

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[Third Reprint]

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 10 and 2426**

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 2019

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill Nos. 10 and 2426 SCS (3R).

As amended by the committee, this bill makes various revisions to the title and requirements of the “Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et al.), including revising the requirements to authorize a patient for medical cannabis; revising the permit and operational requirements for alternative treatment centers (ATCs), including establishing discrete cultivator, manufacturer, and dispensary permits; creating a new clinical registrant permit, and establishing additional protections for registry cardholders. Additionally, this bill updates references throughout the current law to reflect the establishment of the Cannabis Regulatory Commission (CRC) pursuant to Senate Bill No. 2703, which is an entity established in, but not of, the Department of the Treasury, and which will be vested with oversight authority over the medical cannabis program. All authority over the medical cannabis program will transfer from the Department of Health to the CRC at such time as the members of the CRC are appointed and the CRC first organizes.

Patient and Caregiver Requirements

Current law sets forth an enumerated list of debilitating medical conditions that can qualify a patient for the medical use of cannabis. As amended by the committee, 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 cannabis 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; dysmenorrhea; chronic pain; opioid use disorder; or any other medical condition or its treatment that is approved by the CRC.

The bill expands the list of professionals who can authorize patients for the medical use of cannabis. Current law only allows physicians to provide this authorization; the bill provides that physician assistants and advanced practice nurses may authorize patients for medical cannabis as well, and eliminates the requirement for the professional to have a bona fide provider-patient relationship with the patient. The bill provides that health care practitioners will not be required to register with the CRC, or be publicly listed in any CRC registry, as a condition of authorizing patients for medical cannabis. Practitioners will be prohibited from authorizing themselves or members of their immediate family for medical cannabis.

The bill provides that, in order to authorize a qualifying patient who is a minor for medical cannabis, the practitioner will be required to either be a certified pediatric specialist or obtain written confirmation from a certified pediatric specialist 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 cannabis to treat or alleviate symptoms associated with the patient's qualifying medical condition.

With regard to caregivers, current law provides that each patient may have only one primary caregiver and that a person may serve as primary caregiver to no more than one patient at a time. The bill changes the term "primary caregiver" to "designated caregiver," and provides that each caregiver may serve up to two patients at one time and that each patient may have up to two designated caregivers at one time. Patients may petition the CRC for approval to have more than two designated caregivers. An immediate family member of a patient will not be required to undergo a criminal history record background check as a condition of serving as designated caregiver.

The bill also establishes the position of "institutional caregiver," which is an employee of a health care facility who is authorized to assist qualifying patients who are patients or residents at the health care facility with the medical use of cannabis. An institutional caregiver registration will be valid for one year. Each institutional caregiver will be required to be a New Jersey resident, at least 18 years of age, and authorized, within the individual's scope of professional practice, to possess and administer controlled dangerous substances to patients and residents at the facility. An institutional caregiver will be required to undergo a criminal history background check unless the individual has already done so as a condition of professional licensure or certification. Medical cannabis may be dispensed to an institutional caregiver if authorized by the patient. There will be no limit to the

number of patients an institutional caregiver can serve at one time, provided that the caregiver is able to meet the needs of all such patients and attend to the caregiver's other duties at the facility without jeopardizing the health or safety of any patient or resident at the facility. Facilities that choose to authorize the use of institutional caregivers will be required to certify, with each caregiver application, that the facility has established appropriate security measures to prevent unauthorized access to medical cannabis to guard against theft, diversion, and adulteration while the cannabis is stored at the facility or is being transported to the facility by an institutional caregiver; the facility has established protocols to prevent adverse drug interactions between medical cannabis and other medications; the facility will not charge a patient for medical cannabis in excess of the actual cost of the medical cannabis plus reasonable acquisition costs; and the facility will promptly notify the CRC in the event that an institutional caregiver ceases to be employed by the facility or is convicted of a crime. For the purposes of the bill, "health care facility" includes a general acute care hospital, nursing home, long term care facility, hospice care facility, group home, facility that provides services to persons with developmental disabilities, behavioral health care facility, and rehabilitation center.

The bill provides that qualifying patients and designated caregivers who are registered with a medical cannabis program in another state will be deemed to be qualifying patients and designated caregivers for the purposes of New Jersey law for up to six months, provided the individual possesses a valid registry card and a photo identification card issued by the other state. Medical cannabis may only be dispensed to an out-of-State patient or caregiver pursuant to written instructions issued by a New Jersey practitioner. After six months, the out-of-State registrant will be prohibited from engaging in conduct related to medical cannabis in New Jersey unless the individual is registered as a qualifying patient or caregiver in New Jersey. The CRC is to seek to establish medical cannabis reciprocity agreements with other states.

The bill allows the CRC to establish an alternate means to identify and verify the registration status of patients and caregivers other than the registry identification card currently in use.

Dispensing Requirements for Medical Cannabis

Current law provides that up to two ounces of medical cannabis may be dispensed to a patient in a 30-day period. The bill provides that, commencing January 1, 2019, the maximum amount that may be dispensed will increase to two and one-half ounces, and commencing July 1, 2019, the maximum amount will increase to three ounces. The quantity restrictions will not apply to a patient receiving hospice care or who is terminally ill; other patients may petition the CRC for an

exemption from the monthly quantity limits, which may be granted if appropriate to the patient's treatment needs. The CRC is to establish recommended dosing guidelines for medical cannabis products that are equivalent to one ounce of medical cannabis in dried form.

Current law provides that physicians may issue multiple written instructions authorizing up to a 90-day supply of medical cannabis, provided that each instruction is issued for a legitimate medical purpose, includes the earliest date on which the instruction becomes valid, and does not present an undue risk of diversion or abuse. The bill will allow practitioners to authorize up to a one year supply at one time.

The bill requires the CRC to establish a process for patients to be dispensed medical cannabis in quantities of up to a two week supply during the pendency of the patient's registration with the CRC; additional two-week supplies may be dispensed until the registration process is completed. The CRC is to establish appropriate restrictions to protect against fraud, abuse, and diversion.

The bill removes a provision that limits access to edible forms of medical cannabis, including oils, to qualifying patients who are minors, and specifies that medical cannabis may be distributed in transdermal, sublingual, and tincture forms, as well as in the forms authorized under current law. Upon dispensing medical cannabis, the medical cannabis dispensary or clinical registrant is to notify the practitioner of the amount, strain, and form of medical cannabis dispensed.

The bill provides that medical cannabis may be dispensed to a patient by any medical cannabis dispensary or clinical registrant in the State; under current law, patients are to be registered with, and may only be dispensed medical cannabis from, a single ATC where the patient is registered. The bill requires that, prior to dispensing medical cannabis to a patient, the dispensary or clinical registrant 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 written instructions for, and dispensations of, medical cannabis, in order to ascertain whether any medical cannabis was dispensed to or on behalf of the patient within the preceding 30 days.

The bill provides that a practitioner or an immediate family member of a practitioner who authorizes patients for medical cannabis may not hold any profit or ownership interest in an ATC. A practitioner or the immediate family member of a practitioner who applies for an ATC identification card is to certify that the practitioner has not authorized any patients for medical cannabis in the preceding 90 days. A person who violates the prohibition will be guilty of 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 ban any 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 for medical cannabis the practitioner issues.

The bill additionally prohibits practitioners from authorizing themselves or members of their immediate family for the medical use of cannabis.

The bill requires the CRC to establish curricula for practitioners and employees of medical cannabis dispensaries and clinical registrants that are designed to assist with patient consultations regarding the form, strain, quantity, and dosing of medical cannabis appropriate to the patient's qualifying medical condition. Practitioners will be required to complete the health care practitioner curriculum as a condition of authorizing patients for the medical use of cannabis, and employees of medical cannabis dispensaries and clinical registrants will be required to complete the curriculum as a condition of registering with the CRC.

Currently, medical cannabis is subject to the State sales tax. The bill will phase out the sales tax over several years: commencing July 1, 2020, the tax will be five percent; commencing July 1, 2022, the tax will be three percent; commencing July 1, 2023, the tax will be one percent; and commencing July 1, 2024, no sales tax may be assessed against medical cannabis. Any sales tax assessed on medical cannabis is to be exclusively appropriated to programs for the treatment of mental health and substance use disorders.

ATC Application and Permitting Requirements

The bill establishes three distinct permit types in connection with the production and dispensing of medical cannabis: medical cannabis cultivators, medical cannabis manufacturers, and medical cannabis dispensaries. The bill identifies the specific activities and functions authorized for each permit type. The CRC will be required to issue a request for new permit applications within 90 days of the effective date of the bill, and to make a determination on any permit application within 90 days after the date of submission. The CRC will be authorized to issue a conditional permit pending a final decision on an application; the requirements for issuance of a conditional permit and the scope of conduct authorized by a conditional permit will be in the discretion of the CRC.

For a period of 18 months after the effective date of the bill, an entity will be permitted to hold both a cultivator and a manufacturer permit, but not a dispensary permit, and an entity that holds a dispensary permit will not be permitted to hold either a cultivator or manufacturer permit. After 18 months, an entity will be authorized to concurrently hold one of each permit type, for a total of up to three permits. However, the bill provides that the CRC is to issue six new plenary ATC permits that are not subject to these restrictions; the six

ATCs will be deemed to concurrently hold all three permit types. These restrictions will also not apply to ATCs that were issued a permit prior to the effective date of the bill or that were issued a permit after the effective date of the bill pursuant to an application submitted prior to the effective date of the bill, which will be deemed to hold all three permit types. Any ATC issued a permit prior to the effective date of the bill and any ATCs issued a permit after the effective date of the bill pursuant to an application submitted prior to the effective date of the bill will be authorized to hold any satellite dispensary permit approved pursuant to an application submitted prior to, or within 18 months after, the effective date of the bill. No new satellite dispensaries will be approved. The six new ATCs that are expressly exempt from the ownership restrictions under the bill will be authorized to establish and maintain up to one satellite dispensary, provided the application for the dispensary is submitted within 18 months after the effective date of the bill.

The CRC will be required to specify by regulation the number of new permits of each type that it will authorize in the first year following the effective date of the bill, and thereafter periodically evaluate whether the current number of permits is sufficient to meet the needs of qualifying patients and issue requests for new applications as needed.

The bill sets forth the specific information to be considered when reviewing new permit applications, which includes specific information concerning 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. The CRC will determine the weight to be afforded to each criterion. All applicants will be required to submit evidence that the applicant has entered into a labor peace agreement with a bona fide labor organization, and maintain the labor peace agreement as an ongoing requirement for maintaining the permit. Failure to enter into a collective bargaining agreement within 200 days of opening will result in suspension or revocation of the entity's permit.

Applicants may submit multiple permit applications, with a separate application for each proposed facility; the bill establishes procedures for determining which permit to award to an applicant who scores high enough to be awarded multiple permits of the same type.

The CRC will be required to conduct a disparity study to evaluate the adverse effects of the State's drug laws on New Jersey communities to determine whether race-based measures should be considered when issuing new medical cannabis cultivator, manufacturer, and dispensary permits. At least 15 percent of the total number of new permits are to be issued to minority-owned businesses, and an additional 15 percent of the total number of new permits are to be issued to women-owned or disabled veteran-owned businesses.

The CRC is to grant special consideration to an applicant for an integrated curriculum permit or “IC permit,” pursuant to which the applicant establishes an agreement with an institution of higher education to create an integrated curriculum involving the theoretical or practical application of medical cannabis cultivation, manufacturing, or dispensing to an area of academic study. Integrated curricula are subject to approval by the CRC and the Department of Education. If an IC permit holder’s agreement with an institution of higher education ends, the IC permit holder will have six months to establish a new integrated curriculum or the IC permit will be revoked, unless the CRC determines that the entity should be allowed to retain the permit. The CRC may establish incentives to encourage applicants to seek IC permits, such as revised permit fees.

Current law provides that an ATC permit is valid for one year. Under the bill, an initial medical cannabis cultivator, manufacturer, or dispensary permit will be valid for three years and will be renewable on a biennial basis.

The bill creates a new permit type, clinical registrant, which will authorize the permit holder to engage in all conduct related to the cultivation, manufacturing, and dispensing of medical cannabis and medical cannabis products as is authorized for other ATC permit holders. The clinical registrant will be required to enter into a contractual relationship with an academic medical center, which is a facility located in New Jersey that has faculty practices in addiction medicine and pain management, has a graduate medical training program that includes primary care and specialized medicine, is the principal teaching affiliate of a New Jersey medical school, and has the ability to conduct research related to cannabis. If the facility is part of a health care system, the health care system is required to be principally located in New Jersey in order for the facility to qualify as an academic medical center.

Academic medical centers will engage in clinical research related to medical cannabis in order to advise the affiliated clinical registrant concerning patient health and safety, medical applications, and the dispensing and management of controlled dangerous substances. Clinical registrant applicants will be required to demonstrate at least \$15 million in capital.

A clinical registrant permit will be valid for the term of the contractual relationship, and may be renewed based upon the clinical registrant renewing its contractual relationship with the academic medical center. A clinical registrant permit may not be sold or transferred. Each clinical registrant may contract with no more than one academic medical center. Clinical registrants will be authorized to additionally hold a Class 1 Cannabis Grower license, a Class 2 Cannabis Processor license, a Class 3 Cannabis Wholesaler license, and a Class 4 Cannabis Retailer license issued in relation to adult use cannabis.

Clinical registrants will be authorized to serve all qualifying patients, as well as qualifying patients who agree to participate in clinical research. Clinical registrants may operate from more than one location and may be approved for a satellite dispensing location, and may relocate to another location in the same region unless the CRC determines relocation would be contrary to the purposes of the medical cannabis laws. Clinical registrants are required to report the results of the clinical research to the CRC upon completion of the study or following publication of the study in a peer-reviewed medical journal.

An entity issued a medical cannabis cultivator, manufacturer, or dispensary permit may not concurrently hold a clinical registrant permit, and an entity issued a clinical registrant permit may not concurrently hold any medical cannabis cultivator, manufacturer, or dispensary permit.

The bill revises the criminal history record background check requirements for medical cannabis cultivator, manufacturer, dispensary, and clinical registrant applicants to provide that a conviction for a crime of the first, second, or third degree, as well as any drug offense other than minor cannabis possession, constitutes a disqualifying conviction that may bar the applicant from holding an interest in or being employed by a medical cannabis cultivator, manufacturer, dispensary, or clinical registrant. Current law limits disqualifying convictions to drug offenses other than minor cannabis possession. The CRC will retain the discretion to issue a permit to an applicant if it finds evidence of rehabilitation.

The bill further provides that no criminal history record background check will be required for an applicant who holds less than a five percent investment interest in the medical cannabis cultivator, manufacturer, dispensary, or clinical registrant, or who is a member of a group that holds less than a 20 percent investment interest where no member of the group holds more than a five percent interest in the total group investment, and the applicant does not have the authority to make operational decisions for the permitted entity. Individuals and groups that are exempt from the criminal history record background check requirement will not be required to complete any application information. If the applicant or group gains an investment interest above these thresholds or the applicant gains the authority to make operational decisions, the individual or group will be required to notify the CRC, provide all information as may be required by the CRC, and undergo a criminal history record background check within 30 days, or the permit will be revoked and the individual or group will be prohibited from holding any investment interest in a medical cannabis cultivator, manufacturer, dispensary, or clinical registrant for a period of two years.

The bill prohibits an employee of any department, division, agency, board, or other governmental entity involved in the process of reviewing, processing, or making determinations with regard to a

medical cannabis permit from having any financial interest in medical cannabis or receiving anything of value from a permit applicant in exchange for reviewing, processing, or making recommendations with regard to a permit application.

Applications for medical cannabis cultivator, manufacturer, and dispensary permits and for clinical registrant permits will be exempt from the “Open Public Records Act,” P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.), as well as the common law concerning public access to government records.

ATC Operational Requirements

The bill requires medical cannabis cultivators, manufacturers, and clinical registrants to establish and maintain standardized price lists, which will reflect the price of all medical cannabis sold by a cultivator or clinical registrant, and all medical cannabis products sold by a manufacturer or clinical registrant, to other permitted entities. Price lists are to be posted on the entity’s Internet website, if any, maintained on file with the CRC, and may be updated once per month. An entity that sells medical cannabis or medical cannabis products at a price that deviates from its price list will be liable to a civil penalty of \$1,000 per sale, and an entity that fails to maintain its current price list on file with the CRC will be liable to a civil penalty of \$10,000 for each week during which the CRC does not have the current price list. The prices charged by a medical cannabis dispensary to other dispensaries, and the prices charged by a medical cannabis dispensary or clinical registrant to patients and their caregivers, are to be reasonable and consistent with the costs of acquiring and dispensing, selling, or transferring the medical cannabis or medical cannabis product.

The owners, directors, officers, and employees at each medical cannabis cultivator, manufacturer, dispensary, and clinical registrant will be required to undergo eight hours of ongoing training each calendar year. The training is to be tailored to the roles and responsibilities of the individual’s job function and include training on confidentiality and any other topics required by the CRC. For medical cannabis dispensary and clinical registrant employees, the ongoing training may include completing the curriculum developed by the CRC concerning patient consultations.

The bill requires the CRC to establish, by regulation, thresholds for administrative action to be taken against permit holders, including specific penalties and disciplinary actions that may be imposed in a summary proceeding.

The amended bill provides that no medical cannabis cultivator, processor, or dispensary permit may be sold or transferred, except that the first six ATC permits issued after P.L.2009, c.307 (C.24:6I-1 et al.) took effect may sell or transfer that permit to a for profit entity,

provided that: the owners, officers, directors, employees, and applicable investors complete a criminal history record background check; the CRC approves the sale or transfer; and the sale or transfer takes place within one year after the effective date of the bill. The sale or transfer will not be subject to the requirements of the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq., provided that, prior to or at the time of the sale or transfer, all debts and obligations of the nonprofit entity are either paid in full or assumed by the for-profit entity purchasing or acquiring the permit, or a reserve fund is established for the purpose of paying in full the debts and obligations of the nonprofit entity, and the for-profit entity pays the full value of all assets held by the nonprofit entity, as reflected on the nonprofit entity’s balance sheet, in addition to the agreed-upon price for the sale or transfer of the entity’s alternative treatment center permit. Until such time as the members of the CRC are appointed and the CRC first organizes, the Department of Health will have full authority to approve such sales and transfers.

The bill provides that medical cannabis cultivators, manufacturers, dispensaries, and clinical registrants will be permitted to establish a medical advisory board to advise the permitted entity on all aspects of its business. A medical advisory board is to comprise five members: three healthcare practitioners; one qualifying patient who resides in the same area as the permitted entity; and one business owner from the same area as the permitted entity. No owner, director, officer, or employee of a permitted entity may serve on a medical advisory board. Medical advisory boards are to meet at least two times per year.

Medical cannabis dispensaries and clinical registrants are to consider whether to make interpreter services available to the population served, including for individuals with a vision or hearing impairment. The CRC is to assist facilities in locating appropriate interpreter resources. Dispensaries and clinical registrants will be responsible for the cost of providing interpreter services.

Medical cannabis cultivators, manufacturers, dispensaries, and clinical registrants operating on a for-profit basis may not operate at any premises that was the subject of a business development incentive. Medical cannabis cultivators and clinical registrants may not be located on land valued, assessed, or taxed as an agricultural or horticultural use pursuant to the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.).

Other Cannabis-Related Licensure

Each ATC that was issued a permit prior to the effective date of the bill, each ATC that was issued a permit pursuant to an application submitted prior to the effective date of the bill, the six new plenary ATC permits to be issued by the CRC under the bill, and each clinical registrant issued a permit under the bill will be deemed to hold either a

Class 3 Cannabis Wholesaler license or a Class 1 Cannabis Grower license, a Class 2 Cannabis Processor license, and a Class 4 Cannabis Retailer license, plus an additional Class 4 Cannabis Retailer license for an approved satellite dispensary held by the ATC immediately upon enactment of legislation authorizing adult use cannabis pursuant to Senate Bill No. 2703. No entity holding a Class 3 Cannabis Wholesaler license will be authorized to concurrently hold any Class 1 Cannabis Grower License, Class 2 Cannabis Processor license, or Class 4 Cannabis Retailer license, and no entity holding a Class 1 Cannabis Grower License, Class 2 Cannabis Processor license, or Class 4 Cannabis Retailer license may concurrently hold a Class 3 Cannabis Wholesaler license. An ATC or clinical registrant authorized for adult use cannabis licensure will be authorized to concurrently hold Class 1 Cannabis Grower, Class 2 Cannabis Processor, and Class 4 Cannabis Retailer licenses.

An ATC or clinical registrant holding an adult use cannabis license will be authorized to engage in all activities authorized by the license without being required to establish or maintain any physical barriers or separations between the medical use and adult use cannabis operations, provided that, as a condition of selling to the adult use market, the ATC or clinical registrant certifies to the CRC that it has sufficient quantities of medical cannabis and medical cannabis products available to meet the needs of medical patients.

The bill requires each batch of medical cannabis and each batch of a medical cannabis product to be tested by a laboratory to determine its chemical composition and potency and to screen for contamination by microbial contaminants, foreign material, residual pesticides, other agricultural residue and residual solvents, and heavy metals. The laboratory is to produce a written report detailing the results of the testing, a summary of which is to be included in any packaging materials for the medical cannabis or cannabis product. Laboratories may charge a reasonable fee for performing the test. The testing requirement will take effect once the CRC certifies that there are a sufficient number of testing laboratories licensed to ensure that the testing and labeling requirements can be satisfied without disrupting timely patient access to medical cannabis.

Laboratories providing testing services will be required to register with the CRC and will be subject to inspection to ensure that the equipment used is in good condition and properly calibrated. The owners, directors, officers, and employees of a testing laboratory will be required to undergo a criminal history record background check as a condition of licensure; no applicant with a disqualifying conviction will be authorized to own, operate, or be employed by a medical cannabis testing laboratory. “Disqualifying conviction” means any drug offense other than minor cannabis possession; applicants with a disqualifying conviction may still be approved if the applicant demonstrates clear and convincing evidence of rehabilitation. As a

condition of licensure, each laboratory will be required to certify its intention to seek third party accreditation in accordance with ISO 17025 to ensure equipment is routinely inspected, calibrated, or maintained, until such time as the CRC issues its own standards or confirms the use of ISO 17025.

The CRC will be required to establish testing standards; however, until such time as the standards are adopted, testing laboratories will be authorized to utilize testing standards from another state with a medical marijuana program, which state is to be designated by the Executive Director of the CRC.

The CRC is required to conduct a feasibility study concerning the establishment of a new research and development permit that would be dedicated to advancing the medical uses of cannabis. The study is to examine potential funding sources and include a public hearing, and the CRC is to conduct the study every three years until such time as a research and development permit is established in the State. The CRC will be authorized to establish additional permit types as may be appropriate, including permits authorizing pharmacies to be issued medical cannabis dispensary permits.

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, when renting or leasing real property, or in the issuance of professional licensing, certifications, or permits issued by the State, solely on the basis of the individual's status as a registry cardholder or engaging in authorized conduct in relation to medical cannabis. However, schools, institutions of higher education, landlords, and licensing authorities will not be required 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. A person's status as a patient or caregiver, or as an owner, officer, director, or employee of a medical cannabis cultivator, manufacturer, dispensary, or clinical registrant will not constitute the sole grounds for entering an order restricting or denying custody of, or visitation with, a minor child of the person.

The bill provides that medical cannabis 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 prohibits employers from taking any adverse employment action against an employee based on the employee's status as a registry identification cardholder. If an employer has a drug testing policy and an employee or job applicant tests positive for cannabis, the

employee or job applicant is to be offered an opportunity to present a legitimate medical explanation for the positive test result or request a retest. 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 or on workplace premises outside of work hours, or require an employer to commit any act that would violate federal law or 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 provides that health care facilities are prohibited from taking adverse employment action or ending a professional affiliation with a health care practitioner solely based on the practitioner authorizing patients for the medical use of medical cannabis or otherwise engaging in authorized conduct in relation to medical cannabis. Health care facilities may not be penalized or denied benefits under State law for employing or maintaining a professional affiliation with a practitioner who engages in authorized conduct in relation to medical cannabis.

Health care facilities may not be penalized or denied any benefit under State law solely for permitting or prohibiting the handling, administration, usage, or storage of medical cannabis, provided that the facility's policies related to medical cannabis are consistent with all other facility policy on medication handling, administration, usage, or storage. Health care facilities will also not be penalized or denied any benefit under State law solely for prohibiting the smoking of medical cannabis on facility property in accordance with the facility's smoke free policy.

Insurance carriers will be prohibited from denying health care practitioners medical malpractice coverage or charging increased premiums, deductibles, or other fees based on the practitioner engaging in authorized conduct in relation to medical cannabis.

The bill provides that the chief administrator of a facility that provides behavioral health services is to develop a policy allowing designated caregivers, parents, and guardians access to registered qualifying patients who are receiving services at the facility, for the purpose of assisting the patient with the administration of medical cannabis. Nothing in the bill will authorize medical cannabis to be smoked in any area of the facility where smoking is otherwise prohibited by law.

The bill updates the annual reporting requirements for the CRC to reflect new data that will be generated pursuant to the bill, including information concerning diversity in the permits awarded in by the CRC and information on disparities in drug arrests.

Nothing in the bill is to be construed to restrict or otherwise affect the sale, prescribing, and dispensing of prescription drugs and devices approved by the federal Food and Drug Administration.

The bill adds a severability clause and provides that the CRC may waive any requirements of the State medical cannabis laws if waiver is necessary to achieve the purposes of the law and provide access to patients who would not otherwise qualify for medical cannabis to alleviate suffering from a debilitating medical condition, and if granting the waiver does not create a danger to the public health, safety, or welfare.

COMMITTEE AMENDMENTS:

The committee amendments provide that the six new plenary alternative treatment centers (ATC) to be issued permits under the bill may be approved for up to one satellite dispensary each, provided the application for each such satellite dispensary is submitted within 18 months after the effective date of the bill. The bill removes certain language concerning the issuance of satellite dispensaries that duplicates other language in the same provision.

The committee amendments provide that no medical cannabis cultivator, processor, or dispensary permit, and no clinical registrant permit, may be sold or transferred, except that the first six ATC permits issued after P.L.2009, c.307 (C.24:6I-1 et al.) took effect may sell or transfer that permit to a for profit entity, provided that: the owners, officers, directors, employees, and applicable investors complete a criminal history record background check; the Cannabis Regulatory Commission (CRC) approves the sale or transfer; and the sale or transfer takes place within one year after the effective date of the bill. The sale or transfer will not be subject to the requirements of the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq., provided that, prior to or at the time of the sale or transfer, all debts and obligations of the nonprofit entity are either paid in full or assumed by the for-profit entity purchasing or acquiring the permit, or a reserve fund is established for the purpose of paying in full the debts and obligations of the nonprofit entity, and the for-profit entity pays the full value of all assets held by the nonprofit entity, as reflected on the nonprofit entity’s balance sheet, in addition to the agreed-upon price for the sale or transfer of the entity’s alternative treatment center permit. Until such time as the members of the Cannabis Regulatory Commission are appointed and the commission first organizes, the Department of Health will have full authority to approve such sales and transfers.

The committee amendments revise the definition of “health care practitioner” to provide that it applies to health care practitioners who are responsible for treating the symptoms of a qualifying condition or for the symptoms associated with the treatment of a qualifying medical condition, as well as practitioners treating the condition itself.

The committee amendments revise the definition of “immediate family” to include stepparents and stepchildren.

The committee amendments require facilities that approve the use of institutional caregivers to establish protocols to ensure that any medical cannabis acquired and transported to the facility by an institutional caregiver on behalf of a patient is transported in a safe and secure manner that prevents theft, diversion, adulteration, and access by unauthorized individuals.

The committee amendments clarify that nothing in the bill is to be construed to restrict any employer from prohibiting, or taking adverse employment action for, the possession or use of intoxicating substances on workplace premises outside of work hours.