prosecute
31 people for engaging in activities prohibited by federal law;
32 therefore, compliance with this act does not put the State of New
33 Jersey in violation of federal law²[.]; and²

34 e. Compassion dictates that a distinction be made between
35 medical and non-medical uses of marijuana. Hence, the purpose of
36 this act is to protect from arrest, prosecution, property forfeiture,
37 and criminal and other penalties, those patients 'who use marijuana
38 to alleviate¹ suffering from debilitating medical conditions, '[and]
39 as well as¹ their physicians '[and] ²[¹ primary caregivers,]² '[if
40 such patients engage in the medical use of marijuana] and those
41 who are authorized to produce marijuana for medical purposes¹.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted December 15, 2008.

²Assembly AHE committee amendments adopted June 4, 2009.

1 ²[3. As used in this act:

2 “Bona fide physician-patient relationship” means a physician has
3 completed a full assessment of the patient's medical history and
4 current medical condition, including a personal physical
5 examination.

6 “Commissioner” means the Commissioner of Health and Senior
7 Services.

8 “Debilitating medical condition” means:

9 (1) cancer, glaucoma, positive status for human
10 immunodeficiency virus, acquired immune deficiency syndrome, or
11 the treatment of these conditions;

12 (2) a chronic or debilitating disease or medical condition or its
13 treatment that produces one or more of the following: cachexia or
14 wasting syndrome; severe or chronic pain; severe nausea; seizures,
15 including, but not limited to, those characteristic of epilepsy; severe
16 and persistent muscle spasms, including, but not limited to, those
17 characteristic of multiple sclerosis or Crohn's disease; or

18 (3) any other medical condition or its treatment that is approved
19 by the department by regulation.

20 “Department” means the Department of Health and Senior
21 Services.

22 “Marijuana” has the meaning given in section 2 of the “New
23 Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226
24 (C.24:21-2).

25 ¹“Medical marijuana alternative treatment center” or “alternative
26 treatment center” means an entity registered pursuant to section 5 of
27 this act, which acquires, possesses, cultivates, manufactures,
28 delivers, transfers, transports, supplies, or dispenses marijuana or
29 related supplies and educational materials to registered patients or
30 their registered primary caregivers.¹

31 “Medical use” means the acquisition, possession, cultivation,
32 manufacture, use, delivery, transfer¹[,]¹ or transportation of
33 marijuana or paraphernalia relating to a qualifying patient's
34 consumption of marijuana to alleviate the symptoms or effects of
35 the patient's debilitating medical condition.

36 “Physician” means a person licensed to practice medicine and
37 surgery pursuant to Title 45 of the Revised Statutes.

38 “Primary caregiver” or “caregiver” means a person who is at
39 least 18 years old, who has never been convicted of a felony drug
40 offense, has agreed to assist with a qualifying patient's medical use
41 of marijuana and has been designated as primary caregiver on the
42 qualifying patient's application or renewal for a registry
43 identification card or in other written notification to the department.
44 A primary caregiver shall only have one qualifying patient at any
45 one time. “Primary caregiver” shall not include the qualifying
46 patient's physician.

1 “Qualifying patient” or “patient” means a person who has been
2 diagnosed by a physician as having a debilitating medical condition.

3 “Registry identification card” means a document issued by the
4 department that identifies a person as a qualifying patient or
5 primary caregiver, and shall include a registry identification card or
6 its equivalent, issued by another state government to permit the
7 medical use of marijuana by a qualifying patient or to permit a
8 person to assist with a qualifying patient's medical use of marijuana.

9 “Usable marijuana” means the dried leaves and flowers of
10 marijuana, and any mixture or preparation thereof, and does not
11 include the seeds, stalks and roots of the plant.

12 “Written certification” means the qualifying patient's medical
13 records, or a statement signed by a physician with whom the patient
14 has a bona fide physician-patient relationship, stating that in the
15 physician's professional opinion, after having completed a full
16 assessment of the qualifying patient's medical history and current
17 medical condition, the qualifying patient has a debilitating medical
18 condition for which recognized drugs or treatments are not or would
19 not be effective and the potential benefits of the medical use of
20 marijuana would likely outweigh the health risks for the qualifying
21 patient.]²

22

23 ²[4. a. (1) A qualifying patient shall not be subject to arrest,
24 prosecution or penalty in any manner, or denied any right or
25 privilege, including, but not limited to, civil penalty or disciplinary
26 action by a professional licensing board, for the medical use of
27 marijuana, provided that the patient possesses a registry
28 identification card and no more than six marijuana plants and one
29 ounce of usable marijuana.

30 (2) There shall exist a rebuttable presumption that a qualifying
31 patient is engaged in the medical use of marijuana if he possesses a
32 registry identification card and no more than six marijuana plants
33 and one ounce of usable marijuana. The presumption may be
34 rebutted by evidence that conduct related to marijuana was not for
35 the purpose of alleviating the symptoms or effects of a patient's
36 debilitating medical condition.

37 (3) A qualifying patient may assert the medical use of marijuana
38 as an affirmative defense to any prosecution involving marijuana
39 unless the patient was in violation of section ¹[5] 7¹ of this act
40 when the events giving rise to the prosecution occurred. The
41 defense shall be presumed valid where the evidence shows that:

42 (a) at the time of the events giving rise to the prosecution, the
43 patient's medical records indicated or a physician stated that, in the
44 physician's professional opinion, after having completed a full
45 assessment of the patient's medical history and current medical
46 condition made in the course of a bona fide physician-patient

1 relationship, the potential benefits of the medical use of marijuana
2 would likely outweigh the health risks for the patient; and

3 (b) the patient and his caregiver, if any, were collectively in
4 possession of no more than six marijuana plants and one ounce of
5 usable marijuana.

6 (4) Possession of, or application for, a registry identification
7 card shall not alone constitute probable cause to search the person
8 or the property of the person possessing or applying for the registry
9 identification card, or otherwise subject the person or his property
10 to inspection by any governmental agency.

11 (5) The provisions of section 2 of P.L.1939, c.248 (C.26:2-82),
12 relating to destruction of marijuana determined to exist by the
13 department, shall not apply if a qualifying patient has in his
14 possession a registry identification card and no more than six
15 marijuana plants and one ounce of usable marijuana¹, or if an
16 alternative treatment center permit holder has in his possession no
17 more than six marijuana plants and one ounce of usable marijuana
18 per registry identification card holder¹.

19 b. The provisions of subsection a. of this section shall not apply
20 to a qualifying patient under the age of 18 years, unless:

21 (1) the patient's physician has explained to the patient and the
22 patient's custodial parent, guardian, or person having legal custody,
23 the potential risks and benefits of the medical use of marijuana; and

24 (2) the custodial parent, guardian, or person having legal custody
25 consents in writing to: allow the patient's medical use of marijuana;
26 serve as the patient's primary caregiver; and control the acquisition,
27 dosage, and frequency of the medical use of marijuana by the
28 patient.

29 c. (1) A primary caregiver who has in his possession a registry
30 identification card shall not be subject to arrest, prosecution, or
31 penalty in any manner, or denied any right or privilege, including,
32 but not limited to, civil penalty or disciplinary action by a
33 professional licensing board, for assisting a qualifying patient to
34 whom the caregiver is connected through the department's
35 registration process with the medical use of marijuana, provided
36 that the caregiver possesses no more than six marijuana plants and
37 one ounce of usable marijuana for the patient to whom he is
38 connected through the department's registration process.

39 (2) There shall exist a rebuttable presumption that a primary
40 caregiver is engaged in the medical use of marijuana if the caregiver
41 possesses a registry identification card and no more than six
42 marijuana plants and one ounce of usable marijuana. The
43 presumption may be rebutted by evidence that conduct related to
44 marijuana was not for the purpose of alleviating the symptoms or
45 effects of a qualifying patient's debilitating medical condition.

46 (3) A primary caregiver may assert the medical use of marijuana
47 as an affirmative defense to any prosecution involving marijuana

1 unless the caregiver was in violation of section '[5] 7' of this act
2 when the events giving rise to the prosecution occurred. The
3 defense shall be presumed valid where the evidence shows that:

4 (a) at the time of the events giving rise to the prosecution, the
5 patient's medical records indicated or a physician stated that, in the
6 physician's professional opinion, after having completed a full
7 assessment of the patient's medical history and current medical
8 condition made in the course of a bona fide physician-patient
9 relationship, the potential benefits of the medical use of marijuana
10 would likely outweigh the health risks for the patient; and

11 (b) the patient and his caregiver, if any, were collectively in
12 possession of no more than six marijuana plants and one ounce of
13 usable marijuana.

14 (4) Possession of, or application for, a registry identification
15 card shall not alone constitute probable cause to search a person or
16 property of a person possessing or applying for the registry
17 identification card, or otherwise subject the person or his property
18 to inspection by any governmental agency.

19 (5) The provisions of section 2 of P.L.1939, c.248 (C.26:2-82),
20 relating to destruction of marijuana determined to exist by the
21 department, shall not apply if a primary caregiver has in his
22 possession a registry identification card and no more than six
23 marijuana plants and one ounce of usable marijuana¹, or if an
24 alternative treatment center permit holder has in his possession no
25 more than six marijuana plants and one ounce of usable marijuana
26 per registry identification card holder¹.

27 d. A physician shall not be subject to arrest, prosecution, or
28 penalty in any manner, or denied any right or privilege, including,
29 but not limited to, civil penalty or disciplinary action by the State
30 Board of Medical Examiners, for providing written certification for
31 the medical use of marijuana to a qualifying patient.

32 e. No person shall be subject to arrest or prosecution for
33 constructive possession, conspiracy or any other offense for simply
34 being in the presence or vicinity of the medical use of marijuana as
35 permitted under this act.]²

36

37 ²[15. a. The department shall establish a registration program
38 authorizing medical marijuana alternative treatment centers to
39 produce marijuana for medical purposes, and may charge a
40 reasonable fee for the issuance of a registration permit under this
41 section.

42 b. The department shall require that a permit applicant provide
43 information that includes, but is not limited to:

44 (1) the name of the person responsible for operating the
45 alternative treatment center;

46 (2) the names of all employees, whether volunteer or paid;

47 (3) the location of the alternative treatment center;

1 (4) the registry identification card number of each cardholder for
2 whom marijuana is to be produced; and

3 (5) any other information that the department considers
4 necessary.

5 c. A person who has been convicted of possession or sale of a
6 controlled dangerous substance shall not be issued a permit to
7 operate an alternative treatment center or be an employee of an
8 alternative treatment center, unless such conviction was for a
9 violation of federal law relating to possession or sale of marijuana
10 for conduct that is legal under this act.

11 d. The department shall issue a permit to a person to operate an
12 alternative treatment center if the requirements of this section are
13 met and the department has verified the information contained in
14 the application. The department shall approve or deny an
15 application within 60 days after receipt of a completed application.
16 The denial of an application shall be considered a final agency
17 decision, subject to review by the Appellate Division of the
18 Superior Court.

19 e. A person who has been issued a permit pursuant to this
20 section shall display the permit at the alternative treatment center at
21 all times when marijuana is being produced, or dispensed to a
22 registered qualifying patient or designated primary caregiver of the
23 patient.

24 f. An alternative treatment center permit holder shall report any
25 change in information to the department not later than 10 days after
26 such change, or the permit shall be deemed null and void.

27 g. All usable marijuana, plants, seedlings and seeds associated
28 with the production of marijuana for a registry identification
29 cardholder are the property of the registered patient and must be
30 provided to the patient upon request.

31 h. A registered patient or the designated primary caregiver of the
32 patient may reimburse the alternative treatment center for
33 reasonable costs associated with the production of marijuana for the
34 cardholder.¹²

35
36 ²[¹6. A medical marijuana alternative treatment center permit
37 holder or his employee shall not be subject to arrest or prosecution,
38 penalized in any manner, including, but not limited to, being subject
39 to any civil penalty, or denied any right or privilege, including, but
40 not limited to, being subject to any disciplinary action by a
41 professional licensing board, for the acquisition, distribution,
42 possession, cultivation, or transportation of marijuana or
43 paraphernalia related to marijuana on behalf of a registered patient,
44 provided the amount of any marijuana so acquired, distributed,
45 possessed, cultivated, or transported, together with the combined
46 amount of marijuana possessed by the registered patient and his
47 primary caregiver, shall not exceed six marijuana plants and one

1 ounce of usable marijuana for each registered patient for whom the
2 alternative treatment center permit holder is authorized to produced
3 marijuana. For the purposes of this subsection, “distribution” or
4 “distributed” means the transfer of marijuana and paraphernalia
5 related to marijuana from the alternative treatment center permit
6 holder to the registered patient or his primary caregiver. ¹ ²

7
8 ¹~~[5.]~~ ²~~[7.]~~ ¹ The provisions of this act shall not be construed to
9 permit any person to operate, navigate, or be in actual physical
10 control of any motor vehicle, aircraft or motorboat while under the
11 influence of marijuana; or smoke marijuana in a school bus or other
12 form of public transportation, on any school grounds, in any
13 correctional facility, at any public park or beach, or at any
14 recreation center. A person who commits an act as provided in this
15 section shall be subject to such penalties as provided by law. ¹ ²

16
17 ¹~~[6.]~~ ²~~[8.]~~ ¹ It shall be a disorderly persons offense for a person
18 to fabricate or misrepresent a registry identification card ¹or a
19 medical marijuana alternative treatment center permit ¹ to a law
20 enforcement official. ¹ ²

21
22 ¹~~[7.]~~ ²~~[9.]~~ ¹ a. The department shall establish a registry and shall
23 issue a registry identification card to a qualifying patient who
24 submits the following, in accordance with the department's
25 regulations:

- 26 (1) written certification that the person is a qualifying patient;
27 (2) an application or renewal fee, which may be based on a
28 sliding scale as determined by the commissioner;
29 (3) name, address and date of birth of the patient;
30 (4) name, address and telephone number of the patient's
31 physician; and
32 (5) name, address and date of birth of the patient's primary
33 caregiver, if any.

34 Before issuing a registry identification card, the department shall
35 verify the information contained in the application or renewal form
36 submitted pursuant to this section. The department shall approve or
37 deny an application or renewal within 15 days of receipt of the
38 application or renewal, and shall issue a registry identification card
39 within five days of approving the application or renewal. The
40 department may deny an application or renewal only if the applicant
41 fails to provide the information required pursuant to this section, or
42 if the department determines that the information was falsified.
43 Denial of an application is considered a final agency decision,
44 subject to review by the Appellate Division of the Superior Court.

45 b. The department shall issue a registry identification card to the
46 caregiver named in a patient's approved application, if the caregiver
47 signs a statement agreeing to provide marijuana only to the patient

1 who has named him as caregiver. However, the department shall
2 not issue a registry identification card to a proposed caregiver who
3 has previously been convicted of a felony drug offense.

4 c. A registry identification card shall contain the following
5 information:

6 (1) the name, address and date of birth of the patient;

7 (2) the name, address and date of birth of the patient's caregiver,
8 if any;

9 (3) the date of issuance and expiration date of the registry
10 identification card;

11 (4) photo identification of the cardholder; and

12 (5) such other information that the department may specify in its
13 regulations.

14 A patient who has been issued a registry identification card shall
15 notify the department of any change in the patient's name, address,
16 physician or caregiver, or change in status of the patient's
17 debilitating medical condition, within 10 days of such change, or
18 the registry identification card shall be deemed null and void.

19 d. The department shall maintain a confidential list of the
20 persons to whom it has issued registry identification cards.
21 Individual names and other identifying information on the list shall
22 be confidential, and shall not be considered a public record under
23 P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et
24 al.), and shall not be disclosed except to:

25 (1) authorized employees of the department as necessary to
26 perform official duties of the department; or

27 (2) authorized employees of State or local law enforcement
28 agencies, only as necessary to verify that a person who is engaged
29 in the suspected or alleged medical use of marijuana is lawfully in
30 possession of a registry identification card.]²

31
32 ¹[8.] ²[10.¹ The commissioner may accept from any
33 governmental department or agency, public or private body or any
34 other source grants or contributions to be used in carrying out the
35 purposes of this act.]²

36
37 ¹[9.] ²[11.¹ The commissioner shall report annually to the
38 Governor and the Legislature on the number of applications for
39 registry identification cards, the number of qualifying patients and
40 primary caregivers ¹[approved] registered¹, ¹the number of medical
41 marijuana alternative treatment center permits issued,¹ the nature of
42 the debilitating medical conditions of the patients, the number of
43 registry identification cards ¹and alternative treatment center
44 permits¹ revoked, and the number of physicians providing written
45 certifications for patients. The report shall not contain any
46 identifying information of patients, caregivers¹, alternative
47 treatment centers,¹ or physicians.]²

1 ²3. (New section) As used in this act:

2 “Bona fide physician-patient relationship” means a relationship
3 in which the physician has the ongoing primary responsibility for
4 the assessment, care and treatment of a patient’s debilitating
5 medical condition.

6 “Commissioner” means the Commissioner of Health and Senior
7 Services.

8 “Debilitating medical condition” means:

9 (1) seizure disorder, including epilepsy, intractable skeletal
10 muscular spasticity or glaucoma that is resistant to conventional
11 medical therapy;

12 (2) positive status for human immunodeficiency virus, acquired
13 immune deficiency syndrome, or cancer that results in severe or
14 chronic pain, severe nausea or vomiting, cachexia, or wasting
15 syndrome;

16 (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal
17 cancer; or

18 (4) any other medical condition or its treatment that is approved
19 by the department by regulation.

20 “Department” means the Department of Health and Senior
21 Services.

22 “Marijuana” has the meaning given in section 2 of the “New
23 Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226
24 (C.24:21-2).

25 “Medical marijuana alternative treatment center” or “alternative
26 treatment center” means a nonprofit organization approved by the
27 department to perform activities necessary to provide registered
28 qualifying patients with usable marijuana and related paraphernalia
29 in accordance with the provisions of this act. This term shall
30 include the organization’s officers, directors, board members, and
31 employees.

32 “Medical use of marijuana” means the acquisition, possession, or
33 use of marijuana or paraphernalia by a registered qualifying patient
34 as authorized by this act.

35 “Minor” means a person who is under 18 years of age and who
36 has not been married or previously declared by a court or an
37 administrative agency to be emancipated.

38 “Paraphernalia” has the meaning given in N.J.S.2C:36-1.

39 “Physician” means a person licensed to practice medicine and
40 surgery pursuant to Title 45 of the Revised Statutes with whom the
41 patient has a bona fide physician-patient relationship and who is the
42 physician responsible for the ongoing primary treatment of a
43 patient’s debilitating medical condition.

44 “Qualifying patient” or “patient” means a person who has been
45 provided with a written certification by a physician pursuant to a
46 bona fide physician-patient relationship.

1 “Registry identification card” means a document issued by the
2 department that identifies a person as a registered qualifying
3 patient.

4 “Usable marijuana” means the dried leaves and flowers of
5 marijuana, and any mixture or preparation thereof, and does not
6 include the seeds, stems, stalks or roots of the plant.

7 “Written certification” means a statement signed by a physician
8 with whom a qualifying patient has a bona fide physician-patient
9 relationship, which attests to the physician’s authorization for the
10 patient to apply for registration for the medical use of marijuana.²

11
12 ²4. (New section) a. The department shall establish a registry of
13 qualifying patients and shall issue a registry identification card that
14 shall be valid for one year to a qualifying patient who submits the
15 following, in accordance with regulations adopted by the
16 department:

17 (1) a written certification that meets the requirements of section
18 5 of P.L. , c. (C.)(pending before the Legislature as this bill);

19 (2) an application or renewal fee, which may be based on a
20 sliding scale as determined by the commissioner;

21 (3) the name, address and date of birth of the patient;

22 (4) the name, address and telephone number of the patient’s
23 physician.

24 b. Before issuing a registry identification card, the department
25 shall verify the information contained in the application or renewal
26 form submitted pursuant to this section. The department shall
27 approve or deny an application or renewal within 30 days of receipt
28 of the application or renewal, and shall issue a registry
29 identification card within five days of approving the application or
30 renewal. The department may deny an application or renewal only
31 if the applicant fails to provide the information required pursuant to
32 this section, or if the department determines that the information
33 was incorrect or falsified or does not meet the requirements of this
34 act. Denial of an application shall be a final agency decision,
35 subject to review by the Superior Court, Appellate Division.

36 c. A registry identification card shall contain the following
37 information:

38 (1) the name, address and date of birth of the patient;

39 (2) the date of expiration date of the registry identification card;

40 (3) photo identification of the cardholder; and

41 (4) such other information that the department may specify by
42 regulation.

43 A patient who has been issued a registry identification card shall
44 notify the department of any change in the patient’s name, address,
45 or physician or change in status of the patient’s debilitating medical
46 condition, within 10 days of such change, or the registry
47 identification card shall be deemed null and void.

1 d. The department shall maintain a confidential list of the
2 persons to whom it has issued registry identification cards.
3 Individual names and other identifying information on the list, and
4 information contained in any application form, or accompanying or
5 supporting document shall be confidential, and shall not be
6 considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.)
7 or P.L.2001, c.404 (C.47:1A-5 et al.), and shall not be disclosed
8 except to:

9 (1) authorized employees of the department and the Division of
10 Consumer Affairs in the Department of Law and Public Safety as
11 necessary to perform official duties of the department and the
12 division, as applicable; and

13 (2) authorized employees of State or local law enforcement
14 agencies, only as necessary to verify that a person who is engaged
15 in the suspected or alleged medical use of marijuana is lawfully in
16 possession of a registry identification card.

17 e. Applying for or receiving a registry card does not constitute a
18 waiver of the qualifying patient's patient-physician privilege.²

19
20 ²5. (New section) a. Medical use of marijuana by a qualifying
21 patient may be authorized pursuant to a written certification which
22 meets the requirements of this act. In order to provide such a
23 written certification, a physician shall be licensed and in good
24 standing to practice in the State and be board-certified, if available,
25 in the specialty appropriate for the assessment, care, and ongoing
26 primary treatment of the debilitating medical condition for which
27 the medical use of marijuana is being considered.

28 The written certification shall attest that the above criteria have
29 been met.

30 b. The provisions of subsection a. of this section shall not apply
31 to a qualifying patient who is a minor unless the custodial parent,
32 guardian, or person who has legal custody of the minor, consents in
33 writing that the minor patient has that person's permission for the
34 medical use of marijuana and that the person will control the
35 acquisition and possession of the medical marijuana and any related
36 paraphernalia from the alternative treatment center.²

37
38 ²6. (New section) a. The provisions of N.J.S.2C:35-18 shall
39 apply to any qualifying patient, alternative treatment center,
40 physician, or any other person acting in accordance with the
41 provisions of this act.

42 b. A qualifying patient, alternative treatment center, physician,
43 or any other person acting in accordance with the provisions of this
44 act shall not be subject to any civil or administrative penalty, or
45 denied any right or privilege, including, but not limited to, civil
46 penalty or disciplinary action by a professional licensing board,
47 related to the medical use of marijuana as authorized under this act.

1 c. Possession of, or application for, a registry identification card
2 shall not alone constitute probable cause to search the person or the
3 property of the person possessing, or applying for, the registry
4 identification card, or otherwise subject the person or his property
5 to inspection by any governmental agency.

6 d. The provisions of section 2 of P.L.1939, c.248 (C.26:2-82),
7 relating to destruction of marijuana determined to exist by the
8 department, shall not apply if a qualifying patient has in his
9 possession a registry identification card and no more than the
10 maximum amount of usable marijuana that may be obtained in
11 accordance with section 10 of P.L. , c. (C.)(pending before the
12 Legislature as this bill).

13 e. No person shall be subject to arrest or prosecution for
14 constructive possession, conspiracy or any other offense for simply
15 being in the presence or vicinity of the medical use of marijuana as
16 authorized under this act.

17 f. No custodial parent, guardian, or person who has legal
18 custody of a qualifying patient who is a minor shall be subject to
19 arrest or prosecution for constructive possession, conspiracy or any
20 other offense for assisting the minor in the medical use of marijuana
21 as authorized under this act.²

22
23 ^{27.} (New section) a. The department shall accept applications
24 from nonprofit entities to operate as alternative treatment centers,
25 and may charge a reasonable fee for the issuance of a permit under
26 this section. The department shall seek to ensure the availability of
27 alternative treatment centers throughout the State, including, to the
28 maximum extent practicable, at least two each in the northern,
29 central, and southern regions of the State. An alternative treatment
30 center shall be authorized to acquire marijuana seeds or seedlings
31 and paraphernalia, possess, cultivate, plant, grow, harvest, process,
32 display, manufacture, deliver, transfer, transport, distribute, supply,
33 sell, or dispense marijuana, or related supplies to registered
34 qualifying patients who are registered with the department pursuant
35 to section 4 of P.L. , c. (C.)(pending before the Legislature as
36 this bill). Applicants for authorization as an alternative treatment
37 center shall be subject to all applicable State laws governing
38 nonprofit entities, but need not be recognized as a 501(c)(3)
39 organization by the federal Internal Revenue Service.

40 b. The department shall require that an applicant provide such
41 information as the department determines to be necessary pursuant
42 to regulations adopted pursuant to this act.

43 c. A person who has been convicted of possession or sale of a
44 controlled dangerous substance shall not be issued a permit to
45 operate as a alternative treatment center or be a director, officer, or
46 employee of an alternative treatment center, unless such conviction

1 was for a violation of federal law relating to possession or sale of
2 marijuana for conduct that is authorized under this act.

3 d. Each applicant and each director, officer and employee of an
4 alternative treatment center shall be required to undergo a criminal
5 history record background check from the Division of State Police
6 in the Department of Law and Public Safety and the Federal Bureau
7 of Investigation. Each applicant shall submit to the department the
8 name, address, fingerprints and written consent for a criminal
9 history record background check to be performed for the applicant
10 and any director, officer, and employee of the alternative treatment
11 center. The applicant shall bear the cost for the criminal history
12 record background check, including all costs of administering and
13 processing the check.

14 e. The department shall issue a permit to a person to operate as
15 an alternative treatment center if the department finds that issuing
16 such a permit would be consistent with the purposes of this act and
17 the requirements of this section are met and the department has
18 verified the information contained in the application. The
19 department shall approve or deny an application within 60 days
20 after receipt of a completed application. The denial of an
21 application shall be considered a final agency decision, subject to
22 review by the Appellate Division of the Superior Court. The
23 department may suspend or revoke a permit to operate as an
24 alternative treatment center for cause, which shall be subject to
25 review by the Appellate Division of the Superior Court.

26 f. A person who has been issued a permit pursuant to this
27 section shall display the permit at the premises of the alternative
28 treatment center at all times when marijuana is being produced, or
29 dispensed to a registered qualifying patient.

30 g. An alternative treatment center shall report any change in
31 information to the department not later than 10 days after such
32 change, or the permit shall be deemed null and void.

33 h. An alternative treatment center may charge a registered
34 qualifying patient for the reasonable costs associated with the
35 production and distribution of marijuana for the cardholder.

36 i. The commissioner shall adopt regulations to:

37 (1) provide for the use by a registered qualifying patient of a
38 designated individual in an emergency situation to transport
39 marijuana to the patient who is otherwise unable to obtain
40 marijuana from an alternative treatment center; and

41 (2) require such written documentation of each delivery of
42 marijuana to, and pickup of marijuana for, a registered qualifying
43 patient, including the date and amount dispensed, to be maintained
44 in the records of the alternative treatment center, as the
45 commissioner determines necessary to ensure effective
46 documentation of the operations of each alternative treatment
47 center.²

1 ²8. (New section) The provisions of this act shall not be
2 construed to permit a person to:

3 a. operate, navigate, or be in actual physical control of any
4 vehicle, aircraft, railroad train, stationary heavy equipment or vessel
5 while under the influence of marijuana; or

6 b. smoke marijuana in a school bus or other form of public
7 transportation, in a private vehicle unless the vehicle is not in
8 operation, on any school grounds, in any correctional facility, at any
9 public park or beach, at any recreation center, or in any place where
10 smoking is prohibited pursuant to N.J.S.2C:33-13.

11 A person who commits an act as provided in this section shall be
12 subject to such penalties as are provided by law.²

13
14 ²9. (New section) A person who knowingly sells, offers, or
15 exposes for sale, or otherwise transfers, or possesses with the intent
16 to sell, offer or expose for sale or transfer a document that falsely
17 purports to be a registration card issued pursuant to this act, or a
18 registration card issued pursuant to this act that has been altered, is
19 guilty of a crime of the third degree. A person who knowingly
20 presents to a law enforcement officer a document that falsely
21 purports to be registration card issued pursuant to this act, or a
22 registration card that has been issued pursuant to this act that has
23 been altered, is guilty of a crime of the fourth degree. The
24 provisions of this section are intended to supplement current law
25 and shall not limit prosecution or conviction for any other offense.²

26
27 ²10. (New section) a. A physician shall provide written
28 instructions for a registered patient to present to an alternative
29 treatment center, at the time of pickup or delivery, concerning the
30 total amount of usable marijuana that a patient may be dispensed, in
31 weight, in a 30-day period, which amount shall not exceed one
32 ounce. If no amount is noted, the maximum amount that may be
33 dispensed at one time is one ounce.

34 b. A physician may issue multiple written instructions at one
35 time authorizing the patient to receive a total of up to a 90-day
36 supply, provided that the following conditions are met:

37 (1) Each separate set of instructions shall be issued for a
38 legitimate medical purpose by the physician, as provided in this act;

39 (2) The physician shall provide written instructions for each
40 dispensation, other than the first dispensation if it is to be filled
41 immediately, indicating the earliest date on which a center may
42 dispense the marijuana; and

43 (3) The physician has determined that providing the patient with
44 multiple instructions in this manner does not create an undue risk of
45 diversion or abuse.

46 c. A registered qualifying patient shall present the patient's
47 registry identification card and these written instructions at the time

1 of pickup or delivery, and the alternative treatment center shall
 2 verify and log the documentation presented. The dispensation of
 3 marijuana pursuant to any written instructions shall occur within
 4 one month of the date that the instructions were written or the
 5 instructions are void.

6 d. A patient may be registered at only one alternative treatment
 7 center at any time.²

8
 9 ²11. (New section) a. A physician who provides written
 10 certification or written instruction for the medical use of marijuana
 11 to a qualifying patient pursuant to P.L. , c. (C.)(pending before the
 12 Legislature as this bill) and any alternative treatment center shall
 13 furnish to the Director of the Division of Consumer Affairs in the
 14 Department of Law and Public Safety such information, in such a
 15 format and at such intervals, as the director shall prescribe by
 16 regulation, for inclusion in a system established to monitor the
 17 dispensation of marijuana in this State for medical use as authorized
 18 by the provisions of P.L. , c. (C.)(pending before the
 19 Legislature as this bill), which system shall serve the same purpose
 20 as the electronic system for monitoring controlled dangerous
 21 substances established pursuant to section 25 of P.L.2007, c.244
 22 (C.45:1-45).

23 b. The Director of the Division of Consumer Affairs, pursuant to
 24 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1
 25 et seq.), in consultation with the Commissioner of Health and
 26 Senior Services, shall adopt rules and regulations to effectuate the
 27 purposes of subsection a. of this section.

28 c. Notwithstanding any provision of P.L.1968, c.410 to the
 29 contrary, the Director of the Division of Consumer Affairs shall
 30 adopt, immediately upon filing with the Office of Administrative
 31 Law and no later than the 90th day after the effective date of this
 32 act, such regulations as the director deems necessary to implement
 33 the provisions of subsection a. of this section. Regulations adopted
 34 pursuant to this subsection shall be effective until the adoption of
 35 rules and regulations pursuant to subsection b. of this section and
 36 may be amended, adopted, or readopted by the director in
 37 accordance with the requirements of P.L.1968, c.410.²

38
 39 ²12. N.J.S.2C:35-18 is amended to read as follows:

40 2C:35-18. Exemption; Burden of Proof. a. If conduct is
 41 authorized by the provisions of P.L.1970, c.226 (C.24:21-1 et seq.)
 42 or P.L. , c. (C.)(pending before the Legislature as this bill),
 43 that authorization shall, subject to the provisions of this section,
 44 constitute an exemption from criminal liability under this chapter or
 45 chapter 36, and the absence of such authorization shall not be
 46 construed to be an element of any offense in this chapter or chapter
 47 36. It is an affirmative defense to any criminal action arising under

1 this chapter or chapter 36 that the defendant is the authorized holder
2 of an appropriate registration, permit or order form or is otherwise
3 exempted or excepted from criminal liability by virtue of any
4 provision of P.L.1970, c 226 (C.24:21-1 et seq.) or P.L. _____, c.
5 (C. _____) (pending before the Legislature as this bill). The affirmative
6 defense established herein shall be proved by the defendant by a
7 preponderance of the evidence. It shall not be necessary for the
8 State to negate any exemption set forth in this act or in any
9 provision of Title 24 of the Revised Statutes in any complaint,
10 information, indictment or other pleading or in any trial, hearing or
11 other proceeding under this act.

12 b. No liability shall be imposed by virtue of this chapter or
13 chapter 36 upon any duly authorized State officer, engaged in the
14 enforcement of any law or municipal ordinance relating to
15 controlled dangerous substances or controlled substance analogs.²
16 (cf: P.L.1988, c.44, s.8)

17
18 ²13. (New section) a. The commissioner may accept from any
19 governmental department or agency, public or private body or any
20 other source grants or contributions to be used in carrying out the
21 purposes of this act.

22 b. All fees collected pursuant to this act, including those from
23 qualifying patients and alternative treatment centers' initial,
24 modification and renewal applications, shall be used to offset the
25 cost of the department's administration of the provisions of this
26 act.²

27
28 ²14. (New section) a. The commissioner shall report to the
29 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
30 c.164 (C.52:14-19.1):

31 (1) no later than one year after the effective date of this act, on
32 the actions taken to implement the provisions of this act; and

33 (2) annually thereafter on the number of applications for registry
34 identification cards, the number of qualifying patients registered,
35 the nature of the debilitating medical conditions of the patients, the
36 number of registry identification cards revoked, and the number of
37 physicians providing written certifications for patients.

38 b. The reports shall not contain any identifying information of
39 patients or physicians.²

40
41 ²15. (New section) a. The Department of Health and Senior
42 Services is authorized to exchange fingerprint data with, and
43 receive information from, the Division of State Police in the
44 Department of Law and Public Safety and the Federal Bureau of
45 Investigation for use in reviewing applications for a permit to
46 operate as, or to be a director, officer or employee of, an alternative

1 treatment center pursuant to section 7 of P.L. , c. (C.)(pending
2 before the Legislature as this bill).

3 b. The Division of State Police shall promptly notify the
4 Department of Health and Senior Services in the event an applicant
5 for a permit to operate as, or to be a director, officer or employee
6 of, an alternative treatment center who was the subject of a criminal
7 history record background check conducted pursuant to subsection
8 a. of this section, is convicted of a crime involving possession or
9 sale of a controlled dangerous substance.²

10

11 ¹~~[10.]~~ ²~~[12.]~~ 16. (New section)² Nothing in this act shall be
12 construed to require a government medical assistance program or
13 private health insurer to reimburse a person for costs associated
14 with the medical use of marijuana, or an employer to accommodate
15 the medical use of marijuana in any workplace.

16

17 ¹~~[11.]~~ ²~~[13.]~~ The State shall not be held liable for any
18 deleterious outcomes from the medical use of marijuana by any
19 qualifying patient.]²

20

21 ¹~~[12.]~~ ²~~[14. a.]~~ Pursuant to the “Administrative Procedure Act,”
22 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall
23 promulgate rules and regulations to effectuate the purposes of this
24 act. The regulations shall establish: the application and renewal
25 form, process and fee schedule; and the manner in which the
26 department will consider petitions from the public to add
27 debilitating medical conditions to those included in this act.

28 ¹b. Notwithstanding any provision of P.L.1968, c.410 to the
29 contrary, the commissioner shall adopt, immediately upon filing
30 with the Office of Administrative Law and no later than the 90th
31 day after the effective date of this act, such regulations as the
32 commissioner deems necessary to implement the provisions of
33 section 9 of this act. Regulations adopted pursuant to this
34 subsection shall be effective until the adoption of rules and
35 regulations pursuant to subsection a. of this section and may be
36 amended, adopted, or readopted by the commissioner in accordance
37 with the requirements of P.L.1968, c.410.¹²

38

39 ¹~~[13.]~~ ²~~[15.]~~ This act shall take effect 90 days after
40 enactment.]²

41

42 ²17. (New section) In addition to any immunity or defense
43 provided by law, the State and any employee or agent of the State
44 shall not be held liable for any actions taken in accordance with this
45 act or for any deleterious outcomes from the medical use of
46 marijuana by any registered qualifying patient.²

1 ²18. (New section) a. Pursuant to the “Administrative Procedure
2 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall
3 promulgate rules and regulations to effectuate the purposes of this
4 act, in consultation with the Department of Law and Public Safety.

5 The regulations shall establish: the form, process and fee
6 schedule for initial, modification and renewal applications for
7 qualifying patients and alternative treatment centers that are
8 complete and accurate; the considerations to be used to determine
9 whether to approve an application for an alternative treatment
10 center, including its operational procedures; the form and manner in
11 which the department will function, including the consideration and
12 approval of petitions to add new debilitating medical conditions to
13 those included in this act; validating written certifications and other
14 information contained in applications received from prospective and
15 current qualifying patients and alternative treatment centers;
16 protections for ensuring the confidentiality of the information
17 submitted by prospective and current qualifying patients and
18 alternative treatment centers, and that contained in the registry;
19 monitoring, oversight and investigation of physicians who issue
20 written certifications, with authority to refer physicians in violation
21 of provisions of this act to the State Board of Medical Examiners;
22 procedures for the revocation or suspension of a qualifying patient’s
23 registry identification card; monitoring, oversight and investigation
24 of all activities performed by an alternative treatment center; the
25 methods for testing, authenticating and guaranteeing the quality,
26 safety and quantity of marijuana sold to registered qualifying
27 patients; which strains of marijuana shall be sold by an alternative
28 treatment center; procedures to guarantee the quality and safety of
29 paraphernalia sold to registered qualifying patients; standards to
30 ensure adequate security of all facilities, including production and
31 retail locations, and security of all delivery methods to registered
32 qualifying patients; and the authority and process for the
33 department to assume control of an alternative treatment center’s
34 facilities, equipment, inventory and other items necessary for the
35 department to serve as an alternative treatment center in the event
36 an alternative treatment center is no longer able to operate or meet
37 its requirements.

38 b. Notwithstanding any provision of P.L.1968, c.410 to the
39 contrary, the commissioner shall adopt, immediately upon filing
40 with the Office of Administrative Law and no later than the 90th
41 day after the effective date of this act, such regulations as the
42 commissioner deems necessary to implement the provisions of this
43 act. Regulations adopted pursuant to this subsection shall be
44 effective until the adoption of rules and regulations pursuant to
45 subsection a. of this section and may be amended, adopted, or
46 readopted by the commissioner in accordance with the requirements
47 of P.L.1968, c.410.²

1 ²19. This act shall take effect on the first day of the 12th month
2 after enactment, but the commissioner may take such anticipatory
3 administrative action in advance thereof as may be necessary to
4 effectuate the provisions of this act.²