

ASSEMBLY, No. 10

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED JUNE 4, 2018

Sponsored by:

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

SYNOPSIS

Revises requirements to authorize and access medical marijuana; establishes requirements for institutional caregivers; revises permit requirements for alternative treatment centers; and establishes additional legal protections for patients and caregivers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2018)

1 AN ACT concerning medical marijuana, amending and
2 supplementing P.L.2009, c.307, and repealing section 5 of
3 P.L.2009, c.307.

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

7
8 1. Section 2 of P.L.2009, c.307 (C.24:6I-2) is amended to read
9 as follows:

10 2. The Legislature finds and declares that:

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

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

22 c. Although federal law currently prohibits the use of
23 marijuana, the laws of Alaska, Arkansas, California, Colorado,
24 Connecticut, Delaware, Florida, Hawaii, Illinois, Maine, Maryland,
25 Massachusetts, Michigan, Minnesota, Montana, Nevada, New
26 Hampshire, New Mexico, New York, North Dakota, Ohio, Oregon,
27 Pennsylvania, Rhode Island, Vermont, **[and]** Washington, West
28 Virginia, and the District of Columbia permit the use of marijuana
29 for medical purposes, and in Arizona doctors are permitted to
30 prescribe marijuana. New Jersey joins this effort for the health and
31 welfare of its citizens **[:]** .

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

36 e. Compassion dictates that a distinction be made between
37 medical and non-medical uses of marijuana. Hence, the purpose of
38 this act is to protect from arrest, prosecution, property forfeiture,
39 and criminal and other penalties, those patients who use marijuana
40 to alleviate suffering from **[debilitating]** qualifying medical
41 conditions, as well as their **[physicians]** health care practitioners,
42 **[primary]** designated caregivers, institutional caregivers, and those
43 who are authorized to produce marijuana for medical purposes.

44 (cf: P.L.2009, c.307, s.2)

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.

1 2. Section 3 of P.L.2009, c.307 (C.24:6I-3) is amended to read
2 as follows:

3 3. As used in **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.),
4 P.L.2015, c.158 (C.18A:40-12.22 et al.), and P.L. , c. (C.)
5 (pending before the Legislature as this bill):

6 "Bona fide **【physician-patient】** practitioner-patient relationship"
7 means a relationship in which the **【physician】** health care
8 practitioner has ongoing responsibility for the assessment, care, and
9 treatment of a patient's **【debilitating】** qualifying medical condition.

10 **【"Certification"** means a statement signed by a physician with
11 whom a qualifying patient has a bona fide physician-patient
12 relationship, which attests to the physician's authorization for the
13 patient to apply for registration for the medical use of marijuana. **】**

14 "Commissioner" means the Commissioner of Health.

15 **【"Debilitating medical condition"** means:

16 (1) one of the following conditions, if resistant to conventional
17 medical therapy: seizure disorder, including epilepsy; intractable
18 skeletal muscular spasticity; post-traumatic stress disorder; or
19 glaucoma;

20 (2) one of the following conditions, if severe or chronic pain,
21 severe nausea or vomiting, cachexia, or wasting syndrome results
22 from the condition or treatment thereof: positive status for human
23 immunodeficiency virus; acquired immune deficiency syndrome; or
24 cancer;

25 (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal
26 cancer, muscular dystrophy, or inflammatory bowel disease,
27 including Crohn's disease;

28 (4) terminal illness, if the physician has determined a prognosis
29 of less than 12 months of life; or

30 (5) any other medical condition or its treatment that is approved
31 by the department by regulation. **】**

32 "Department" means the Department of Health.

33 "Designated caregiver" means a resident of the State who:

34 (1) is at least 18 years old;

35 (2) has agreed to assist with a registered qualifying patient's
36 medical use of marijuana, is not currently serving as designated
37 caregiver for more than one other qualifying patient, and is not the
38 qualifying patient's health care practitioner;

39 (3) has never been convicted of possession or sale of a
40 controlled dangerous substance, unless such conviction occurred
41 after the effective date of P.L.2009, c.307 (C.24:6I-1 et al.) and was
42 for a violation of federal law related to possession or sale of
43 marijuana that is authorized under P.L.2009, c.307 (C.24:6I-1 et
44 al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or P.L. ,
45 c. (C.) (pending before the Legislature as this bill);

46 (4) has registered with the department pursuant to section 4 of
47 P.L.2009, c.307 (C.24:6I-4), and, except in the case of a designated

1 caregiver who is an immediate family member of the patient, has
2 satisfied the criminal history record background check requirement
3 of section 4 of P.L.2009, c.307 (C.24:6I-4); and

4 (5) has been designated as designated caregiver on the
5 qualifying patient's application or renewal for a registry
6 identification card or in other written notification to the department.

7 “Health care facility” means a general acute care hospital,
8 nursing home, long term care facility, hospice care facility, or
9 rehabilitation center.

10 “Health care practitioner” means a physician, advanced practice
11 nurse, physician assistant, or other person licensed pursuant to Title
12 45 of the Revised Statutes who:

13 (1) possesses active registrations to prescribe controlled
14 dangerous substances issued by the United States Drug
15 Enforcement Administration and the Division of Consumer Affairs
16 in the Department of Law and Public Safety;

17 (2) has a bona fide practitioner-patient relationship with the
18 patient; and

19 (3) is the health care practitioner responsible for the ongoing
20 treatment of a patient's qualifying medical condition, provided,
21 however, that the ongoing treatment shall not be limited to the
22 provision of authorization for a patient to use medical marijuana or
23 consultation solely for that purpose.

24 “Immediate family” means the spouse, civil union partner, child,
25 sibling, or parent of an individual, and shall include the siblings and
26 parents of the individual's spouse or civil union partner, and the
27 spouses or civil union partners of the individual's siblings and
28 children.

29 “Institutional caregiver” means a resident of the State who:

30 (1) is at least 18 years old;

31 (2) is an employee of a health care facility;

32 (3) is authorized, within the scope of the individual's
33 professional duties, to possess and administer controlled dangerous
34 substances in connection with the care and treatment of patients and
35 residents pursuant to applicable State and federal laws;

36 (4) is authorized by the health care facility employing the person
37 to assist patients or residents of the facility with the medical use of
38 marijuana, including, but not limited to, obtaining medical
39 marijuana for registered qualifying patients and residents at the
40 facility and assisting patients and residents with the administration
41 of medical marijuana;

42 (5) has never been convicted of possession or sale of a
43 controlled dangerous substance, unless such conviction occurred
44 after the effective date of P.L.2009, c.307 (C.24:6I-1 et al.) and was
45 for a violation of federal law related to possession or sale of
46 marijuana that is authorized under P.L.2009, c.307 (C.24:6I-1 et
47 al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or P.L. _____,
48 c. (C. _____) (pending before the Legislature as this bill); and

1 (6) has registered with the department pursuant to section 4 of
2 P.L.2009, c.307 (C.24:6I-4).

3 "Marijuana" has the meaning given in section 2 of the "New
4 Jersey Controlled Dangerous Substances Act," P.L.1970, c.226
5 (C.24:21-2).

6 "Medical marijuana alternative treatment center" or "alternative
7 treatment center" means an organization approved by the
8 department to perform activities necessary to provide registered
9 qualifying patients with usable marijuana and related paraphernalia
10 in accordance with the provisions of **【this act】** P.L.2009, c.307
11 (C.24:6I-1 et al.) and within the scope of any endorsements held by
12 the alternative treatment center. This term shall include the
13 organization's officers, directors, board members, and employees.

14 "Medical use of marijuana" means the acquisition, possession,
15 transport, or use of marijuana or paraphernalia by a registered
16 qualifying patient as authorized by **【this act】** P.L.2009, c.307
17 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), and
18 P.L. , c. (C.) (pending before the Legislature as this bill).

19 "Minor" means a person who is under 18 years of age and who
20 has not been married or previously declared by a court or an
21 administrative agency to be emancipated.

22 "Paraphernalia" has the meaning given in N.J.S.2C:36-1.

23 **【**"Physician" means a person licensed to practice medicine and
24 surgery pursuant to Title 45 of the Revised Statutes with whom the
25 patient has a bona fide physician-patient relationship and who is the
26 primary care physician, hospice physician, or physician responsible
27 for the ongoing treatment of a patient's debilitating medical
28 condition, provided, however, that the ongoing treatment shall not
29 be limited to the provision of authorization for a patient to use
30 medical marijuana or consultation solely for that purpose.

31 "Primary caregiver" or "caregiver" means a resident of the State
32 who:

33 a. is at least 18 years old;

34 b. has agreed to assist with a registered qualifying patient's
35 medical use of marijuana, is not currently serving as primary
36 caregiver for another qualifying patient, and is not the qualifying
37 patient's physician;

38 c. has never been convicted of possession or sale of a
39 controlled dangerous substance, unless such conviction occurred
40 after the effective date of this act and was for a violation of federal
41 law related to possession or sale of marijuana that is authorized
42 under this act;

43 d. has registered with the department pursuant to section 4 of
44 this act, and has satisfied the criminal history record background
45 check requirement of section 4 of this act; and

46 e. has been designated as primary caregiver on the qualifying
47 patient's application or renewal for a registry identification card or
48 in other written notification to the department. **】**

1 “Qualifying medical condition” means seizure disorder,
2 including epilepsy; intractable skeletal muscular spasticity; post-
3 traumatic stress disorder; glaucoma; positive status for human
4 immunodeficiency virus; acquired immune deficiency syndrome;
5 cancer; amyotrophic lateral sclerosis; multiple sclerosis; muscular
6 dystrophy; inflammatory bowel disease, including Crohn's disease;
7 terminal illness, if the patient has a prognosis of less than 12
8 months of life; anxiety; migraine; Tourette’s syndrome; chronic
9 pain; or any other medical condition or its treatment that is
10 approved by the Department of Health.

11 "Qualifying patient" or "patient" means a resident of the State
12 who has been **【provided with a certification】** authorized for the
13 medical use of marijuana by a **【physician】** health care practitioner
14 pursuant to a bona fide **【physician-patient】** practitioner-patient
15 relationship.

16 "Registry identification card" means a document issued by the
17 department that identifies a person as a registered qualifying patient
18 **【or primary】** , designated caregiver, or institutional caregiver.

19 “Terminally ill” means having an illness or condition with a
20 prognosis of less than 12 months of life.

21 "Usable marijuana" means the dried leaves and flowers of
22 marijuana, and any mixture or preparation thereof, and does not
23 include the seeds, stems, stalks, or roots of the plant.

24 (cf: P.L.2016, c.53, s.1)

25

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

28 4. a. The department shall establish a registry of qualifying
29 patients and their **【primary】** designated caregivers, and shall issue a
30 registry identification card, which shall be valid for two years, to a
31 qualifying patient and **【primary】** each designated caregiver for the
32 patient, if applicable, who submits the following, in accordance
33 with regulations adopted by the department:

34 (1) **【a certification that meets the requirements of section 5 of**
35 **this act】** documentation of a health care practitioner’s authorization
36 for the medical use of marijuana;

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

39 (3) the name, address, and date of birth of the patient and each
40 designated caregiver, as applicable; and

41 (4) the name, address, and telephone number of the patient's
42 **【physician】** health care practitioner.

43 Each qualifying patient may concurrently have up to two
44 designated caregivers. A qualifying patient may petition the
45 department for approval to concurrently have more than two
46 caregivers, which petition shall be approved if the department finds
47 that allowing the patient additional designated caregivers is

1 necessary to meet the patient's treatment needs and is consistent
2 with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.).

3 The department shall establish a registry of institutional
4 caregivers and shall issue a registry identification card, which shall
5 be valid for one year, to an institutional caregiver who submits: an
6 application or renewal fee as determined by the commissioner; the
7 name, address, and telephone number of the institutional caregiver
8 and of the health care facility that employs the institutional
9 caregiver; and a certification that meets the requirements of
10 subsection h. of this section.

11 b. Before issuing a registry identification card, the department
12 shall verify the information contained in the application or renewal
13 form submitted pursuant to this section. In the case of a **【primary】**
14 designated or institutional caregiver, the department shall
15 provisionally approve an application pending the results of a
16 criminal history record background check, if the caregiver
17 otherwise meets the requirements of **【this act】** P.L.2009, c.307
18 (C.24:6I-1 et al.). The department shall approve or deny an
19 application or renewal within 30 days of receipt of the completed
20 application or renewal, and shall issue a registry identification card
21 within five days of approving the application or renewal. The
22 department may deny an application or renewal only if the applicant
23 fails to provide the information required pursuant to this section, or
24 if the department determines that the information was incorrect or
25 falsified or does not meet the requirements of **【this act】** P.L.2009,
26 c.307 (C.24:6I-1 et al.). Denial of an application shall be a final
27 agency decision, subject to review by the Superior Court, Appellate
28 Division.

29 c. (1) The commissioner shall require each applicant seeking to
30 serve as a **【primary】** designated or institutional caregiver to
31 undergo a criminal history record background check; except that no
32 criminal history record background check shall be required for an
33 applicant seeking to serve as a designated caregiver if the applicant
34 is an immediate family member of the patient, and no criminal
35 history record background check shall be required for an applicant
36 seeking to serve as an institutional caregiver if the applicant
37 completed a criminal history record background check as a
38 condition of employment in the applicant's current position. The
39 commissioner is authorized to exchange fingerprint data with and
40 receive criminal history record background information from the
41 Division of State Police and the Federal Bureau of Investigation
42 consistent with the provisions of applicable federal and State laws,
43 rules, and regulations. The Division of State Police shall forward
44 criminal history record background information to the
45 commissioner in a timely manner when requested pursuant to the
46 provisions of this section.

1 An applicant seeking to serve as a **【primary】** designated or
2 institutional caregiver who is required to complete a criminal
3 history record background check pursuant to this section shall
4 submit to being fingerprinted in accordance with applicable State
5 and federal laws, rules, and regulations. No check of criminal
6 history record background information shall be performed pursuant
7 to this section unless the applicant has furnished **【his】** the
8 applicant's written consent to that check. An applicant who is
9 required to complete a criminal history record background check
10 pursuant to this section who refuses to consent to, or cooperate in,
11 the securing of a check of criminal history record background
12 information shall not be considered for inclusion in the registry as a
13 **【primary】** designated or institutional caregiver or issuance of an
14 identification card. An applicant shall bear the cost for the criminal
15 history record background check, including all costs of
16 administering and processing the check.

17 (2) The commissioner shall not approve an applicant seeking to
18 serve as a **【primary】** designated or institutional caregiver who is
19 required to complete a criminal history record background check
20 pursuant to this section if the criminal history record background
21 information of the applicant reveals a disqualifying conviction. For
22 the purposes of this section, a disqualifying conviction shall mean a
23 conviction of a crime involving any controlled dangerous substance
24 or controlled substance analog as set forth in chapter 35 of Title 2C
25 of the New Jersey Statutes except paragraph (4) of subsection a. of
26 N.J.S.2C:35-10, or any similar law of the United States or of any
27 other state.

28 (3) Upon receipt of the criminal history record background
29 information from the Division of State Police and the Federal
30 Bureau of Investigation, the commissioner shall provide written
31 notification to the applicant of **【his】** the applicant's qualification or
32 disqualification for serving as a **【primary】** designated or
33 institutional caregiver.

34 If the applicant is disqualified because of a disqualifying
35 conviction pursuant to the provisions of this section, the conviction
36 that constitutes the basis for the disqualification shall be identified
37 in the written notice.

38 (4) The Division of State Police shall promptly notify the
39 commissioner in the event that an individual who was the subject of
40 a criminal history record background check conducted pursuant to
41 this section is convicted of a crime or offense in this State after the
42 date the background check was performed. Upon receipt of that
43 notification, the commissioner shall make a determination regarding
44 the continued eligibility of the applicant to serve as a **【primary】**
45 designated or institutional caregiver.

46 (5) Notwithstanding the provisions of subsection b. of this
47 section to the contrary, no applicant shall be disqualified from

1 serving as a registered **【primary】** designated or institutional
2 caregiver on the basis of any conviction disclosed by a criminal
3 history record background check conducted pursuant to this section
4 if the individual has affirmatively demonstrated to the
5 commissioner clear and convincing evidence of rehabilitation. In
6 determining whether clear and convincing evidence of rehabilitation
7 has been demonstrated, the following factors shall be considered:

8 (a) the nature and responsibility of the position which the
9 convicted individual would hold, has held, or currently holds;

10 (b) the nature and seriousness of the crime or offense;

11 (c) the circumstances under which the crime or offense
12 occurred;

13 (d) the date of the crime or offense;

14 (e) the age of the individual when the crime or offense was
15 committed;

16 (f) whether the crime or offense was an isolated or repeated
17 incident;

18 (g) any social conditions which may have contributed to the
19 commission of the crime or offense; and

20 (h) any evidence of rehabilitation, including good conduct in
21 prison or in the community, counseling or psychiatric treatment
22 received, acquisition of additional academic or vocational
23 schooling, successful participation in correctional work-release
24 programs, or the recommendation of those who have had the
25 individual under their supervision.

26 d. A registry identification card shall contain the following
27 information:

28 (1) (a) in the case of a registry identification card for a patient or
29 designated caregiver, the name, address, and date of birth of the
30 patient and **【primary】** each designated caregiver, if applicable; and

31 (b) in the case of an institutional caregiver, the caregiver's name
32 and date of birth and the name and address of the health care
33 facility at which the caregiver is employed;

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

35 (3) photo identification of the cardholder; and

36 (4) such other information that the department may specify by
37 regulation.

38 e. (1) A patient who has been issued a registry identification
39 card shall notify the department of any change in the patient's name,
40 address, or **【physician】** health care practitioner or change in status
41 of the patient's **【debilitating】** qualifying medical condition, within
42 10 days of such change, or the registry identification card shall be
43 deemed null and void.

44 (2) A **【primary】** designated caregiver who has been issued a
45 registry identification card shall notify the department of any
46 change in the caregiver's name or address within 10 days of such

1 change, or the registry identification card shall be deemed null and
2 void.

3 (3) An institutional caregiver who has been issued a registry
4 identification card shall notify the department of any change in the
5 caregiver's name, address, employment by a health care facility, or
6 authorization from the health care facility to assist patients or
7 residents with the medical use of marijuana, within 10 days of such
8 change, or the registry identification card shall be deemed null and
9 void and the individual shall be deemed ineligible to serve as an
10 institutional caregiver for a period of not less than one year.

11 f. The department shall maintain a confidential list of the
12 persons to whom it has issued registry identification cards.
13 Individual names and other identifying information on the list, and
14 information contained in any application form, or accompanying or
15 supporting document shall be confidential, and shall not be
16 considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.)
17 or P.L.2001, c.404 (C.47:1A-5 et al.), and shall not be disclosed
18 except to:

19 (1) authorized employees of the department and the Division of
20 Consumer Affairs in the Department of Law and Public Safety as
21 necessary to perform official duties of the department and the
22 division, as applicable; and

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

27 g. Applying for or receiving a registry card does not constitute
28 a waiver of the qualifying patient's **【patient-physician】** patient-
29 professional privilege.

30 h. An applicant seeking to serve as an institutional caregiver
31 shall submit with the application a certification executed by the
32 director or administrator of the health care facility employing the
33 applicant attesting that:

34 (1) the facility has authorized the applicant to assist patients and
35 residents of the facility with the medical use of marijuana, including
36 obtaining medical marijuana from an alternative treatment center
37 and assisting patients and residents with the administration of
38 medical marijuana;

39 (2) the facility has established protocols and procedures and
40 implemented security measures to ensure that any medical
41 marijuana present at the facility is stored in a safe and secure
42 manner that prevents theft, diversion, adulteration, and access by
43 unauthorized individuals;

44 (3) the facility has established protocols and procedures to
45 review patient medications and treatment plans to ensure that the
46 patient's medical use of marijuana will not result in adverse drug
47 interactions, side effects, or other complications that could
48 significantly jeopardize the health or safety of the patient;

1 (4) the facility will not charge a patient for medical marijuana
2 obtained on the patient's behalf in an amount that exceeds the
3 actual cost of the medical marijuana, plus any reasonable costs
4 incurred in acquiring the medical marijuana;

5 (5) the facility has established protocols and procedures
6 concerning whether, and to what extent, designated caregivers are
7 permitted to assist patients or residents with the medical use of
8 marijuana while at the facility; and

9 (6) the facility will promptly notify the commissioner in the
10 event that:

11 (a) an institutional caregiver registered with the department
12 pursuant to this section ceases to be employed by the facility or
13 ceases to be authorized by the facility to assist patients with the
14 medical use of marijuana, in which case, upon receipt of the
15 notification, the commissioner shall immediately revoke the
16 institutional caregiver's registration; or

17 (b) an institutional caregiver registered with the department
18 pursuant to this section, who completed a criminal history record
19 background check as a condition of employment, is convicted of a
20 crime or offense in this State after the date the criminal history
21 background check was performed, in which case, upon receipt of
22 that notification, the commissioner shall make a determination
23 regarding the continued eligibility of the applicant to serve as an
24 institutional caregiver.

25 Nothing in this section shall be deemed to require any facility to
26 authorize any employee of the facility to serve as an institutional
27 caregiver or to issue a certification that meets the requirements of
28 this subsection.

29 (cf: P.L.2009, c.307, s.4)

30
31 4. (New section) a. A health care practitioner shall not be
32 required to be listed publicly in in any medical marijuana
33 practitioner registry as a condition of authorizing patients for the
34 medical use of marijuana.

35 b. When authorizing a qualifying patient who is a minor for the
36 medical use of marijuana, if the treating health care practitioner is
37 not trained in the care of pediatric patients, the treating health care
38 practitioner shall, prior to authorizing the patient for the medical
39 use of marijuana, obtain written confirmation from a health care
40 practitioner trained in the care of pediatric patients establishing, in
41 that health care practitioner's professional opinion, and following
42 an examination of the minor patient or review of the minor patient's
43 medical record, that the minor patient is likely to receive
44 therapeutic or palliative benefits from the medical use of marijuana
45 to treat or alleviate symptoms associated with the patient's
46 qualifying medical condition. If the treating health care practitioner
47 is trained in the care of pediatric patients, no additional written
48 confirmation from any other health care practitioner shall be

1 required as a condition of authorizing the patient for the medical
2 use of marijuana.

3

4 5. (New section) a. Except as provided in subsection b. of this
5 section, no health care practitioner who has authorized a patient for
6 the medical use of marijuana pursuant to P.L.2009, c.307 (C.24:6I-1
7 et al.) within the past 90 days, and no member of such health care
8 practitioner's immediate family, shall be an interest holder in, or
9 receive any form of direct or indirect compensation from, any
10 alternative treatment center.

11 b. Nothing in subsection a. of this section shall be construed to
12 prevent a health care practitioner from serving on the governing
13 board of an alternative treatment center, or on the medical advisory
14 board of an alternative treatment center established pursuant to
15 section 11 of P.L. , c. (C.) (pending before the Legislature
16 as this bill), or from receiving a reasonable stipend for such service,
17 provided that:

18 (1) the stipend does not exceed the stipend paid to any other
19 member of the medical advisory board for serving on the board; and

20 (2) the amount of the stipend is not based on patient volumes at
21 the alternative treatment center or on the number of authorizations
22 for the medical use of marijuana the health care practitioner issues
23 pursuant to P.L.2009, c.307 (C.24:6I-1 et al.).

24 c. A health care practitioner, or an immediate family member
25 of a health care practitioner, who applies to be an owner, director,
26 officer, or employee of an alternative treatment center, or who
27 otherwise seeks to be an interest holder in, or receive any form of
28 direct or indirect compensation from, an alternative treatment
29 center, shall certify that the health care practitioner has not
30 authorized a patient for the medical use of marijuana pursuant to
31 P.L.2009, c.307 (C.24:6I-1 et al.) within the 90 days immediately
32 preceding the date of the application.

33 d. A person who violates subsection a. of this section shall be
34 guilty of a crime of the fourth degree.

35

36 6. (New section) a. An individual who is registered as a
37 qualifying patient in another state or jurisdiction within the United
38 States that authorizes the medical use of marijuana shall be
39 considered a qualifying patient for the purposes of P.L.2009, c.307
40 (C.24:6I-1 et al.), provided that the individual possesses both a
41 valid patient registry card and a valid photo identification card
42 issued by the other state or jurisdiction. The individual shall be
43 authorized to possess, use, and engage in such other conduct in
44 connection with medical marijuana as is consistent with the
45 requirements of P.L.2009, c.307 (C.24:6I-1 et al.) and the laws of
46 the state or jurisdiction that issued the patient's registry card, except
47 that in no case shall any individual be dispensed medical marijuana

1 by an alternative treatment center in New Jersey pursuant to a
2 patient registration issued by another state or jurisdiction.

3 b. An individual who is registered as a designated caregiver in
4 another state or jurisdiction within the United States that authorizes
5 the medical use of marijuana shall be considered a designated
6 caregiver for the purposes of P.L.2009, c.307 (C.24:6I-1 et al.),
7 provided that the individual is in possession of both a valid registry
8 card and a valid photo identification card issued by the other state
9 or jurisdiction. The individual shall be authorized to assist a
10 registered qualifying patient with the medical use of marijuana and
11 engage in such other conduct in connection with medical marijuana
12 as is consistent with the requirements of P.L.2009, c.307 (C.24:6I-1
13 et al.) and the laws of the state or jurisdiction that issued the
14 caregiver's registry card, except that in no case shall any individual
15 be dispensed medical marijuana by an alternative treatment center
16 in New Jersey pursuant to a caregiver registration issued by another
17 state or jurisdiction.

18 c. The department shall seek to enter into reciprocity
19 agreements with other states and jurisdictions within the United
20 States that authorize the medical use of marijuana.

21

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

24 6. a. The provisions of N.J.S.2C:35-18 shall apply to any
25 qualifying patient, **【primary】** designated caregiver, institutional
26 caregiver, health care facility, alternative treatment center,
27 **【physician】** health care practitioner, or any other person acting in
28 accordance with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.)
29 **【or】** , P.L.2015, c.158 (C.18A:40-12.22 et al.), or P.L. _____,
30 c. (C. _____) (pending before the Legislature as this bill).

31 b. A qualifying patient, **【primary】** designated caregiver,
32 institutional caregiver, health care facility, alternative treatment
33 center, **【physician】** health care practitioner, or any other person
34 acting in accordance with the provisions of P.L.2009, c.307
35 (C.24:6I-1 et al.) **【or】** , P.L.2015, c.158 (C.18A:40-12.22 et al.), or
36 P.L. _____, c. (C. _____) (pending before the Legislature as this bill)
37 shall not be subject to any civil or administrative penalty, or denied
38 any right or privilege, including, but not limited to, civil penalty or
39 disciplinary action by a professional licensing board, related to the
40 medical use of marijuana as authorized under P.L.2009, c.307
41 (C.24:6I-1 et al.) **【or】** , P.L.2015, c.158 (C.18A:40-12.22 et al.), or
42 P.L. _____, c. (C. _____) (pending before the Legislature as this bill).

43 c. Possession of, or application for, a registry identification
44 card shall not alone constitute probable cause to search the person
45 or the property of the person possessing or applying for the registry
46 identification card, or otherwise subject the person or **【his】** the
47 person's property to inspection by any governmental agency.

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

8 e. No person shall be subject to arrest or prosecution for
9 constructive possession, conspiracy, or any other offense for simply
10 being in the presence or vicinity of the medical use of marijuana as
11 authorized under P.L.2009, c.307 (C.24:6I-1 et al.) **[or]** , P.L.2015,
12 c.158 (C.18A:40-12.22 et al.), or P.L. , c. (C.) (pending
13 before the Legislature as this bill).

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

21 g. For the purposes of medical care, including organ
22 transplants, a registered qualifying patient's authorized use of
23 medical marijuana in accordance with the provisions of P.L.2009,
24 c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.),
25 and P.L. , c. (C.) (pending before the Legislature as this
26 bill), shall be considered equivalent to the authorized use of any
27 other medication used at the direction of a health care practitioner,
28 and shall not constitute the use of an illicit substance or otherwise
29 disqualify a qualifying patient from needed medical care.

30 h. No public or private school or institution of higher education
31 may refuse to enroll a person solely based on the person's status as
32 a registry identification cardholder, unless failing to do so would
33 result in the school or institution losing a monetary or licensing-
34 related benefit granted pursuant to federal law. No public or private
35 school or institution of higher education shall be penalized or
36 denied any benefit under State law solely on the basis of enrolling a
37 person who is a registry identification cardholder.

38 i. No person shall refuse to rent, lease, or sublease any real
39 property or part or portion thereof, or discriminate in the terms,
40 conditions, or privileges of the rental or lease of any real property
41 or part or portion thereof or in the furnishing of facilities or services
42 in connection therewith, solely based on the status of the
43 prospective tenant as a registry identification cardholder, unless
44 failing to do so would result in the person losing a monetary or
45 licensing-related benefit granted pursuant to federal law. No such
46 person shall be penalized or denied any benefit under State law
47 solely on the basis of renting or leasing real property to a person

1 who is a registry identification cardholder.

2 (cf: P.L.2015, c.158, s.4)

3

4 8. (New section) a. Unless an employer establishes by a
5 preponderance of the evidence that the lawful use of medical
6 marijuana has impaired the employee's ability to perform the
7 employee's job responsibilities, it shall be unlawful to take any
8 adverse employment action against an employee who is a qualified
9 registered patient using medical marijuana consistent with the
10 provisions of P.L.2009, c.307 (C.24:6I-1 et al.) based on either: (1)
11 the employee's status as a registry identification cardholder; or (2)
12 the employee's positive drug test for marijuana components or
13 metabolites.

14 For the purposes of this section, an employer may consider an
15 employee's ability to perform the employee's job responsibilities to
16 be impaired when the employee manifests specific articulable
17 symptoms while working that decrease or lessen the employee's
18 performance of the duties or tasks of the employee's job position.

19 b. (1) If an employer has a drug testing policy and an employee
20 or job applicant tests positive for marijuana, the employer shall
21 offer the employee or job applicant an opportunity to present a
22 legitimate medical explanation for the positive test result, and shall
23 provide written notice of the right to explain to the employee or job
24 applicant.

25 (2) Within three working days after receiving notice pursuant to
26 paragraph (1) of this subsection, the employee or job applicant may
27 submit information to the employer to explain the positive test
28 result, or may request a confirmatory retest of the original sample at
29 the employee's or job applicant's own expense. As part of an
30 employee's or job applicant's explanation for the positive test
31 result, the employee or job applicant may present an authorization
32 for medical marijuana issued by a health care practitioner, a registry
33 identification card, or both.

34 c. Nothing in this section shall be deemed to:

35 (1) restrict an employer's ability to prohibit, or take adverse
36 employment action for, the possession or use of intoxicating
37 substances during work hours; or

38 (2) require an employer to commit any act that would cause the
39 employer to be in violation of federal law, that would result in a
40 loss of a licensing-related benefit pursuant to federal law, or that
41 would result in the loss of a federal contract or federal funding.

42 d. No employer shall be penalized or denied any benefit under
43 State law solely on the basis of employing a person who is a
44 registry identification cardholder.

45 e. As used in this section, "adverse employment action" means
46 refusing to hire or employ a qualified registered patient, barring or
47 discharging a qualified registered patient from employment,
48 requiring a qualified registered patient to retire from employment,

1 or discriminating against a qualified registered patient in
2 compensation or in any terms, conditions, or privileges of
3 employment.

4
5 9. Section 7 of P.L.2009, c.307 (C.24:6I-7) is amended to read
6 as follows:

7 7. a. The department shall accept applications from entities for
8 permits to operate as alternative treatment centers, and may charge
9 a reasonable fee for the issuance of a permit under this section. The
10 department may issue one or more discrete endorsements pursuant
11 to subsection l. of this section to an alternative treatment center
12 issued a permit under this section.

13 The department shall seek to ensure the availability of a
14 sufficient number of alternative treatment centers throughout the
15 State, pursuant to need, including at least two each in the northern,
16 central, and southern regions of the State. **【**The first two centers
17 issued a permit in each region shall be nonprofit entities, and
18 centers subsequently**】** Alternative treatment centers issued permits
19 pursuant to this section may be nonprofit or for-profit entities.

20 The department shall periodically evaluate whether the number
21 of alternative treatment center permits and the number and type of
22 endorsements issued are sufficient to meet the needs of qualifying
23 patients in the State, and shall make requests for applications and
24 issue such additional endorsements and permits as shall be
25 necessary to meet those needs. The types of endorsements and
26 permits requested and issued, and the locations of any additional
27 permits or endorsements that are authorized, shall be in the
28 discretion of the commissioner based on the needs of qualifying
29 patients in the State. When reviewing applications for new
30 alternative treatment center permits and endorsements, the
31 commissioner shall consider the applicant's: experience in highly-
32 regulated industries; experience operating alternative treatment
33 centers; workforce and job creation plan, including experience with,
34 demonstrated commitment to, or detailed plans for collective
35 bargaining agreements; positive community impact; security and
36 surveillance capabilities; storage systems; and emergency
37 management plans. The commissioner shall additionally consider
38 the suitability of the proposed location for the alternative treatment
39 center and any other factors the commissioner determines
40 appropriate for consideration.

41 To the extent possible, the department shall seek to ensure that at
42 least 15 percent of the total number of new alternative treatment
43 center permits issued on or after the effective date of P.L. _____,
44 c. (C. _____) (pending before the Legislature as this bill) are issued
45 to a qualified applicant that: has been certified as a minority
46 business or as a women's business by the Division of Development
47 for Small Businesses and Women's and Minority Businesses in the
48 New Jersey Commerce and Economic Growth Commission

1 pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.); has been
2 certified as a veteran-owned business by the Department of the
3 Treasury pursuant to P.L.2011, c.147 (C.52:32-49 et seq.); is a
4 disabled-veterans' business, as defined in section 2 of P.L.2015,
5 c.116 (C.52:32-31.2); or is a business in which women, minorities,
6 or veterans own not less than 33 percent of the equity interest, and
7 the day-to-day management control is either vested in and actually
8 exercised by one or more women, minorities, or veterans, subject to
9 the alternative treatment center's board of directors, or is exercised
10 by others, provided that any women, minorities, or veterans
11 specified in the permit retain ultimate and final decision-making
12 authority over the affairs of the alternative treatment center. In
13 selecting among applicants who meet these criteria, the department
14 shall grant a higher preference to applicants with up to two of the
15 certifications described in this subsection.

16 An alternative treatment center shall be authorized, within the
17 scope of any endorsements held by that alternative treatment center,
18 to acquire a reasonable initial and ongoing inventory, as determined
19 by the department, of marijuana seeds or seedlings and
20 paraphernalia, possess, cultivate, plant, grow, harvest, process,
21 display, manufacture, deliver, transfer, transport, distribute, supply,
22 sell, or dispense marijuana, or related supplies to qualifying patients
23 or their **【primary】** designated caregivers or institutional caregivers
24 who are registered with the department pursuant to section 4 of
25 **【this act】** P.L.2009, c.307 (C.24:6I-4). **【An】** Subject to the scope
26 of any endorsements held by the alternative treatment center, as
27 applicable, an alternative treatment center shall not be limited in the
28 number of strains of medical marijuana cultivated or in the number
29 of products manufactured, and may package and directly dispense
30 marijuana to qualifying patients in dried form, oral lozenges, topical
31 formulations, transdermal form, sublingual form, tincture form, or
32 edible form, or any other form as authorized by the commissioner.
33 Edible form shall include tablets, capsules, drops or syrups, and any
34 other form as authorized by the commissioner. **【Edible forms shall**
35 be available only to qualifying patients who are minors.】

36 Applicants for authorization as nonprofit alternative treatment
37 centers 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】** P.L.2009, c.307
43 (C.24:6I-1 et al.).

44 c. A person who has been convicted of a crime involving any
45 controlled dangerous substance or controlled substance analog as
46 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
47 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law

1 of the United States or any other state shall not be issued a permit to
2 operate as an alternative treatment center or be a director, officer, or
3 employee of an alternative treatment center, unless such conviction
4 occurred after the effective date of **【this act】** P.L.2009, c.307
5 (C.24:6I-1 et al.) and was for a violation of federal law relating to
6 possession or sale of marijuana for conduct that is authorized under
7 **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158
8 (C.18A:40-12.22 et al.), or P.L. , c. (C.) (pending before
9 the Legislature as this bill).

10 d. (1) The commissioner shall require each applicant seeking a
11 permit to operate as an alternative treatment center to undergo a
12 criminal history record background check. For purposes of this
13 section, the term "applicant" shall include any owner, director,
14 officer, or employee of an alternative treatment center. The
15 commissioner is authorized to exchange fingerprint data with and
16 receive criminal history record background information from the
17 Division of State Police and the Federal Bureau of Investigation
18 consistent with the provisions of applicable federal and State laws,
19 rules, and regulations. The Division of State Police shall forward
20 criminal history record background information to the
21 commissioner in a timely manner when requested pursuant to the
22 provisions of this section.

23 An applicant shall submit to being fingerprinted in accordance
24 with applicable State and federal laws, rules, and regulations. No
25 check of criminal history record background information shall be
26 performed pursuant to this section unless the applicant has
27 furnished **【his】** the applicant's written consent to that check. An
28 applicant who refuses to consent to, or cooperate in, the securing of
29 a check of criminal history record background information shall not
30 be considered for a permit to operate, or authorization to be
31 employed at, an alternative treatment center. An applicant shall
32 bear the cost for the criminal history record background check,
33 including all costs of administering and processing the check.

34 (2) The commissioner shall not approve an applicant for a
35 permit to operate, or authorization to be employed at, an alternative
36 treatment center if the criminal history record background
37 information of the applicant reveals a disqualifying conviction as
38 set forth in subsection c. of this section.

39 (3) Upon receipt of the criminal history record background
40 information from the Division of State Police and the Federal
41 Bureau of Investigation, the commissioner shall provide written
42 notification to the applicant of **【his】** the applicant's qualification
43 for or disqualification for a permit to operate or be a director,
44 officer, or employee of an alternative treatment center.

45 If the applicant is disqualified because of a disqualifying
46 conviction pursuant to the provisions of this section, the conviction
47 that constitutes the basis for the disqualification shall be identified
48 in the written notice.

1 (4) The Division of State Police shall promptly notify the
2 commissioner in the event that an individual who was the subject of
3 a criminal history record background check conducted pursuant to
4 this section is convicted of a crime or offense in this State after the
5 date the background check was performed. Upon receipt of that
6 notification, the commissioner shall make a determination regarding
7 the continued eligibility to operate or be a director, officer, or
8 employee of an alternative treatment center.

9 (5) Notwithstanding the provisions of subsection b. of this
10 section to the contrary, the commissioner may offer provisional
11 authority for an applicant to be an employee of an alternative
12 treatment center for a period not to exceed three months if the
13 applicant submits to the commissioner a sworn statement attesting
14 that the person has not been convicted of any disqualifying
15 conviction pursuant to this section.

16 (6) Notwithstanding the provisions of subsection b. of this
17 section to the contrary, no employee of an alternative treatment
18 center shall be disqualified on the basis of any conviction disclosed
19 by a criminal history record background check conducted pursuant
20 to this section if the individual has affirmatively demonstrated to
21 the commissioner clear and convincing evidence of rehabilitation.
22 In determining whether clear and convincing evidence of
23 rehabilitation has been demonstrated, the following factors shall be
24 considered:

25 (a) the nature and responsibility of the position which the
26 convicted individual would hold, has held, or currently holds;

27 (b) the nature and seriousness of the crime or offense;

28 (c) the circumstances under which the crime or offense
29 occurred;

30 (d) the date of the crime or offense;

31 (e) the age of the individual when the crime or offense was
32 committed;

33 (f) whether the crime or offense was an isolated or repeated
34 incident;

35 (g) any social conditions which may have contributed to the
36 commission of the crime or offense; and

37 (h) any evidence of rehabilitation, including good conduct in
38 prison or in the community, counseling or psychiatric treatment
39 received, acquisition of additional academic or vocational
40 schooling, successful participation in correctional work-release
41 programs, or the recommendation of those who have had the
42 individual under their supervision.

43 e. The department shall issue a permit to a person to operate as
44 an alternative treatment center if the department finds that issuing
45 such a permit would be consistent with the purposes of **[this act]**
46 P.L.2009, c.307 (C.24:6I-1 et al.) and the requirements of this
47 section are met and the department has verified the information
48 contained in the application. The department shall approve or deny

1 an application within 60 days after receipt of a completed
2 application. The denial of an application shall be considered a final
3 agency decision, subject to review by the Appellate Division of the
4 Superior Court. The department may suspend or revoke a permit to
5 operate as an alternative treatment center for cause, which shall be
6 subject to review by the Appellate Division of the Superior Court.
7 An initial permit to operate an alternative treatment center issued on
8 or after the effective date of P.L. , c. (C.) (pending before
9 the Legislature as this bill) shall be valid for three years.
10 Alternative treatment center permits shall be renewable biennially.

11 f. A person who has been issued a permit pursuant to this
12 section shall display the permit, including any endorsements
13 specific to that permit, at the premises of the alternative treatment
14 center at all times when the alternative treatment center is engaged
15 in conduct authorized pursuant to P.L.2009, c.307 (C.24:6I-1 et al.)
16 involving medical marijuana, including, but not limited to, the
17 cultivating, manufacturing, or dispensing of medical marijuana **【is**
18 **being produced, or dispensed to a registered qualifying patient or**
19 **the patient's primary caregiver】.**

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

23 h. **【An】** Any fees charged by an alternative treatment center
24 **【may charge a registered qualifying patient or primary caregiver for**
25 **the reasonable costs associated】** in connection with the
26 **【production】** cultivating, manufacturing, and **【distribution】**
27 dispensing of medical marijuana **【for the cardholder】** shall be
28 reasonable and consistent with the actual costs incurred by the
29 alternative treatment center in connection with cultivating,
30 manufacturing, or dispensing medical marijuana.

31 i. The commissioner shall adopt regulations to:

32 (1) require such written documentation of each delivery of
33 marijuana to, and pickup of marijuana for, a registered qualifying
34 patient, including the date and amount dispensed, to be maintained
35 in the records of the alternative treatment center, as the
36 commissioner determines necessary to ensure effective
37 documentation of the operations of each alternative treatment
38 center;

39 (2) monitor, oversee, and investigate all activities performed by
40 an alternative treatment center; **【and】**

41 (3) ensure adequate security of all facilities 24 hours per day,
42 including production and retail locations, and security of all
43 delivery methods to registered qualifying patients; and

44 (4) establish thresholds for administrative action to be taken
45 against an alternative treatment center and its employees, officers,
46 investors, directors, or governing board.

1 j. (1) An alternative treatment center may apply to the
2 department for approval to sell or transfer its permit, including any
3 endorsements associated with that permit, to another entity. The
4 department shall not approve the sale or transfer of a permit until
5 each applicant at the entity applying to purchase or receive the
6 transfer of the permit undergoes a criminal history record
7 background check pursuant to subsection d. of this section, the
8 department finds that the sale or transfer of the permit would be
9 consistent with the purposes of P.L.2009, c.307 (C.24:6I-1 et al.),
10 the requirements of this section are met, and the department has
11 verified the information contained in the application. The
12 department shall approve or deny an application within 90 days
13 after receipt of a completed application. The denial of an
14 application to sell or transfer an alternative treatment center permit
15 shall be considered a final agency decision, subject to review by the
16 Appellate Division of the Superior Court.

17 (2) If a nonprofit alternative treatment center proposes to sell or
18 transfer its permit to a for-profit entity, its board of directors may
19 proceed with the sale or transfer upon receiving approval for the
20 sale or transfer from the department pursuant to paragraph (1) of
21 this subsection, and, except as provided in paragraph (3) of this
22 subsection, after obtaining an independent appraisal for the fair
23 market value of the permit. The sale or transfer of the permit shall
24 be consistent with the requirements of the “New Jersey Nonprofit
25 Corporation Act,” N.J.S.15A:1-1 et seq. The proceeds of the sale or
26 transfer, following satisfaction of the obligations of the alternative
27 treatment center, shall be retained or expended in a manner
28 consistent with the requirements of the “New Jersey Nonprofit
29 Corporation Act,” N.J.S.15A:1-1 et seq., or until the organization is
30 lawfully wound down or dissolved. If a nonprofit alternative
31 treatment center seeks to sell or transfer its permit to a for-profit
32 entity with which it shares common ownership or control, the sale
33 or transfer shall not proceed unless at least one disinterested
34 director or trustee approves the sale or transfer in accordance with
35 the requirements of the “New Jersey Nonprofit Corporation Act,”
36 N.J.S.15A:1-1 et seq.

37 (3) In the case of a nonprofit alternative treatment center that
38 was issued a permit prior to the effective date of P.L. _____,
39 c. (C. _____) (pending before the Legislature as this bill), in lieu of
40 obtaining an independent appraisal of the fair market value of the
41 alternative treatment center’s permit as required under paragraph
42 (2) of this subsection, upon receiving approval for the sale from the
43 department pursuant to paragraph (1) of this subsection, a nonprofit
44 alternative treatment center that was issued a permit prior to the
45 effective date of P.L. _____, c. (C. _____) (pending before the
46 Legislature as this bill) may, on a single occasion and no later than
47 one year after the effective date of P.L. _____, c. (C. _____) (pending
48 before the Legislature as this bill), elect to pay the department a fee

1 of \$300,000 and sell or transfer its permit for a sum that satisfies its
2 outstanding obligations.

3 k. No employee of the department shall have any direct or
4 indirect financial interest in the cultivating, manufacturing, or
5 dispensing of medical marijuana or related paraphernalia, or
6 otherwise receive anything of value from an applicant for an
7 alternative treatment center permit or endorsement in exchange for
8 reviewing, processing, or making any recommendations with
9 respect to a permit or endorsement application.

10 l. (1) An alternative treatment center shall apply to engage in
11 one or more of the following activities associated with providing
12 registered qualifying patients with usable marijuana and related
13 supplies by way of endorsement to its permit issued by the
14 department:

15 (a) cultivating and harvesting usable marijuana;

16 (b) manufacturing and processing usable marijuana; and

17 (c) dispensing usable marijuana.

18 (2) The endorsements issued by the department shall authorize
19 the following specific activities:

20 (a) a cultivating endorsement shall allow the alternative
21 treatment center to possess, cultivate, plant, grow, harvest, and
22 package usable marijuana, including prerolled forms, and to
23 display, transfer, transport, distribute, supply, or sell marijuana to
24 other alternative treatment centers, but not directly to registered
25 qualifying patients.

26 (b) a manufacturing endorsement shall allow the alternative
27 treatment center to possess and process usable marijuana, to
28 purchase usable marijuana from other alternative treatment centers
29 possessing a cultivating endorsement, to manufacture products
30 containing marijuana that are approved by the department, to
31 conduct research and develop products containing marijuana for
32 approval by the department, and to display, transfer, transport,
33 distribute, supply, or sell such marijuana and products containing
34 marijuana to other alternative treatment centers, but not directly to
35 registered qualifying patients.

36 (c) A dispensing endorsement shall allow the alternative
37 treatment center to purchase usable marijuana and products
38 containing marijuana from other alternative treatment centers
39 authorized to cultivate or manufacture usable marijuana or products
40 containing marijuana, and to possess, display, supply, sell, and
41 dispense usable marijuana and products containing marijuana to
42 registered qualifying patients.

43 (3) The department shall issue endorsements in a manner that
44 ensures adequate patient access to medical marijuana.

45 m. In the event that an alternative treatment center fails to
46 comply with any requirements set forth in P.L.2009, c.307 (C.24:6I-
47 1 et al.) or any related law or regulation, the department may invoke
48 penalties or take administrative action against the alternative

1 treatment center and its employees, officers, investors, directors, or
2 governing board, including, but not limited to, assessing fines,
3 referring matters to another State agency, suspending any
4 endorsement or permit held by the alternative treatment center, or
5 terminating any endorsement or permit held by the alternative
6 treatment center.

7 (cf: P.L.2013, c.160, s.2)

8

9 10. (New section) The commissioner may establish, by
10 regulation, such additional permit types in connection with medical
11 marijuana as the commissioner deems necessary and appropriate to
12 maximize the effectiveness and efficiency of the State medical
13 marijuana program and meet the needs of qualifying patients, health
14 care practitioners, alternative treatment centers, and related entities.
15 Such permits may include, but shall not be limited to, permits for
16 providing laboratory services and conducting research in connection
17 with the medical use of marijuana.

18

19 11. (New section) a. An alternative treatment center may
20 appoint a medical advisory board to provide advice to the
21 alternative treatment center on all aspects of its business.

22 b. A medical advisory board appointed pursuant to this section
23 shall comprise five members: three health care professionals
24 licensed to practice in New Jersey, at least one of whom shall be a
25 physician; one qualifying patient who resides in the same area in
26 which the alternative treatment center is located; and one individual
27 who owns a business in the same area in which the alternative
28 treatment center is located. No owner, director, officer, or
29 employee of an alternative treatment center may serve on a medical
30 advisory board.

31 c. A medical advisory board appointed pursuant to this section
32 shall meet at least two times per calendar year.

33

34 12. Section 10 of P.L.2009, c.307 (C.24:6I-10) is amended to
35 read as follows:

36 10. a. A **【physician】** health care practitioner shall provide
37 written instructions for a registered qualifying patient or **【his】** the
38 patient's designated caregiver, or an institutional caregiver acting
39 on behalf of the patient, to present to an alternative treatment center
40 concerning the total amount of usable marijuana that a patient may
41 be dispensed, in weight, in a 30-day period, which amount shall not
42 exceed **【two ounces. If no amount is noted, the maximum amount**
43 **that may be dispensed at one time is two ounces】** the maximum
44 amount that may be authorized for the patient pursuant to
45 subsection f. of this section.

46 b. A **【physician】** health care practitioner may issue multiple
47 written instructions at one time authorizing the patient to receive a

1 total of up to a ~~90-day~~ 180-day supply, provided that the
2 following conditions are met:

3 (1) Each separate set of instructions shall be issued for a
4 legitimate medical purpose by the ~~physician~~ health care
5 practitioner, as provided in ~~this act~~ P.L.2009, c.307 (C.24:6I-1 et
6 al.);

7 (2) Each separate set of instructions shall indicate the earliest
8 date on which a center may dispense the marijuana, except for the
9 first dispensation if it is to be filled immediately; and

10 (3) The ~~physician~~ health care practitioner has determined that
11 providing the patient with multiple instructions in this manner does
12 not create an undue risk of diversion or abuse.

13 c. A registered qualifying patient or ~~his primary~~ the patient's
14 designated caregiver, or an institutional caregiver acting on behalf
15 of a qualifying patient, shall present the patient's or caregiver's
16 registry identification card, as applicable, and these written
17 instructions to ~~the~~ any alternative treatment center that is
18 authorized to dispense medical marijuana, which shall verify and
19 log the documentation presented. An institutional caregiver shall
20 additionally present an authorization executed by the patient
21 certifying that the institutional caregiver is authorized to obtain
22 medical marijuana on behalf of the patient. A ~~physician~~ health
23 care practitioner may provide a copy of a written instruction by
24 electronic or other means, as determined by the commissioner,
25 directly to an alternative treatment center on behalf of a registered
26 qualifying patient. The dispensation of marijuana pursuant to any
27 written instructions shall occur within one month of the date that
28 the instructions were written or the instructions are void.

29 d. ~~A patient may be registered at only one alternative~~
30 ~~treatment center at any time.] (deleted by amendment, P.L. , c.)~~
31 ~~(pending before the Legislature as this bill)~~

32 e. Prior to dispensing medical marijuana to a qualifying
33 patient, the patient's designated caregiver, or an institutional
34 caregiver, the alternative treatment center shall access the system
35 established pursuant to section 11 of P.L.2009, c.307 (C.45:1-45.1)
36 to ascertain whether medical marijuana was dispensed for the
37 patient by any alternative treatment center within the preceding 30
38 days. Upon dispensing medical marijuana to a qualifying patient,
39 the patient's designated caregiver, or an institutional caregiver, the
40 alternative treatment center shall transmit to the patient's health
41 care practitioner information concerning the amount, strain, and
42 form of medical marijuana that was dispensed.

43 f. (1) Except as provided paragraph (2) of this subsection, the
44 maximum amount of usable marijuana that a patient may be
45 dispensed, in weight, in a 30-day period, shall be:

1 (a) commencing January 1, 2019 an continuing until July 1,
2 2019, two and one-half ounces in dried form or the equivalent
3 amount in any other form; and
4 (b) on or after July 1, 2019, three ounces in dried form or the
5 equivalent amount in any other form.
6 (2) The monthly limits set forth in paragraph (1) of this
7 subsection shall not apply to patients who are terminally ill or who
8 are currently receiving hospice care through a licensed hospice,
9 which patients may be dispensed an unlimited amount of medical
10 marijuana. Qualifying patients who are not receiving hospice care
11 or who are not terminally ill may petition the department, on a form
12 and in a manner as the department shall require by regulation, for
13 an exemption from the monthly limits set forth in paragraph (1) of
14 this paragraph, which petition the department shall approve if the
15 department finds that granting the exemption is necessary to meet
16 the patient's treatment needs and consistent with the provisions of
17 P.L.2009, c.307 (C.24:6I-1 et al.).
18 g. The commissioner shall establish, by regulation, curricula
19 for health care practitioners and alternative treatment center staff.
20 With regard to health care practitioners, the curriculum shall be
21 designed to assist practitioners in counseling patients with regard to
22 the quantity, dosing, and administration of medical marijuana as
23 shall be appropriate to treat the patient's qualifying medical
24 condition. With regard to alternative treatment center employees,
25 the curriculum shall be designed to assist the employees in
26 counseling patients with regard to determining the strain and form
27 of medical marijuana that is appropriate to treat the patient's
28 qualifying medical condition.
29 (cf: P.L.2009, c.307, s.10)
30
31 13. Section 14 of P.L.2009, c.307 (C.24:6I-12) is amended to
32 read as follows:
33 14. a. The commissioner shall report to the Governor, and to the
34 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1):
35 (1) no later than one year after the effective date of **【this act】**
36 P.L.2009, c.307 (C.24:6I-1 et al.), on the actions taken to
37 implement the provisions of **【this act】** P.L.2009, c.307 (C.24:6I-1
38 et al.); and
39 (2) annually thereafter on the number of applications for registry
40 identification cards, the number of qualifying patients registered,
41 the number of **【primary】** designated and institutional caregivers
42 registered, the nature of the **【debilitating】** qualifying medical
43 conditions of the patients, the number of registry identification
44 cards revoked, the number of alternative treatment center permits
45 and the number and types of endorsements issued and revoked, any
46 incidents of diversion of medical marijuana, and the number of
47 **【physicians providing certifications for】** health care practitioners

1 authorizing patients for the medical use of marijuana, including the
2 types of license or certification held by those practitioners.

3 b. The reports shall not contain any identifying information of
4 patients, caregivers, or **【physicians】** health care practitioners.

5 c. Within two years after the effective date of **【this act】**
6 P.L.2009, c.307 (C.24:6I-1 et al.) and every two years thereafter,
7 the commissioner shall: evaluate whether there are sufficient
8 numbers of alternative treatment centers to meet the needs of
9 registered qualifying patients throughout the State; evaluate
10 whether the maximum amount of medical marijuana allowed
11 pursuant to **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) is sufficient
12 to meet the medical needs of qualifying patients; and determine
13 whether any alternative treatment center has charged excessive
14 prices for marijuana that the center dispensed.

15 The commissioner shall report his findings no later than two
16 years after the effective date of **【this act】** P.L.2009, c.307 (C.24:6I-
17 1 et al.), and every two years thereafter, to the Governor, and to the
18 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).
19 (cf: P.L.2009, c.307, s.14)

20

21 14. Section 15 of P.L.2009, c.307 (C.24:6I-13) is amended to
22 read as follows:

23 15. a. The Department of Health is authorized to exchange
24 fingerprint data with, and receive information from, the Division of
25 State Police in the Department of Law and Public Safety and the
26 Federal Bureau of Investigation for use in reviewing applications
27 for individuals seeking to serve as **【primary】** designated caregivers
28 or institutional caregivers who, pursuant to section 4 of P.L.2009,
29 c.307 (C.24:6I-4), are required to undergo a criminal history record
30 background check, and for permits to operate as, or to be a director,
31 officer, or employee of, alternative treatment centers pursuant to
32 section 7 of P.L.2009, c.307 (C.24:6I-7).

33 b. The Division of State Police shall promptly notify the
34 Department of Health in the event an applicant seeking to serve as a
35 **【primary】** designated or institutional caregiver or an applicant for a
36 permit to operate as, or to be a director, officer, or employee of, an
37 alternative treatment center, who was the subject of a criminal
38 history record background check conducted pursuant to subsection
39 a. of this section, is convicted of a crime involving possession or
40 sale of a controlled dangerous substance.

41 (cf: P.L.2012, c.17, s.91)

42

43 15. Section 16 of P.L.2009, c.307 (C.24:6I-14) is amended to
44 read as follows:

45 16. Nothing in this act shall be construed to require a
46 government medical assistance program or private health insurer to
47 reimburse a person for costs associated with the medical use of

1 marijuana **】, or an employer to accommodate the medical use of**
2 **marijuana in any workplace】.**

3 (cf: P.L.2009, c.307, s.16)

4

5 16. Section 18 of P.L.2009, c.307 (C.24:6I-16) is amended to
6 read as follows:

7 18. a. Pursuant to the "Administrative Procedure Act,"
8 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall
9 promulgate rules and regulations to effectuate the purposes of **【this**
10 **act】** P.L.2009, c.307 (C.24:6I-1 et al.), in consultation with the
11 Department of Law and Public Safety.

12 b. Notwithstanding any provision of P.L.1968, c.410
13 (C.52:14B-1 et seq.) to the contrary, the commissioner shall adopt,
14 immediately upon filing with the Office of Administrative Law and
15 no later than the 90th day after the effective date of **【this act】**
16 P.L.2009, c.307 (C.24:6I-1 et al.), such regulations as the
17 commissioner deems necessary to implement the provisions of **【this**
18 **act】** P.L.2009, c.307 (C.24:6I-1 et al.). Regulations adopted
19 pursuant to this subsection shall be effective until the adoption of
20 rules and regulations pursuant to subsection a. of this section and
21 may be amended, adopted, or readopted by the commissioner in
22 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
23 et seq.).

24 c. No later than 90 days after the effective date of P.L. ,
25 c. (C.) (pending before the Legislature as this bill), the
26 commissioner shall establish, by regulation, recommended dosage
27 guidelines for medical marijuana in each form available to
28 qualifying patients that are equivalent to one ounce of medical
29 marijuana in dried form. The commissioner shall periodically
30 review and update the dosage amounts as appropriate, including to
31 establish equivalent dosage amounts for new forms of medical
32 marijuana that become available.

33 (cf: P.L.2009, c.307, s.18)

34

35 17. (New section) If any provision of P.L.2009, c.307 (C.24:6I-1
36 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or P.L. ,
37 c. (C.) (pending before the Legislature as this bill) or its
38 application to any person or circumstance is held invalid, the
39 invalidity does not affect other provisions or applications of
40 P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22
41 et al.), and P.L. , c. (C.) (pending before the Legislature as
42 this bill) which can be given effect without the invalid provision or
43 application, and to this end the provisions of P.L.2009, c.307
44 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), and
45 P.L. , c. (C.) (pending before the Legislature as this bill)
46 are severable.

1 18. Section 11 of P.L.2009, c.307 (C.45:1-45.1) is amended to
2 read as follows:

3 11. a. A **【physician】** health care practitioner who **【provides a**
4 **certification】** authorizes a patient for the medical use of marijuana
5 or who provides a written instruction for the medical use of
6 marijuana to a qualifying patient pursuant to P.L.2009, c.307
7 (C.24:6I-1 et al.) and any alternative treatment center shall furnish
8 to the Director of the Division of Consumer Affairs in the
9 Department of Law and Public Safety such information, on a daily
10 basis and in such a format **【and at such intervals,】** as the director
11 shall prescribe by regulation, for inclusion in a system established
12 to monitor the dispensation of marijuana in this State for medical
13 use as authorized by the provisions of P.L.2009, c.307 (C.24:6I-1 et
14 al.), which system shall serve the same purpose as, and be cross-
15 referenced with, the electronic system for monitoring controlled
16 dangerous substances established pursuant to section 25 of
17 P.L.2007, c.244 (C.45:1-45).

18 b. The Director of the Division of Consumer Affairs, pursuant
19 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
20 1 et seq.), and in consultation with the Commissioner of Health
21 **【and Senior Services】**, shall adopt rules and regulations to
22 effectuate the purposes of subsection a. of this section.

23 c. Notwithstanding any provision of P.L.1968, c.410
24 (C.52:14B-1 et seq.) to the contrary, the Director of the Division of
25 Consumer Affairs shall adopt, immediately upon filing with the
26 Office of Administrative Law and no later than the 90th day after
27 the effective date of P.L.2009, c.307 (C.24:6I-1 et al.), such
28 regulations as the director deems necessary to implement the
29 provisions of subsection a. of this section. Regulations adopted
30 pursuant to this subsection shall be effective until the adoption of
31 rules and regulations pursuant to subsection b. of this section and
32 may be amended, adopted, or readopted by the director in
33 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
34 et seq.).

35 (cf: P.L.2009, c.307, s.11)

36
37 19. Section 5 of P.L.2009, c.307 (C.24:6I-5) is repealed.

38
39 20. This act shall take effect immediately.
40
41

42 STATEMENT

43
44 This bill makes various revisions to the State medical marijuana
45 program, including revising the requirements to authorize a patient
46 for medical marijuana, expanding the types of health care
47 practitioners who can authorize medical marijuana for qualifying
48 patients; increasing the quantity of medical marijuana that can be

1 dispensed to certain patients; establishing institutional caregivers
2 who can assist patients and residents in health care facilities with
3 the medical use of marijuana; revising the permit requirements for
4 alternative treatment centers (ATCs); and establishing additional
5 protections for registry cardholders.

6

7

Authorizing Patients for Medical Marijuana

8

9 Current law sets forth an enumerated list of debilitating medical
10 conditions that can qualify a patient for the medical use of
11 marijuana. The bill changes the term “debilitating medical
12 condition” to “qualifying medical condition,” and updates and
13 revises the list of conditions in certain ways, including adding
14 additional conditions and providing that medical marijuana may be
15 used as a treatment of first resort for any condition included in the
16 list, which are: seizure disorder, including epilepsy; intractable
17 skeletal muscular spasticity; post-traumatic stress disorder;
18 glaucoma; positive status for human immunodeficiency virus;
19 acquired immune deficiency syndrome; cancer; amyotrophic lateral
20 sclerosis; multiple sclerosis; muscular dystrophy; inflammatory
21 bowel disease, including Crohn's disease; terminal illness, if the
22 patient has a prognosis of less than 12 months of life; anxiety;
23 migraine; Tourette’s syndrome; chronic pain; or any other medical
24 condition or its treatment that is approved by the Department of
25 Health (DOH).

26 The bill expands the list of professionals who can authorize
27 patients for the medical use of marijuana. Current law only allows
28 physicians provide this authorization; the bill would provide that
29 any health care practitioner who is authorized under State and
30 federal law to prescribe controlled dangerous substances may
31 authorize patients for medical marijuana, including physicians,
32 physician assistants, and advanced practice nurses.

33 The bill provides that health care practitioners will not be
34 required to register with the DOH, or be publicly listed in any DOH
35 registry, as a condition of authorizing patients for medical
36 marijuana.

37 The bill provides that, in order to authorize a qualifying patient
38 who is a minor for medical marijuana, the health care practitioner
39 will be required to either: (1) be trained in the care of pediatric
40 patients; or (2) obtain written confirmation from a health care
41 practitioner trained in the care of pediatric patients establishing that,
42 following examination of the patient or a review of the patient’s
43 record, the minor patient is likely to receive therapeutic or palliative
44 benefits from the medical use of marijuana to treat or alleviate
45 symptoms associated with the patient’s debilitating medical
46 condition.

47 The bill provides that qualifying patients and designated
48 caregivers who are registered with a medical marijuana program in

1 another state will be deemed to be qualifying patients and
2 designated caregivers for the purposes of New Jersey law, provided
3 the individual possesses a valid registry card and a photo
4 identification card issued by the other state; the patient or caregiver
5 will be authorized to possess and administer medical marijuana
6 while in New Jersey and will be subject to the other protections of
7 New Jersey law, but will not be authorized to obtain medical
8 marijuana from an ATC in the State. The DOH is to seek to
9 establish medical marijuana reciprocity agreements with other
10 states.

11

12 Dispensing Requirements for Medical Marijuana

13

14 The bill increases the maximum amount of medical marijuana
15 that may be dispensed to a patient for a 30-day period from two
16 ounces to two and one-half ounces commencing January 1, 2019
17 and continuing until July 1, 2019, whereupon the maximum amount
18 will increase to three ounces, or the equivalent amount of medical
19 marijuana in any other form according to guidelines for
20 recommended equivalent dosage amounts, to be established by the
21 Commissioner of Health by regulation. These quantity limits will
22 not apply to a qualifying patient who is receiving hospice care or
23 who is terminally ill with a prognosis of less than 12 months to live.
24 Additionally, qualifying patients who are not on hospice care or
25 who are not terminally ill may petition the DOH for a waiver from
26 the quantity limits, which may be granted if the waiver is necessary
27 to meet the patient's treatment needs and is consistent with the
28 purposes of the medical marijuana program.

29 Current law authorizes a patient to be issued multiple written
30 instructions for medical marijuana authorizing up to a 90-day
31 supply; the bill revises this to authorize up to 180-day supply.

32 The bill removes a provision that limited distribution of edible
33 forms of medical marijuana to qualifying patients who are minors,
34 and specifies that medical marijuana may be distributed in
35 transdermal, sublingual, and tincture forms, as well as in the forms
36 authorized under current law.

37 The bill provides that medical marijuana may be dispensed to a
38 patient by any ATC in the State that is authorized to dispense
39 medical marijuana; under current law, patients are to be registered
40 with, and may only be dispensed medical marijuana from, a single
41 ATC where the patient is registered. The bill requires that, prior to
42 dispensing medical marijuana, an ATC will be required to access a
43 system currently maintained by the Division of Consumer Affairs in
44 the Department of Law and Public Safety that tracks medical
45 marijuana dispensations in the State, in order to ascertain whether
46 any medical marijuana was dispensed for the patient within the
47 preceding 30 days. Upon dispensing medical marijuana, the ATC
48 will be required to transmit to the authorizing health care

1 practitioner information concerning the amount, form, and strain of
2 medical marijuana that was dispensed. Health care practitioners
3 will be required to update the system on a daily basis with
4 authorizations and written instructions issued by the practitioner for
5 medical marijuana.

6 The commissioner will be required to develop curricula for
7 health care practitioners to assist them in counseling patients
8 regarding the quantity, dosing, and administration of medical
9 marijuana appropriate for the patient, and for alternative treatment
10 center employees to assist them in counseling patients regarding the
11 form and strain of medical marijuana appropriate for the patient.

12

13 *Designated and Institutional Caregivers*

14

15 The bill changes the term “primary caregiver” to “designated
16 caregiver and allows patients to concurrently have up to two
17 designated caregivers, or more with DOH approval. Additionally,
18 each caregiver will be permitted to concurrently care for up to two
19 qualifying patients. The bill further provides that a designated
20 caregiver who is an immediate family member of the patient will
21 not be required to complete a criminal history record background
22 check. “Immediate family” is defined to mean a spouse, child,
23 sibling, or parent; the parents or siblings of a spouse; and the
24 spouses of the individual’s siblings and children.

25 The bill also establishes the position of “institutional caregiver,”
26 which is an employee of a health care facility who is authorized to
27 obtain and administer medical marijuana to qualifying patients who
28 are patients or residents at the health care facility. An institutional
29 caregiver will be required to be a New Jersey resident, at least 18
30 years of age, and authorized, within the employee’s scope of
31 practice, to possess and administer controlled dangerous substances
32 to patients and residents. An institutional caregiver will be required
33 to undergo a criminal history background check unless the
34 individual has already done so as a condition of employment in the
35 individual’s current position. An institutional caregiver registration
36 will be valid for one year. Medical marijuana may be dispensed to
37 an institutional caregiver, provided the caregiver furnishes an
38 authorization from the patient indicating the caregiver is authorized
39 to obtain medical marijuana on the patient’s behalf.

40 The bill requires an institutional caregiver application to include
41 a certification from the applicant’s employer attesting that: the
42 health care facility has authorized the applicant to serve as an
43 institutional caregiver assisting patients or residents with medical
44 marijuana; the facility has established appropriate security measures
45 to guard against theft, diversion, adulteration, and unauthorized
46 access of medical marijuana; the facility has established protocols
47 to guard against adverse drug interactions between medical
48 marijuana and other medications; the facility will not charge a

1 patient for medical marijuana in excess of the actual cost of
2 acquiring the medical marijuana plus the reasonable costs incurred
3 in acquiring the medical marijuana; and the facility will promptly
4 notify the DOH in the event that an institutional caregiver ceases to
5 be employed by the facility or is convicted of a crime or offense.

6 The bill expressly provides that nothing in its provisions is to be
7 construed to require any facility to authorize employees to serve as
8 institutional caregivers.

9

10 *Alternative Treatment Centers*

11

12 The bill requires the DOH to issue discrete endorsements for
13 ATCs in relation to cultivating, manufacturing, and dispensing
14 medical marijuana; each ATC may hold one or more such
15 endorsements. The bill identifies the activities and functions
16 authorized by each endorsement type.

17 The DOH will be required to periodically evaluate whether the
18 current number of ATC permits and endorsements is sufficient to
19 meet the needs of qualifying patients, and will issue such requests
20 for applications as may be needed to address outstanding patient
21 needs. The bill sets forth the various criteria to be considered when
22 reviewing applications, including the applicant's operational
23 experience, workforce development plan, community impact
24 analysis, security capabilities, storage systems, emergency
25 management plan, and proposed location, along with any other
26 criteria the commissioner deems appropriate.

27 To the extent possible, the DOH is to seek to ensure that at least
28 15 percent of new ATC permits are issued to minority-owned,
29 woman-owned, and veteran-owned businesses, with additional
30 preference being given to applicants with ownership interests that
31 meet more than one category.

32 The bill provides that a new initial ATC permit will be valid for
33 three years and that all ATC permits are renewable on a biennial
34 basis.

35 The bill sets forth certain requirements for the sale or transfer of
36 an ATC permit, which include completing a criminal history record
37 background check of the entity purchasing or receiving the permit,
38 as well as certain requirements specific to nonprofit ATCs, which
39 will be required to comply with the requirements of the "New
40 Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq. If the
41 debts and liabilities of a nonprofit ATC exceed the value of all
42 assets of the ATC other than the permit, the ATC may pay \$300,000
43 to DOH and sell its permit for a sum that satisfies all outstanding
44 obligations.

45 The bill provides that ATCs will be permitted to establish a
46 medical advisory board to advise the ATC on all aspects of its
47 business. A medical advisory board is to comprise five members:
48 three healthcare professionals, including at least one physician; one

1 qualifying patient who resides in the same area as the ATC; and one
2 business owner from the same area as the ATC. No owner,
3 director, officer, or employee of an ATC may serve on a medical
4 advisory board. Medical advisory boards are to meet at least two
5 times per year.

6 The bill authorizes the DOH to issue additional permit types in
7 connection with medical marijuana as may be necessary and
8 appropriate to maximize the effectiveness and efficiency of the
9 State medical marijuana program, including, but not limited to,
10 permits for providing laboratory services and conducting research
11 in connection with the medical use of marijuana.

12 The bill prohibits DOH employees from holding any financial
13 interest in an ATC or receiving anything of value from an ATC in
14 connection with reviewing, processing, or making recommendations
15 with respect to an ATC permit application.

16 The bill provides that a health care practitioner or an immediate
17 family member of a health care practitioner who authorizes patients
18 for medical marijuana may not hold any profit or ownership interest
19 in an ATC. A health care practitioner or the immediate family
20 member of a practitioner who seeks to be an owner, director,
21 officer, or employee of an ATC or otherwise hold an interest in an
22 ATC is to certify that the practitioner has not authorized any
23 patients for medical marijuana in the preceding 90 days. A
24 violation of this prohibition will constitute a crime of the fourth
25 degree, which is punishable by imprisonment for up to 18 months,
26 up to a \$10,000 fine, or both. The bill specifies that nothing in the
27 prohibition will prohibit any health care practitioner from serving
28 on the governing board or medical advisory board of an ATC,
29 provided the practitioner receives no special compensation or
30 remuneration from the ATC, including payments based on patient
31 volumes or the number of authorizations issued by the practitioner.

32 The DOH will be authorized to impose penalties or take
33 administrative action against an ATC, and its employees, officers,
34 investors, directors, or governing board, for any failure to comply
35 with the laws and regulations governing the State medical
36 marijuana program, including, but not limited to, imposing fines,
37 referring the matter to another State agency, and suspending or
38 terminating any endorsements and permits held by the alternative
39 treatment center.

40

41 Legal Protections for Patients and Caregivers

42

43 The bill provides that qualifying patients and designated
44 caregivers may not be discriminated against when enrolling in
45 schools and institutions of higher education, or when renting or
46 leasing real property, solely on the basis of the medical use of
47 marijuana or their status as a registry cardholder. However, the bill
48 provides that nothing is to require a school, institution of higher

1 education, or landlord to take any action that would jeopardize a
2 monetary grant or privilege of licensure based on federal law.
3 Schools, institutions, and landlords may not be penalized or denied
4 benefits under State law solely on the basis of enrolling or renting
5 or leasing real property to a registered patient.

6 Further, the bill provides that medical marijuana is to be treated
7 the same as any other medication for the purposes of furnishing
8 medical care, including determining the individual's eligibility for
9 an organ transplant.

10 The bill establishes protections from adverse employment
11 actions for qualifying patients. Specifically, employers will be
12 prohibited from taking any adverse employment action against an
13 employee based on the employee's status as a registry identification
14 cardholder or based on a positive test for marijuana, unless the
15 employer establishes, by a preponderance of the evidence, that the
16 lawful use of medical marijuana impaired the employee's ability to
17 perform the employee's job responsibilities. An employer may
18 consider an employee's ability to perform the employee's job
19 responsibilities to be impaired when the employee manifests
20 specific articulable symptoms while working that decrease or lessen
21 the employee's performance of the duties or tasks of the employee's
22 job position. If an employer has a drug testing policy and an
23 employee or job applicant tests positive for marijuana, the
24 employee or job applicant is to be offered an opportunity to present
25 a legitimate medical explanation for the positive test result, such as
26 a practitioner's recommendation for medical marijuana, a registry
27 identification card, or both, or request a retest of the original sample
28 at the employee's or job applicant's own expense. Nothing in the
29 bill will restrict an employer's ability to prohibit or take adverse
30 employment action for the possession or use of intoxicating
31 substances during work hours, require an employer to commit any
32 act that would cause the employer to be in violation of federal law,
33 or require the employer to take any action that would result in the
34 loss of a federal contract or federal funding. Employers will not be
35 penalized or denied any benefit under State law for employing a
36 person who is a registry cardholder.

37 The bill updates the current annual reporting requirements
38 concerning the medical marijuana program to reflect the changes
39 made to the program under the bill, and additionally requires that
40 DOH include in the report any incidents of diversion of medical
41 marijuana that occur.