

ASSEMBLY, No. 4015

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 24, 2018

Sponsored by:

Assemblyman KEVIN J. ROONEY

District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Authorizes medical marijuana for treatment of substance use disorder; authorizes all patients to be dispensed medical marijuana in edible form.

CURRENT VERSION OF TEXT

As introduced.



A4015 ROONEY

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1 AN ACT concerning medical marijuana and amending P.L.2009,
2 c.307.

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

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

9 3. As used in **[this act]** P.L.2009, c.307 (C.24:6I-1 et al.) and
10 P.L.2015, c.158 (C.18A:40-12.22 et al.):

11 "Bona fide physician-patient relationship" means a relationship
12 in which the physician has ongoing responsibility for the
13 assessment, care, and treatment of a patient's debilitating medical
14 condition.

15 "Certification" means a statement signed by a physician with
16 whom a qualifying patient has a bona fide physician-patient
17 relationship, which attests to the physician's authorization for the
18 patient to apply for registration for the medical use of marijuana.

19 "Commissioner" means the Commissioner of Health.

20 "Debilitating medical condition" means:

21 (1) one of the following conditions, if resistant to conventional
22 medical therapy: seizure disorder, including epilepsy; intractable
23 skeletal muscular spasticity; post-traumatic stress disorder; or
24 glaucoma;

25 (2) one of the following conditions, if severe or chronic pain,
26 severe nausea or vomiting, cachexia, or wasting syndrome results
27 from the condition or treatment thereof: positive status for human
28 immunodeficiency virus; acquired immune deficiency syndrome; or
29 cancer;

30 (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal
31 cancer, muscular dystrophy, substance use disorder, or
32 inflammatory bowel disease, including Crohn's disease;

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

35 (5) any other medical condition or its treatment that is approved
36 by the department by regulation.

37 "Department" means the Department of Health.

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

41 "Medical marijuana alternative treatment center" or "alternative
42 treatment center" means an organization approved by the
43 department to perform activities necessary to provide registered
44 qualifying patients with usable marijuana and related paraphernalia
45 in accordance with the provisions of **[this act]** P.L.2009, c.307

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 (C.24:6I-1 et al.). This term shall include the organization's
2 officers, directors, board members, and employees.

3 "Medical use of marijuana" means the acquisition, possession,
4 transport, or use of marijuana or paraphernalia by a registered
5 qualifying patient as authorized by **[this act]** P.L.2009, c.307
6 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.).

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

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

11 "Physician" means a person licensed to practice medicine and
12 surgery pursuant to Title 45 of the Revised Statutes with whom the
13 patient has a bona fide physician-patient relationship and who is the
14 primary care physician, hospice physician, or physician responsible
15 for the ongoing treatment of a patient's debilitating medical
16 condition, provided, however, that the ongoing treatment shall not
17 be limited to the provision of authorization for a patient to use
18 medical marijuana or consultation solely for that purpose.

19 "Primary caregiver" or "caregiver" means a resident of the State
20 who:

21 a. is at least 18 years old;

22 b. has agreed to assist with a registered qualifying patient's
23 medical use of marijuana, is not currently serving as primary
24 caregiver for another qualifying patient, and is not the qualifying
25 patient's physician;

26 c. has never been convicted of possession or sale of a
27 controlled dangerous substance, unless such conviction occurred
28 after the effective date of **[this act]** P.L.2009, c.307 (C.24:6I-1 et
29 al.) and was for a violation of federal law related to possession or
30 sale of marijuana that is authorized under **[this act]** P.L.2009, c.307
31 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.);

32 d. has registered with the department pursuant to section 4 of
33 **[this act]** P.L.2009, c.307 (C.24:6I-4), and has satisfied the
34 criminal history record background check requirement of section 4
35 of **[this act]** P.L.2009, c.307 (C.24:6I-4); and

36 e. has been designated as primary caregiver on the qualifying
37 patient's application or renewal for a registry identification card or
38 in other written notification to the department.

39 "Qualifying patient" or "patient" means a resident of the State
40 who has been provided with a certification by a physician pursuant
41 to a bona fide physician-patient relationship.

42 "Registry identification card" means a document issued by the
43 department that identifies a person as a registered qualifying patient
44 or primary caregiver.

45 "Usable marijuana" means the dried leaves and flowers of
46 marijuana, and any mixture or preparation thereof, and does not

A4015 ROONEY

1 include the seeds, stems, stalks, or roots of the plant.
2 (cf: P.L.2016, c.53, s.1)

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

6 7. a. The department shall accept applications from entities
7 for permits to operate as alternative treatment centers, and may
8 charge a reasonable fee for the issuance of a permit under this
9 section. The department shall seek to ensure the availability of a
10 sufficient number of alternative treatment centers throughout the
11 State, pursuant to need, including at least two each in the northern,
12 central, and southern regions of the State. The first two centers
13 issued a permit in each region shall be nonprofit entities, and
14 centers subsequently issued permits may be nonprofit or for-profit
15 entities.

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

32 Applicants for authorization as nonprofit alternative treatment
33 centers shall be subject to all applicable State laws governing
34 nonprofit entities, but need not be recognized as a 501(c)(3)
35 organization by the federal Internal Revenue Service.

36 b. The department shall require that an applicant provide such
37 information as the department determines to be necessary pursuant
38 to regulations adopted pursuant to **【this act】** P.L.2009, c.307
39 (C.24:6I-1 et al.).

40 c. A person who has been convicted of a crime involving any
41 controlled dangerous substance or controlled substance analog as
42 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
43 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
44 of the United States or any other state shall not be issued a permit to
45 operate as an alternative treatment center or be a director, officer, or
46 employee of an alternative treatment center, unless such conviction
47 occurred after the effective date of **【this act】** P.L.2009, c.307

1 (C.24:6I-1 et al.) and was for a violation of federal law relating to
2 possession or sale of marijuana for conduct that is authorized under
3 **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158
4 (C.18A:40-12.22 et al.).

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

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

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

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

40 If the applicant is disqualified because of a disqualifying
41 conviction pursuant to the provisions of this section, the conviction
42 that constitutes the basis for the disqualification shall be identified
43 in the written notice.

44 (4) The Division of State Police shall promptly notify the
45 commissioner in the event that an individual who was the subject of
46 a criminal history record background check conducted pursuant to
47 this section is convicted of a crime or offense in this State after the
48 date the background check was performed. Upon receipt of that

A4015 ROONEY

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1 notification, the commissioner shall make a determination regarding
2 the continued eligibility to operate or be a director, officer, or
3 employee of an alternative treatment center.

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

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

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

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

23 (c) the circumstances under which the crime or offense
24 occurred;

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

26 (e) the age of the individual when the crime or offense was
27 committed;

28 (f) whether the crime or offense was an isolated or repeated
29 incident;

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

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

38 e. The department shall issue a permit to a person to operate as
39 an alternative treatment center if the department finds that issuing
40 such a permit would be consistent with the purposes of **[this act]**
41 P.L.2009, c.307 (C.24:6I-1 et al.) and the requirements of this
42 section are met and the department has verified the information
43 contained in the application. The department shall approve or deny
44 an application within 60 days after receipt of a completed
45 application. The denial of an application shall be considered a final
46 agency decision, subject to review by the Appellate Division of the
47 Superior Court. The department may suspend or revoke a permit to

1 operate as an alternative treatment center for cause, which shall be
2 subject to review by the Appellate Division of the Superior Court.

3 f. A person who has been issued a permit pursuant to this
4 section shall display the permit at the premises of the alternative
5 treatment center at all times when marijuana is being produced, or
6 dispensed to a registered qualifying patient or the patient's primary
7 caregiver.

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

11 h. An alternative treatment center may charge a registered
12 qualifying patient or primary caregiver for the reasonable costs
13 associated with the production and distribution of marijuana for the
14 cardholder.

15 i. The commissioner shall adopt regulations to:

16 (1) require such written documentation of each delivery of
17 marijuana to, and pickup of marijuana for, a registered qualifying
18 patient, including the date and amount dispensed, to be maintained
19 in the records of the alternative treatment center, as the
20 commissioner determines necessary to ensure effective
21 documentation of the operations of each alternative treatment
22 center;

23 (2) monitor, oversee, and investigate all activities performed by
24 an alternative treatment center; and

25 (3) ensure adequate security of all facilities 24 hours per day,
26 including production and retail locations, and security of all
27 delivery methods to registered qualifying patients.

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

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30 3. This act shall take effect immediately.

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STATEMENT

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35 This bill expands the list of debilitating medical conditions that
36 qualify a patient for the medical use of marijuana to include
37 substance use disorder. The bill further removes the current
38 restriction that limits edible forms of medical marijuana to patients
39 who are minors, and specifies that edible forms include oils and
40 liquids, in addition to tablets, capsules, drops and syrups.