

CHAPTER 158
(CORRECTED COPY)

AN ACT concerning medical marijuana, supplementing chapter 40 of Title 18A of the New Jersey Statutes and chapter 6D of Title 30 of the Revised Statutes, and amending P.L.2009, c.307 and N.J.S.2C:35-18.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.18A:40-12.22 Policy for administration of medical marijuana to student.

1. a. A board of education or chief school administrator of a nonpublic school shall develop a policy authorizing parents, guardians, and primary caregivers to administer medical marijuana to a student while the student is on school grounds, aboard a school bus, or attending a school-sponsored event.

b. A policy adopted pursuant to subsection a. of this section shall, at a minimum:

(1) require that the student be authorized to engage in the medical use of marijuana pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) and that the parent, guardian, or primary caregiver be authorized to assist the student with the medical use of marijuana pursuant to P.L.2009, c.307 (C.24:6I-1 et al.);

(2) establish protocols for verifying the registration status and ongoing authorization pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) concerning the medical use of marijuana for the student and the parent, guardian, or primary caregiver;

(3) expressly authorize parents, guardians, and primary caregivers of students who have been authorized for the medical use of marijuana to administer medical marijuana to the student while the student is on school grounds, aboard a school bus, or attending a school-sponsored event;

(4) identify locations on school grounds where medical marijuana may be administered; and

(5) prohibit the administration of medical marijuana to a student by smoking or other form of inhalation while the student is on school grounds, aboard a school bus, or attending a school-sponsored event.

c. Medical marijuana may be administered to a student while the student is on school grounds, aboard a school bus, or attending school-sponsored events, provided that such administration is consistent with the requirements of the policy adopted pursuant to this section.

C.30:6D-5b Use of medical marijuana for certain patients with developmental disabilities.

2. a. The chief administrator of a facility that offers services for persons with developmental disabilities shall develop a policy authorizing a parent, guardian, or primary caregiver authorized to assist a qualifying patient with the use of medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) to administer medical marijuana to a person who is receiving services for persons with developmental disabilities at the facility.

b. A policy adopted pursuant to subsection a. of this section shall, at a minimum:

(1) require the person receiving services for persons with developmental disabilities be a qualifying patient authorized for the use of medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1 et al.), and that the parent, guardian, or primary caregiver be authorized to assist the person with the medical use of marijuana pursuant to P.L.2009, c.307 (C.24:6I-1 et al.);

(2) establish protocols for verifying the registration status and ongoing authorization pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) concerning the medical use of marijuana for the person and the parent, guardian, or primary caregiver;

(3) expressly authorize parents, guardians, and primary caregivers to administer medical marijuana to the person receiving services for persons with developmental disabilities while the person is at the facility; and

(4) identify locations at the facility where medical marijuana may be administered.

c. Medical marijuana may be administered to a person receiving services for persons with developmental disabilities at a facility that offers such services while the person is at the facility, provided that such administration is consistent with the requirements of the policy adopted pursuant to this section and the provisions of P.L.2009, c.307 (C.24:6I-1 et al.).

d. Nothing in this section shall be construed to authorize medical marijuana to be smoked in any place where smoking is prohibited pursuant to N.J.S.2C:33-13.

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

Exemption; burden of proof.

2C:35-18. Exemption; Burden of Proof. a. If conduct is authorized by the provisions of P.L.1970, c.226 (C.24:21-1 et seq.), P.L.2009, c.307 (C.24:6I-1 et al.), or P.L.2015, c.158 (C.18A:40-12.22 et al.), that authorization shall, subject to the provisions of this section, constitute an exemption from criminal liability under this chapter or chapter 36, and the absence of such authorization shall not be construed to be an element of any offense in this chapter or chapter 36. It is an affirmative defense to any criminal action arising under this chapter or chapter 36 that the defendant is the authorized holder of an appropriate registration, permit or order form or is otherwise exempted or excepted from criminal liability by virtue of any provision of P.L.1970, c.226 (C.24:21-1 et seq.), P.L.2009, c.307 (C.24:6I-1 et al.), or P.L.2015, c.158 (C.18A:40-12.22 et al.). The affirmative defense established herein shall be proved by the defendant by a preponderance of the evidence. It shall not be necessary for the State to negate any exemption set forth in this act or in any provision of Title 24 of the Revised Statutes in any complaint, information, indictment or other pleading or in any trial, hearing or other proceeding under this act.

b. No liability shall be imposed by virtue of this chapter or chapter 36 upon any duly authorized State officer, engaged in the enforcement of any law or municipal ordinance relating to controlled dangerous substances or controlled substance analogs.

4. Section 6 of P.L.2009, c.307 (C.24:6I-6) is amended to read as follows:

C.24:6I-6 Applicability of N.J.S.2C:35-18.

6. a. The provisions of N.J.S.2C:35-18 shall apply to any qualifying patient, primary caregiver, alternative treatment center, physician, or any other person acting in accordance with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.).

b. A qualifying patient, primary caregiver, alternative treatment center, physician, or any other person acting in accordance with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.) shall not be subject to any civil or administrative penalty, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a professional licensing board, related to the medical use of marijuana as authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.).

c. Possession of, or application for, a registry identification card shall not alone constitute probable cause to search the person or the property of the person possessing or

applying for the registry identification card, or otherwise subject the person or his property to inspection by any governmental agency.

d. The provisions of section 2 of P.L.1939, c.248 (C.26:2-82), relating to destruction of marijuana determined to exist by the department, shall not apply if a qualifying patient or primary caregiver has in his possession a registry identification card and no more than the maximum amount of usable marijuana that may be obtained in accordance with section 10 of P.L.2009, c.307 (C.24:6I-10).

e. No person shall be subject to arrest or prosecution for constructive possession, conspiracy or any other offense for simply being in the presence or vicinity of the medical use of marijuana as authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.).

f. No custodial parent, guardian, or person who has legal custody of a qualifying patient who is a minor shall be subject to arrest or prosecution for constructive possession, conspiracy or any other offense for assisting the minor in the medical use of marijuana as authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.).

5. The Commissioner of Human Services and the State Board of Education may, in consultation with the Commissioner of Health and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations as may be necessary to implement the provisions of this act.

6. This act shall take effect immediately.

Approved November 9, 2015.