Sponsored by:
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District 19 (Middlesex)
Senator NICHOLAS P. SCUTARI
District 22 (Middlesex, Somerset and Union)
Senator DECLAN J. O’SCANLON, JR.
District 13 (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.
AN ACT concerning medical marijuana, amending and
supplementing P.L.2009, c.307, and repealing section 5 of

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

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

2. The Legislature finds and declares that:
   a. Modern medical research has discovered a beneficial use for
      marijuana in treating or alleviating the pain or other symptoms
      associated with certain [debilitating] medical conditions, as found
      by the National Academy of Sciences' Institute of Medicine in
      March 1999 [;]
   b. According to the U.S. Sentencing Commission and the
      Federal Bureau of Investigation, 99 out of every 100 marijuana
      arrests in the country are made under state law, rather than under
      federal law. Consequently, changing state law will have the
      practical effect of protecting from arrest the vast majority of
      seriously ill people who have a medical need to use marijuana [;]
   c. Although federal law currently prohibits the use of
      marijuana, the laws of Alaska, Arkansas, California, Colorado,
      Connecticut, Delaware, Florida, Hawaii, Illinois, Maine, Maryland,
      Massachusetts, Michigan, Minnesota, Montana, Nevada, New
      Hampshire, New Mexico, New York, North Dakota, Ohio, Oregon,
      Pennsylvania, Rhode Island, Vermont, [and] Washington, West
      Virginia, and the District of Columbia permit the use of marijuana
      for medical purposes, and in Arizona doctors are permitted to
      prescribe marijuana. New Jersey joins this effort for the health and
      welfare of its citizens [;]
   d. States are not required to enforce federal law or prosecute
      people for engaging in activities prohibited by federal law;
      therefore, compliance with this act does not put the State of New
      Jersey in violation of federal law [; and]
   e. Compassion dictates that a distinction be made between
      medical and non-medical uses of marijuana. Hence, the purpose of
      this act is to protect from arrest, prosecution, property forfeiture,
      and criminal and other penalties, those patients who use marijuana
      to alleviate suffering from [debilitating] qualifying medical
      conditions, as well as their [physicians] health care practitioners,
      [primary] designated caregivers, institutional caregivers, and those
      who are authorized to produce marijuana for medical purposes.
      (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.
Section 3 of P.L.2009, c.307 (C.24:6I-3) is amended to read as follows:


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

"Commissioner" means the Commissioner of Health.

"Debilitating medical condition" means:

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

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

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

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

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

"Department" means the Department of Health.

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

(1) is at least 18 years old;

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

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

(4) has registered with the department pursuant to section 4 of P.L.2009, c.307 (C.24:6I-4), and, except in the case of a designated...
caregiver who is an immediate family member of the patient, has satisfied the criminal history record background check requirement of section 4 of P.L.2009, c.307 (C.24:6I-4); and

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

"Health care facility” means a general acute care hospital, nursing home, long term care facility, hospice care facility, or rehabilitation center.

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

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

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

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

"Immediate family” means the spouse, civil union partner, child, sibling, or parent of an individual, and shall include the siblings and parents of the individual’s spouse or civil union partner, and the spouses or civil union partners of the individual’s siblings and children.

"Institutional caregiver” means a resident of the State who:

(1) is at least 18 years old;

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

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

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

(5) has never been convicted of possession or sale of a controlled dangerous substance, unless such conviction occurred after the effective date of P.L.2009, c.307 (C.24:6I-1 et al.) and was for a violation of federal law related to possession or sale of marijuana that is authorized under P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or P.L. , c. (C.) (pending before the Legislature as this bill); and
(6) has registered with the department pursuant to section 4 of P.L.2009, c.307 (C.24:6I-4).


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


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

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

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

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

a. is at least 18 years old;

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

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

d. has registered with the department pursuant to section 4 of this act, and has satisfied the criminal history record background check requirement of section 4 of this act; and
e. has been designated as primary caregiver on the qualifying patient's application or renewal for a registry identification card or in other written notification to the department."

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

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

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

"Terminally ill" means having an illness or condition with a prognosis of less than 12 months of life.

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

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

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

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

(1) a certification that meets the requirements of section 5 of this act, documentation of a health care practitioner’s authorization for the medical use of marijuana;

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

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

(4) the name, address, and telephone number of the patient's physician health care practitioner.

Each qualifying patient may concurrently have up to two designated caregivers. A qualifying patient may petition the
department for approval to concurrently have more than two caregivers, which petition shall be approved if the department finds that allowing the patient additional designated caregivers is necessary to meet the patient’s treatment needs and is consistent with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.).

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

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

c. (1) The commissioner shall require each applicant seeking to serve as a designated or institutional caregiver to undergo a criminal history record background check; except that no criminal history record background check shall be required for an applicant seeking to serve as a designated caregiver if the applicant is an immediate family member of the patient, and no criminal history record background check shall be required for an applicant seeking to serve as an institutional caregiver if the applicant completed a criminal history record background check as a condition of employment in the applicant’s current position. The commissioner is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the
commissioner in a timely manner when requested pursuant to the provisions of this section.

An applicant seeking to serve as a [primary] designated or institutional caregiver who is required to complete a criminal history record background check pursuant to this section shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished [his] the applicant’s written consent to that check. An applicant who is required to complete a criminal history record background check pursuant to this section who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for inclusion in the registry as a [primary] designated or institutional caregiver or issuance of an identification card. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

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

(3) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the commissioner shall provide written notification to the applicant of [his] the applicant’s qualification or disqualification for serving as a [primary] designated or institutional caregiver.

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

(4) The Division of State Police shall promptly notify the commissioner in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the commissioner shall make a determination regarding the continued eligibility of the applicant to serve as a [primary] designated or institutional caregiver.
(5) Notwithstanding the provisions of subsection b. of this section to the contrary, no applicant shall be disqualified from serving as a registered [primary] designated or institutional caregiver on the basis of any conviction disclosed by a criminal history record background check conducted pursuant to this section if the individual has affirmatively demonstrated to the commissioner clear and convincing evidence of rehabilitation. In determining whether clear and convincing evidence of rehabilitation has been demonstrated, the following factors shall be considered:

(a) the nature and responsibility of the position which the convicting individual would hold, has held, or currently holds;
(b) the nature and seriousness of the crime or offense;
(c) the circumstances under which the crime or offense occurred;
(d) the date of the crime or offense;
(e) the age of the individual when the crime or offense was committed;
(f) whether the crime or offense was an isolated or repeated incident;
(g) any social conditions which may have contributed to the commission of the crime or offense; and
(h) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

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

(1) (a) in the case of a registry identification card for a patient or designated caregiver, the name, address, and date of birth of the patient and [primary] each designated caregiver, if applicable; and
   (b) in the case of an institutional caregiver, the caregiver’s name and date of birth and the name and address of the health care facility at which the caregiver is employed;
(2) the expiration date of the registry identification card;
(3) photo identification of the cardholder; and
(4) such other information that the department may specify by regulation.

e. (1) A patient who has been issued a registry identification card shall notify the department of any change in the patient’s name, address, or [physician] health care practitioner or change in status of the patient’s [debilitating] qualifying medical condition, within 10 days of such change, or the registry identification card shall be deemed null and void.
   (2) A [primary] designated caregiver who has been issued a registry identification card shall notify the department of any...
change in the caregiver’s name or address within 10 days of such change, or the registry identification card shall be deemed null and void.

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

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

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

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

g. Applying for or receiving a registry card does not constitute a waive of the qualifying patient’s [patient-physician] patient-professional privilege.

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

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

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

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

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

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

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

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

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

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

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

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

b. When authorizing a qualifying patient who is a minor for the medical use of marijuana, if the treating health care practitioner is not trained in the care of pediatric patients, the treating health care practitioner shall, prior to authorizing the patient for the medical use of marijuana, obtain written confirmation from a health care practitioner trained in the care of pediatric patients establishing, in that health care practitioner’s professional opinion, and following an examination of the minor patient or review of the minor patient’s medical record, that the minor patient is likely to receive therapeutic or palliative benefits from the medical use of marijuana to treat or alleviate symptoms associated with the patient’s qualifying medical condition. If the treating health care practitioner
is trained in the care of pediatric patients, no additional written
confirmation from any other health care practitioner shall be
required as a condition of authorizing the patient for the medical
use of marijuana.

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

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

(1) the stipend does not exceed the stipend paid to any other
member of the medical advisory board for serving on the board; and
(2) the amount of the stipend is not based on patient volumes at
the alternative treatment center or on the number of authorizations
for the medical use of marijuana the health care practitioner issues
pursuant to P.L.2009, c.307 (C.24:6I-1 et al.).

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

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

6. (New section) a. An individual who is registered as a
qualifying patient in another state or jurisdiction within the United
States that authorizes the medical use of marijuana shall be
considered a qualifying patient for the purposes of P.L.2009, c.307
(C.24:6I-1 et al.), provided that the individual possesses both a
valid patient registry card and a valid photo identification card
issued by the other state or jurisdiction. The individual shall be
authorized to possess, use, and engage in such other conduct in
connection with medical marijuana as is consistent with the
requirements of P.L.2009, c.307 (C.24:6I-1 et al.) and the laws of
the state or jurisdiction that issued the patient’s registry card, except
that in no case shall any individual be dispensed medical marijuana
by an alternative treatment center in New Jersey pursuant to a
patient registration issued by another state or jurisdiction.

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

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

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

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

b. A qualifying patient, [primary] designated caregiver,
institutional caregiver, health care facility, alternative treatment
center, [physician] health care practitioner, or any other person
acting in accordance with the provisions of P.L.2009, c.307
P.L., c. ...(pending before the Legislature as this bill)
shall not be subject to any civil or administrative penalty, or denied
any right or privilege, including, but not limited to, civil penalty or
disciplinary action by a professional licensing board, related to the
medical use of marijuana as authorized under P.L.2009, c.307
P.L., c. ...(pending before the Legislature as this bill).

c. Possession of, or application for, a registry identification
card shall not alone constitute probable cause to search the person
or the property of the person possessing or applying for the registry
identification card, or otherwise subject the person or [his] the
person’s property to inspection by any governmental agency.

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

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

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

g. For the purposes of medical care, including organ
transplants, a registered qualifying patient’s authorized use of
medical marijuana in accordance with the provisions of P.L.2009,
and P.L. , c. (C. ) (pending before the Legislature as this
bill), shall be considered equivalent to the authorized use of any
other medication used at the direction of a health care practitioner,
and shall not constitute the use of an illicit substance or otherwise
disqualify a qualifying patient from needed medical care.

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

i. No person shall refuse to rent, lease, or sublease any real
property or part or portion thereof, or discriminate in the terms,
conditions, or privileges of the rental or lease of any real property
or part or portion thereof or in the furnishing of facilities or services
in connection therewith, solely based on the status of the
prospective tenant as a registry identification cardholder, unless
failing to do so would result in the person losing a monetary or
licensing-related benefit granted pursuant to federal law. No such
person shall be penalized or denied any benefit under State law
solely on the basis of renting or leasing real property to a person
who is a registry identification cardholder.
(cf: P.L.2015, c.158, s.4)

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

For the purposes of this section, an employer may consider an
employee’s ability to perform the employee’s job responsibilities to
be impaired when the employee manifests specific articulable
symptoms while working that decrease or lessen the employee’s
performance of the duties or tasks of the employee’s job position.
b. (1) If an employer has a drug testing policy and an employee
or job applicant tests positive for marijuana, the employer shall
offer the employee or job applicant an opportunity to present a
legitimate medical explanation for the positive test result, and shall
provide written notice of the right to explain to the employee or job
applicant.

(2) Within three working days after receiving notice pursuant to
paragraph (1) of this subsection, the employee or job applicant may
submit information to the employer to explain the positive test
result, or may request a confirmatory retest of the original sample at
the employee’s or job applicant’s own expense. As part of an
employee’s or job applicant’s explanation for the positive test
result, the employee or job applicant may present an authorization
for medical marijuana issued by a health care practitioner, a registry
identification card, or both.
c. Nothing in this section shall be deemed to:
(1) restrict an employer’s ability to prohibit, or take adverse
employment action for, the possession or use of intoxicating
substances during work hours; or
(2) require an employer to commit any act that would cause the
employer to be in violation of federal law, that would result in a
loss of a licensing-related benefit pursuant to federal law, or that
would result in the loss of a federal contract or federal funding.
d. No employer shall be penalized or denied any benefit under
State law solely on the basis of employing a person who is a
registry identification cardholder.
e. As used in this section, “adverse employment action” means
refusing to hire or employ a qualified registered patient, barring or
discharging a qualified registered patient from employment,
requiring a qualified registered patient to retire from employment, or discriminating against a qualified registered patient in compensation or in any terms, conditions, or privileges of employment.

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

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

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

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

To the extent possible, the department shall seek to ensure that at least 15 percent of the total number of new alternative treatment center permits issued on or after the effective date of P.L. , c. (pending before the Legislature as this bill) are issued to a qualified applicant that: has been certified as a minority business or as a women’s business by the Division of Development for Small Businesses and Women’s and Minority Businesses in the
New Jersey Commerce and Economic Growth Commission 
pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.), has been 
certified as a veteran-owned business by the Department of the 
Treasury pursuant to P.L.2011, c.147 (C.52:32-49 et seq.); is a 
disabled-veterans’ business, as defined in section 2 of P.L.2015, 
c.116 (C.52:32-31.2); or is a business in which women, minorities, 
or veterans own not less than 33 percent of the equity interest, and 
the day-to-day management control is either vested in and actually 
exercised by one or more women, minorities, or veterans, subject to 
the alternative treatment center’s board of directors, or is exercised 
by others, provided that any women, minorities, or veterans 
specified in the permit retain ultimate and final decision-making 
authority over the affairs of the alternative treatment center. In 
selecting among applicants who meet these criteria, the department 
shall grant a higher preference to applicants with up to two of the 
certifications described in this subsection.

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

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

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

c. A person who has been convicted of a crime involving any 
controlled dangerous substance or controlled substance analog as 
set forth in chapter 35 of Title 2C of the New Jersey Statutes except
paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or any other state shall not be issued a permit to operate as an alternative treatment center or be a director, officer, or employee of an alternative treatment center, unless such conviction occurred after the effective date of [this act] P.L.2009, c.307 (C.24:6I-1 et al.) and was for a violation of federal law relating to possession or sale of marijuana for conduct that is authorized under [this act] P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), or P.L.____, c.____ (pending before the Legislature as this bill).

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

An applicant shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished [his] the applicant’s written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a permit to operate, or authorization to be employed at, an alternative treatment center. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

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

(3) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the commissioner shall provide written notification to the applicant of [his] the applicant’s qualification for or disqualification for a permit to operate or be a director, officer, or employee of an alternative treatment center.

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

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

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

(6) Notwithstanding the provisions of subsection b. of this section to the contrary, no employee of an alternative treatment center shall be disqualified on the basis of any conviction disclosed by a criminal history record background check conducted pursuant to this section if the individual has affirmatively demonstrated to the commissioner clear and convincing evidence of rehabilitation.

In determining whether clear and convincing evidence of rehabilitation has been demonstrated, the following factors shall be considered:

(a) the nature and responsibility of the position which the convicted individual would hold, has held, or currently holds;
(b) the nature and seriousness of the crime or offense;
(c) the circumstances under which the crime or offense occurred;
(d) the date of the crime or offense;
(e) the age of the individual when the crime or offense was committed;
(f) whether the crime or offense was an isolated or repeated incident;
(g) any social conditions which may have contributed to the commission of the crime or offense; and
(h) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

e. The department shall issue a permit to a person to operate as an alternative treatment center if the department finds that issuing such a permit would be consistent with the purposes of [this act] P.L.2009, c.307 (C.24:61-1 et al.) and the requirements of this
section are met and the department has verified the information contained in the application. The department shall approve or deny an application within 60 days after receipt of a completed application. The denial of an application shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. The department may suspend or revoke a permit to operate as an alternative treatment center for cause, which shall be subject to review by the Appellate Division of the Superior Court. An initial permit to operate an alternative treatment center issued on or after the effective date of P.L. 2009, c. 307 (C. 24:6I-1 et al.) shall be valid for three years. Alternative treatment center permits shall be renewable biennially.

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

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

h. [An] Any fees charged by an alternative treatment center may charge a registered qualifying patient or primary caregiver for the reasonable costs associated] in connection with the producing cultivating, manufacturing, and [distribution of medical marijuana [for the cardholder] shall be reasonable and consistent with the actual costs incurred by the alternative treatment center in connection with cultivating, manufacturing, or dispensing medical marijuana.

i. The commissioner shall adopt regulations to:

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

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

(3) ensure adequate security of all facilities 24 hours per day, including production and retail locations, and security of all delivery methods to registered qualifying patients; and
(4) establish thresholds for administrative action to be taken
against an alternative treatment center and its employees, officers,
investors, directors, or governing board.

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

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

3. In the case of a nonprofit alternative treatment center that
was issued a permit prior to the effective date of P.L.____, c. (C.____)
(pending before the Legislature as this bill), in lieu of obtaining an
independent appraisal of the fair market value of the alternative
treatment center’s permit as required under paragraph (2) of this
subsection, upon receiving approval for the sale from the
department pursuant to paragraph (1) of this subsection, a nonprofit
alternative treatment center that was issued a permit prior to the
effective date of P.L.____, c. (C.____) (pending before the
Legislature as this bill) may, on a single occasion and no later than one year after the effective date of P.L. ___, c. ___ (pending before the Legislature as this bill), elect to pay the department a fee of $300,000 and sell or transfer its permit for a sum that satisfies its outstanding obligations.

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

l. (1) An alternative treatment center shall apply to engage in one or more of the following activities associated with provided registered qualifying patients with usable marijuana and related supplies by way of endorsement to its permit issued by the department:
   (a) cultivating and harvesting usable marijuana;
   (b) manufacturing and processing usable marijuana; and
   (c) dispensing usable marijuana.

   (2) The endorsements issued by the department shall authorize the following specific activities:
      (a) a cultivating endorsement shall allow the alternative treatment center to possess, cultivate, plant, grow, harvest, and package usable marijuana, including prerolled forms, and to display, transfer, transport, distribute, supply, or sell marijuana to other alternative treatment centers, but not directly to registered qualifying patients.
      (b) a manufacturing endorsement shall allow the alternative treatment center to possess and process usable marijuana, to purchase usable marijuana from other alternative treatment centers possessing a cultivating endorsement, to manufacture products containing marijuana that are approved by the department, to conduct research and develop products containing marijuana for approval by the department, and to display, transfer, transport, distribute, supply, or sell such marijuana and products containing marijuana to other alternative treatment centers, but not directly to registered qualifying patients.
      (c) A dispensing endorsement shall allow the alternative treatment center to purchase usable marijuana and products containing marijuana from other alternative treatment centers authorized to cultivate or manufacture usable marijuana or products containing marijuana, and to possess, display, supply, sell, and dispense usable marijuana and products containing marijuana to registered qualifying patients.

   (3) The department shall issue endorsements in a manner that ensures adequate patient access to medical marijuana.
m. In the event that an alternative treatment center fails to comply with any requirements set forth in P.L.2009, c.307 (C.24:6I-1 et al.) or any related law or regulation, the department may invoke penalties or take administrative action against the alternative treatment center and its employees, officers, investors, directors, or governing board, including, but not limited to, assessing fines, referring matters to another State agency, suspending any endorsement or permit held by the alternative treatment center, or terminating any endorsement or permit held by the alternative treatment center.

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

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

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

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

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

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

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

b. A [physician] health care practitioner may issue multiple
written instructions at one time authorizing the patient to receive a
total of up to a [90-day] 180-day supply, provided that the
following conditions are met:
(1) Each separate set of instructions shall be issued for a
legitimate medical purpose by the [physician] health care
practitioner, as provided in [this act] P.L.2009, c.307 (C.24:6I et
al.);
(2) Each separate set of instructions shall indicate the earliest
date on which a center may dispense the marijuana, except for the
first dispensation if it is to be filled immediately; and
(3) The [physician] health care practitioner has determined that
providing the patient with multiple instructions in this manner does
not create an undue risk of diversion or abuse.

c. A registered qualifying patient or [his primary] the patient’s
designated caregiver, or an institutional caregiver acting on behalf
of a qualifying patient, shall present the patient’s or caregiver’s
registry identification card, as applicable, and these written
instructions to [the] any alternative treatment center that is
authorized to dispense medical marijuana, which shall verify and
log the documentation presented. An institutional caregiver shall
additionally present an authorization executed by the patient
certifying that the institutional caregiver is authorized to obtain
medical marijuana on behalf of the patient. A [physician] health
care practitioner may provide a copy of a written instruction by
electronic or other means, as determined by the commissioner,
directly to an alternative treatment center on behalf of a registered
qualifying patient. The dispensation of marijuana pursuant to any
written instructions shall occur within one month of the date that
the instructions were written or the instructions are void.

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

e. Prior to dispensing medical marijuana to a qualifying
patient, the patient’s designated caregiver, or an institutional
caregiver, the alternative treatment center shall access the system
established pursuant to section 11 of P.L.2009, c.307 (C.45:1-45.1)
to ascertain whether medical marijuana was dispensed for the
patient by any alternative treatment center within the preceding 30
days. Upon dispensing medical marijuana to a qualifying patient,
the patient’s designated caregiver, or an institutional caregiver, the
alternative treatment center shall transmit to the patient’s health
care practitioner information concerning the amount, strain, and
form of medical marijuana that was dispensed.
(1) Except as provided paragraph (2) of this subsection, the maximum amount of usable marijuana that a patient may be dispensed, in weight, in a 30-day period, shall be:

(a) commencing January 1, 2019 and continuing until July 1, 2019, two and one-half ounces in dried form or the equivalent amount in any other form; and

(b) on or after July 1, 2019, three ounces in dried form or the equivalent amount in any other form.

(2) The monthly limits set forth in paragraph (1) of this subsection shall not apply to patients who are terminally ill or who are currently receiving hospice care through a licensed hospice, which patients may be dispensed an unlimited amount of medical marijuana. Qualifying patients who are not receiving hospice care or who are not terminally ill may petition the department, on a form and in a manner as the department shall require by regulation, for an exemption from the monthly limits set forth in paragraph (1) of this paragraph, which petition the department shall approve if the department finds that granting the exemption is necessary to meet the patient’s treatment needs and consistent with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.).

g. The commissioner shall establish, by regulation, curricula for health care practitioners and alternative treatment center staff. With regard to health care practitioners, the curriculum shall be designed to assist practitioners in counseling patients with regard to the quantity, dosing, and administration of medical marijuana as shall be appropriate to treat the patient’s qualifying medical condition. With regard to alternative treatment center employees, the curriculum shall be designed to assist the employees in counseling patients with regard to determining the strain and form of medical marijuana that is appropriate to treat the patient’s qualifying medical condition.

(cf: P.L.2009, c.307, s.10)

13. Section 14 of P.L.2009, c.307 (C.24:6I-12) is amended to read as follows:

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

(1) no later than one year after the effective date of [this act] P.L.2009, c.307 (C.24:6I-1 et al.), on the actions taken to implement the provisions of [this act] P.L.2009, c.307 (C.24:6I-1 et al.); and

(2) annually thereafter on the number of applications for registry identification cards, the number of qualifying patients registered, the number of [primary] designated and institutional caregivers registered, the nature of the [debilitating] qualifying medical conditions of the patients, the number of registry identification cards revoked, the number of alternative treatment center permits and the number and types of endorsements issued and revoked, any
incidents of diversion of medical marijuana, and the number of
[physicians providing certifications for] health care practitioners
authorizing patients for the medical use of marijuana, including the
types of license or certification held by those practitioners.

b. The reports shall not contain any identifying information of
patients, caregivers, or [physicians] health care practitioners.

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

The commissioner shall report his findings no later than two
years after the effective date of [this act] P.L.2009, c.307 (C.24:6I-1 et al.), and every two years thereafter, to the Governor, and to the
(cf: P.L.2009, c.307, s.14)

read as follows:

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

b. The Division of State Police shall promptly notify the
Department of Health in the event an applicant seeking to serve as a
[primary] designated or institutional caregiver or an applicant for a
permit to operate as, or to be a director, officer, or employee of, an
alternative treatment center, who was the subject of a criminal
history record background check conducted pursuant to subsection
a. of this section, is convicted of a crime involving possession or
sale of a controlled dangerous substance.
(cf: P.L.2012, c.17, s.91)

15. Section 16 of P.L.2009, c.307 (C.24:6I-14) is amended to
read as follows:
16. Nothing in this act shall be construed to require a
government medical assistance program or private health insurer to
reimburse a person for costs associated with the medical use of
marijuana [marijuana in any workplace].
(cf: P.L.2009, c.307, s.16)

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

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

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

c. No later than 90 days after the effective date of P.L. ,
c. (C. ) (pending before the Legislature as this bill), the
commissioner shall establish, by regulation, recommended dosage
guidelines for medical marijuana in each form available to
qualifying patients that are equivalent to one ounce of medical
marijuana in dried form. The commissioner shall periodically
review and update the dosage amounts as appropriate, including to
establish equivalent dosage amounts for new forms of medical
marijuana that become available.
(cf: P.L.2009, c.307, s.18)

17. (New section) If any provision of P.L.2009, c.307 (C.24:6I-1
c. (C. ) (pending before the Legislature as this bill) or its
application to any person or circumstance is held invalid, the
invalidity does not affect other provisions or applications of
et al.), and P.L ., c. (C. ) (pending before the Legislature as
this bill) which can be given effect without the invalid provision or
application, and to this end the provisions of P.L.2009, c.307
P.L. , c. (C. ) (pending before the Legislature as this bill) are severable.

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

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

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

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

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


20. This act shall take effect immediately.

This bill makes various revisions to the State medical marijuana program, including revising the requirements to authorize a patient...
for medical marijuana, expanding the types of health care practitioners who can authorize medical marijuana for qualifying patients; increasing the quantity of medical marijuana that can be dispensed to certain patients; establishing institutional caregivers who can assist patients and residents in health care facilities with the medical use of marijuana; revising the permit requirements for alternative treatment centers (ATCs); and establishing additional protections for registry cardholders.

Authorizing Patients for Medical Marijuana

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

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

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

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

The bill provides that qualifying patients and designated caregivers who are registered with a medical marijuana program in another state will be deemed to be qualifying patients and designated caregivers for the purposes of New Jersey law, provided the individual possesses a valid registry card and a photo identification card issued by the other state; the patient or caregiver will be authorized to possess and administer medical marijuana while in New Jersey and will be subject to the other protections of New Jersey law, but will not be authorized to obtain medical marijuana from an ATC in the State. The DOH is to seek to establish medical marijuana reciprocity agreements with other states.

Dispensing Requirements for Medical Marijuana

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

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

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

The bill provides that medical marijuana may be dispensed to a patient by any ATC in the State that is authorized to dispense medical marijuana; under current law, patients are to be registered with, and may only be dispensed medical marijuana from, a single ATC where the patient is registered. The bill requires that, prior to dispensing medical marijuana, an ATC will be required to access a system currently maintained by the Division of Consumer Affairs in the Department of Law and Public Safety that tracks medical
marijuana dispensations in the State, in order to ascertain whether
any medical marijuana was dispensed for the patient within the
preceding 30 days. Upon dispensing medical marijuana, the ATC
will be required to transmit to the authorizing health care
practitioner information concerning the amount, form, and strain of
medical marijuana that was dispensed. Health care practitioners
will be required to update the system on a daily basis with
authorizations and written instructions issued by the practitioner for
medical marijuana.

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

Designated and Institutional Caregivers

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

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

The bill requires an institutional caregiver application to include
a certification from the applicant’s employer attesting that: the
health care facility has authorized the applicant to serve as an
institutional caregiver assisting patients or residents with medical
marijuana; the facility has established appropriate security measures
to guard against theft, diversion, adulteration, and unauthorized access of medical marijuana; the facility has established protocols to guard against adverse drug interactions between medical marijuana and other medications; the facility will not charge a patient for medical marijuana in excess of the actual cost of acquiring the medical marijuana plus the reasonable costs incurred in acquiring the medical marijuana; and the facility will promptly notify the DOH in the event that an institutional caregiver ceases to be employed by the facility or is convicted of a crime or offense.

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

Alternative Treatment Centers

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

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

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

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

The bill sets forth certain requirements for the sale or transfer of an ATC permit, which include completing a criminal history record background check of the entity purchasing or receiving the permit, as well as certain requirements specific to nonprofit ATCs, which will be required to comply with the requirements of the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq. If the debts and liabilities of a nonprofit ATC exceed the value of all assets of the ATC other than the permit, the ATC may pay $300,000 to DOH and sell its permit for a sum that satisfies all outstanding obligations.
The bill provides that ATCs will be permitted to establish a medical advisory board to advise the ATC on all aspects of its business. A medical advisory board is to comprise five members: three healthcare professionals, including at least one physician; one qualifying patient who resides in the same area as the ATC; and one business owner from the same area as the ATC. No owner, director, officer, or employee of an ATC may serve on a medical advisory board. Medical advisory boards are to meet at least two times per year.

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

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

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

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

Legal Protections for Patients and Caregivers

The bill provides that qualifying patients and designated caregivers may not be discriminated against when enrolling in
schools and institutions of higher education, or when renting or leasing real property, solely on the basis of the medical use of marijuana or their status as a registry cardholder. However, the bill provides that nothing is to require a school, institution of higher education, or landlord to take any action that would jeopardize a monetary grant or privilege of licensure based on federal law. Schools, institutions, and landlords may not be penalized or denied benefits under State law solely on the basis of enrolling or renting or leasing real property to a registered patient.

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

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

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