

SENATE, No. 2373

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED APRIL 5, 2018

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Authorizes medical marijuana for treatment of any diagnosed condition; revises requirements for physicians to authorize qualifying patients; and revises requirements for alternative treatment center operations and permitting.

CURRENT VERSION OF TEXT

As introduced.



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

3

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

6

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

9 2. The Legislature finds and declares that:

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

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

21 c. Although federal law currently prohibits the use of
22 marijuana, the laws of Alaska, California, Colorado, Hawaii, Maine,
23 Michigan, Montana, Nevada, New Mexico, Oregon, Rhode Island,
24 Vermont, and Washington permit the use of marijuana for medical
25 purposes, and in Arizona doctors are permitted to prescribe
26 marijuana. New Jersey joins this effort for the health and welfare
27 of its citizens;

28 d. States are not required to enforce federal law or prosecute
29 people for engaging in activities prohibited by federal law;
30 therefore, compliance with this act does not put the State of New
31 Jersey in violation of federal law; and

32 e. Compassion dictates that a distinction be made between
33 medical and non-medical uses of marijuana. Hence, the purpose of
34 this act is to protect from arrest, prosecution, property forfeiture,
35 and criminal and other penalties, those patients who use marijuana
36 to alleviate suffering from **【debilitating】** certain qualifying medical
37 conditions, as well as their physicians, primary caregivers, and
38 those who are authorized to produce marijuana for medical
39 purposes.

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

41

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

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

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

4 “ATC identification card” means a document issued by the
5 department that identifies a person as an owner, director, board
6 member, principal officer, or employee of an ATC.

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

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

15 “Central region” means the counties of Hunterdon, Middlesex,
16 Mercer, Monmouth, Ocean, Somerset, and Union.

17 "Commissioner" means the Commissioner of Health.

18 “Common ownership or control” means:

19 (1) between two for-profit entities, the same individuals or
20 entities own and control more than 50 percent of both entities;

21 (2) between a nonprofit entity and a for-profit entity, a majority
22 of the directors, trustees, or members of the governing body of the
23 nonprofit entity directly or indirectly own and control more than 50
24 percent of the for-profit entity; and

25 (3) between two nonprofit entities, the same directors, trustees,
26 or governing body members comprise a majority of the voting
27 directors, trustees, or governing body members of both nonprofits.

28 “Cultivate” means possessing, planting, propagating, cultivating,
29 growing, harvesting, processing, labeling, manufacturing,
30 compounding, and storing medical marijuana consistent with
31 P.L.2009, c.307 (C.24:6I-1 et al.).

32 **["Debilitating medical condition"** means:

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

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

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

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

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

3 "Department" means the Department of Health.

4 "Immediate family" means the spouse, child, sibling, or parent of
5 an individual, and shall include the siblings and parents of the
6 individual's spouse and the spouse of the individual's child.

7 "Interest holder" means a direct or indirect owner, part owner,
8 investor, lender, stockholder, officer, director, partner, or member
9 of any corporation, partnership, limited liability company, limited
10 liability partnership, employee cooperative, association, nonprofit
11 corporation, business entity, or any other person with a direct
12 ownership interest or indirect interest through intermediary business
13 entities or other structures in an alternative treatment center.

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

17 "Medical marijuana alternative treatment center" or "alternative
18 treatment center" or "ATC" means an organization **【approved】**
19 issued a permit by the department to **【perform activities necessary**
20 **to provide registered qualifying patients with usable marijuana and**
21 **related paraphernalia in accordance with the provisions of this act】**
22 operate as a medical marijuana cultivator-processor or as a medical
23 marijuana dispensary. This term shall include the organization's
24 officers, directors, board members, and employees.

25 "Medical marijuana cultivator-processor" means an organization
26 holding a permit issued by the department that authorizes the
27 organization to: possess and cultivate marijuana; produce,
28 manufacture, or otherwise create marijuana-infused and marijuana-
29 derived products; and deliver, transfer, transport, distribute, supply,
30 and sell medical marijuana, marijuana-infused products, marijuana-
31 derived products, and related supplies to medical marijuana
32 dispensaries. A medical marijuana cultivator-processor permit shall
33 not authorize the permit holder to deliver, transfer, transport,
34 distribute, supply, sell, or dispense medical marijuana, marijuana-
35 infused products, marijuana-derived products, or related supplies to
36 qualifying patients or their primary caregivers.

37 "Medical marijuana dispensary" means an organization issued a
38 permit by the department that authorizes the organization to obtain
39 medical marijuana, marijuana-infused products, and marijuana
40 derived products from a medical marijuana cultivator-processor,
41 and to possess, display, deliver, transfer, transport, distribute,
42 supply, sell, and dispense medical marijuana, marijuana-infused
43 products, marijuana-derived products, and related supplies to
44 qualifying patients and their primary caregivers. A medical
45 marijuana dispensary permit shall not authorize the permit holder to
46 cultivate marijuana or to manufacture or process marijuana-infused
47 or marijuana-derived products.

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

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

9 "Northern region" means the counties of Bergen, Essex, Hudson,
10 Morris, Passaic, Sussex, and Warren.

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

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

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

22 a. is at least 18 years old;

23 b. has agreed to assist with a registered qualifying patient's
24 medical use of marijuana, is not currently serving as primary
25 caregiver for **[another]** more than one other qualifying patient, and
26 is not the qualifying patient's physician;

27 c. subject to the provisions of paragraph (2) of section 4 of
28 P.L.2009, c.307 (C.24:6I-4), has never been convicted of possession
29 or sale of a controlled dangerous substance, unless such conviction
30 occurred after the effective date of **[this act]** P.L.2009, c.307
31 (C.24:6I-1 et al.) and was for a violation of federal law related to
32 possession or sale of marijuana that is authorized under **[this act]**
33 P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-
34 12.22), or P.L. , c. (C.) (pending before the Legislature as
35 this bill);

36 d. has registered with the department pursuant to section 4 of
37 **[this act]** P.L.2009, c.307 (C.24:6I-4), and, if the individual is not
38 an immediate family member of the patient, has satisfied the
39 criminal history record background check requirement of section 4
40 of **[this act]** P.L.2009, c.307 (C.24:6I-4); and

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

44 "Qualifying medical condition" means any medical condition
45 diagnosed by a physician, including the symptoms of the condition
46 and any symptoms resulting from any treatment for the condition,

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1 which the physician determines may be treated using medical
2 marijuana.

3 "Qualifying patient" or "patient" means a resident of the State
4 who has been **【provided with a certification】** authorized for the
5 medical use of marijuana by a physician pursuant to a bona fide
6 physician-patient relationship.

7 “Region” means the northern region, the central region, or the
8 southern region, as defined in this section.

9 "Registry identification card" means a document issued by the
10 department that identifies a person as a registered qualifying patient
11 or primary caregiver.

12 “Southern region” means the counties of Atlantic, Burlington,
13 Camden, Cape May, Cumberland, Gloucester, and Salem.

14 "Usable marijuana" means the dried leaves and flowers of
15 marijuana, and any mixture or preparation thereof, and does not
16 include the seeds, stems, stalks₂ or roots of the plant.

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

18

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

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

27 (1) a **【certification that meets the requirements of section 5 of**
28 **this act】** documentation of a physician’s authorization for the
29 medical use of marijuana;

30 (2) an application or renewal fee, which may be based on a
31 sliding scale as determined by the commissioner; except that no
32 application or renewal fee shall apply in the case of an immediate
33 family member of the patient who serves as primary caregiver to the
34 patient. In all other cases, the application and renewal fee shall not
35 exceed \$10 for patients who are indigent and \$50 for all other
36 cardholders;

37 (3) the name, address₂ and date of birth of the patient and
38 caregiver, as applicable; and

39 (4) the name, address₂ and telephone number of the patient's
40 physician.

41 b. Before issuing a registry identification card, the department
42 shall verify the information contained in the application or renewal
43 form submitted pursuant to this section. In the case of a primary
44 caregiver who is not an immediate family member of the patient,
45 the department shall provisionally approve an application pending
46 the results of a criminal history record background check, if the
47 caregiver otherwise meets the requirements of **【this act】** P.L.2009,
48 c.307 (C.24:6I-1 et al.). The department shall approve or deny an

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1 application or renewal within 30 days of receipt of the completed
2 application or renewal, and shall issue a registry identification card
3 within five days of approving the application or renewal. The
4 department may deny an application or renewal only if the applicant
5 fails to provide the information required pursuant to this section, or
6 if the department determines that the information was incorrect or
7 falsified or does not meet the requirements of **[this act]** P.L.2009,
8 c.307 (C.24:6I-1 et al.). Denial of an application shall be a final
9 agency decision, subject to review by the Superior Court, Appellate
10 Division.

11 c. (1) The commissioner shall require each applicant seeking
12 to serve as a primary caregiver who is not an immediate family
13 member of the patient to undergo a criminal history record
14 background check. The commissioner is authorized to exchange
15 fingerprint data with and receive criminal history record
16 background information from the Division of State Police and the
17 Federal Bureau of Investigation consistent with the provisions of
18 applicable federal and State laws, rules, and regulations. The
19 Division of State Police shall forward criminal history record
20 background information to the commissioner in a timely manner
21 when requested pursuant to the provisions of this section.

22 An applicant seeking to serve as a primary caregiver who is not
23 an immediate family member of the patient shall submit to being
24 fingerprinted in accordance with applicable State and federal laws,
25 rules, and regulations. No check of criminal history record
26 background information shall be performed pursuant to this section
27 unless the applicant has furnished **[his]** the applicant's written
28 consent to that check. An applicant who is not an immediate family
29 member of the patient who refuses to consent to, or cooperate in,
30 the securing of a check of criminal history record background
31 information shall not be considered for inclusion in the registry as a
32 primary caregiver or issuance of an identification card. An
33 applicant shall bear the cost for the criminal history record
34 background check, including all costs of administering and
35 processing the check. No criminal history record background check
36 shall be required of an applicant to be a primary caregiver if the
37 applicant is an immediate family member of the patient.

38 (2) The commissioner shall not approve an applicant seeking to
39 serve as a primary caregiver who is not an immediate family
40 member of the patient if the criminal history record background
41 information of the applicant reveals a disqualifying conviction. For
42 the purposes of this section, a disqualifying conviction shall mean a
43 conviction of a crime involving any controlled dangerous substance
44 or controlled substance analog as set forth in chapter 35 of Title 2C
45 of the New Jersey Statutes except **[paragraph]** : subparagraph (b) of
46 paragraph (10) of subsection b. of N.J.S.2C:35-5, paragraphs (11)
47 or (12) of subsection b. of N.J.S.2C:35-5, or paragraphs (3) or (4) of

1 subsection a. of N.J.S.2C:35-10, or any similar law of the United
2 States or of any other state.

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

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

12 (4) The Division of State Police shall promptly notify the
13 commissioner in the event that an individual who was the subject of
14 a criminal history record background check conducted pursuant to
15 this section is convicted of a crime or offense in this State after the
16 date the background check was performed. Upon receipt of that
17 notification, the commissioner shall make a determination regarding
18 the continued eligibility of the applicant to serve as a primary
19 caregiver.

20 (5) Notwithstanding the provisions of subsection b. of this
21 section to the contrary, no applicant shall be disqualified from
22 serving as a registered primary caregiver on the basis of any
23 conviction disclosed by a criminal history record background check
24 conducted pursuant to this section if the individual has affirmatively
25 demonstrated to the commissioner clear and convincing evidence of
26 rehabilitation. In determining whether clear and convincing
27 evidence of rehabilitation has been demonstrated, the following
28 factors shall be considered:

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

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

32 (c) the circumstances under which the crime or offense
33 occurred;

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

35 (e) the age of the individual when the crime or offense was
36 committed;

37 (f) whether the crime or offense was an isolated or repeated
38 incident;

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

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

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

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1 (1) the name, address, and date of birth of the patient and
2 primary caregiver, if applicable;

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

4 (3) photo identification of the cardholder; and

5 (4) such other information that the department may specify by
6 regulation.

7 e. (1) A patient who has been issued a registry identification
8 card shall notify the department of any change in the patient's name,
9 address, or physician or change in status of the patient's
10 **【debilitating】** qualifying medical condition, within 10 days of such
11 change, or the registry identification card shall be deemed null and
12 void.

13 (2) A primary caregiver who has been issued a registry
14 identification card shall notify the department of any change in the
15 caregiver's name or address within 10 days of such change, or the
16 registry identification card shall be deemed null and void.

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

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

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

33 g. Applying for or receiving a registry card does not constitute
34 a waiver of the qualifying patient's patient-physician privilege.
35 (cf: P.L.2009, c.307, s.4)

36

37 4. (New section) a. A physician shall not be required to enroll
38 in any medical marijuana physician registry or undergo any
39 additional registration process as a condition of authorizing patients
40 for the medical use of marijuana.

41 b. When authorizing a qualifying patient who is a minor for the
42 medical use of marijuana, if the treating physician is not trained in
43 the care of pediatric patients, the treating physician shall, prior to
44 authorizing the patient for the medical use of marijuana, obtain
45 written confirmation from a physician trained in the care of
46 pediatric patients establishing, in the physician's professional
47 opinion, and following an examination of the minor patient or
48 review of the minor patient's medical record, that the minor patient

1 is likely to receive therapeutic or palliative benefits from the
2 medical use of marijuana to treat or alleviate symptoms associated
3 with the patient's qualifying medical condition. If the treating
4 physician is trained in the care of pediatric patients, no additional
5 written confirmation from any other physician shall be required as a
6 condition of authorizing the patient for the medical use of
7 marijuana.

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

16 b. Nothing in subsection a. of this section shall be construed to
17 prevent a physician from serving on the medical advisory board of
18 an alternative treatment center established pursuant to section 9 of
19 P.L. , c. (C.) (pending before the Legislature as this bill) and
20 receiving a reasonable stipend for such service, provided that:

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

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

27 c. A physician, or an immediate family member of a physician,
28 who applies for an ATC identification card shall certify that the
29 physician has not authorized a patient for the medical use of
30 marijuana pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) within the
31 90 days immediately preceding the date of the application.

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

34
35 6. Section 7 of P.L.2009, c.307 (C.24:6I-7) is amended to read
36 as follows:

37 7. a. The department shall accept applications from entities
38 for permits to operate as alternative treatment centers **】, and may**
39 **charge a reasonable fee for the issuance of a permit under this**
40 **section】. 【The department shall seek to ensure the availability of a**
41 **sufficient number of】 To ensure adequate access to alternative**
42 **treatment centers throughout the State, 【pursuant to need, including**
43 **at least two】 the department shall grant permits to three medical**
44 **marijuana cultivator-processors and at least nine medical marijuana**
45 **dispensaries in each 【in】 of the northern, central, and southern**
46 **regions of the State, for a total of nine medical marijuana cultivator-**
47 **processor permits and 27 medical marijuana dispensary permits;**

1 this total number of permits shall include the six alternative
2 treatment center permits issued prior to the effective date of P.L. ,
3 c. (pending before the Legislature as this bill), which shall
4 constitute six of the medical marijuana cultivator-processor permits
5 and six of the medical marijuana dispensary permits, plus the three
6 medical marijuana cultivator-processor permits and the 21 medical
7 marijuana dispensary permits issued pursuant to section 7 of P.L. ,
8 c. (C.) (pending before the Legislature as this bill).
9 Thereafter, the department shall periodically evaluate whether the
10 number of medical marijuana cultivator-processors and medical
11 marijuana dispensaries is sufficient to meet the needs of qualifying
12 patients in the State, and, if it determines additional medical
13 marijuana cultivator-processors or medical marijuana dispensaries
14 are needed to meet the needs of qualifying patients, make a request
15 for applications and such additional medical marijuana cultivator-
16 processor permits and medical marijuana dispensary permits as it
17 deems necessary.

18 Commencing 18 months after the effective date of P.L. ,
19 c. (C.) (pending before the Legislature as this bill), a medical
20 marijuana dispensary may submit an application to the department
21 for approval to open a satellite dispensary. Any such application
22 shall meet the requirements of subsection k. of section 8 of P.L. ,
23 c. (C.) (pending before the Legislature as this bill). The
24 department may reject an application for a satellite dispensary if the
25 department determines the proposed location would be contrary to
26 the interests of ensuring geographic dispersion of medical
27 marijuana dispensaries throughout the State or would not be suited
28 to meeting current patient treatment needs in the proposed region.
29 If a satellite dispensary application is rejected by the department,
30 the medical marijuana dispensary shall be authorized to submit a
31 new application for another location. A medical marijuana
32 dispensary shall have no more than one satellite dispensary.
33 Subject to department approval, a medical marijuana dispensary
34 may close its satellite dispensary or, pursuant to subsection j. of this
35 section, relocate the satellite dispensary to a new location within the
36 same county as the satellite dispensary is located.

37 An initial application for a medical marijuana cultivator-
38 processor permit or a medical marijuana dispensary permit shall
39 meet the application requirements set forth in section 8 of P.L. ,
40 c. (C.) (pending before the Legislature as this bill).

41 An alternative treatment center holding a permit that was issued
42 prior to the effective date of P.L. , c. (pending before the
43 Legislature as this bill) shall be deemed to hold both a medical
44 marijuana cultivator-processor permit and a medical marijuana
45 dispensary permit, and shall be authorized to hold both permits
46 concurrently. 【The first two centers issued a permit in each region
47 shall be nonprofit entities, and centers subsequently issued permits
48 may be nonprofit or for-profit entities】

1 No interest holder, or natural person with a direct or indirect
2 interest through intermediary business entities or other structures, in
3 any medical marijuana cultivator-processor, shall own, either in
4 whole or in part, or be directly or indirectly interested in, a medical
5 marijuana dispensary. The foregoing shall not apply to interest
6 holders of a medical marijuana alternative treatment center issued a
7 permit by the department prior to the effective date of
8 P.L. , c. (C.) (pending before the Legislature as this bill).

9 No interest holder, or natural person with a direct or indirect
10 interest through intermediary business entities or other structures, in
11 any medical marijuana dispensary, shall own, either in whole or in
12 part, or be directly or indirectly interested in, a medical marijuana
13 cultivator-processor. The foregoing shall not apply to interest
14 holders of a medical marijuana alternative treatment center issued a
15 permit by the department prior to the effective date of P.L. ,
16 c. (C.) (pending before the Legislature as this bill).

17 No natural person or entity shall hold an interest in more than
18 one medical marijuana cultivator-processor or more than one
19 medical marijuana dispensary at any time, except that an interest
20 holder in a medical marijuana alternative treatment center that was
21 issued a permit by the department prior to the effective date of
22 P.L. , c. (C.) (pending before the Legislature as this bill)
23 may concurrently hold up to a 15 percent ownership interest in up
24 to one additional medical marijuana alternative treatment center that
25 was issued a permit by the department prior to the effective date of
26 P.L. , c. (C.) (pending before the Legislature as this bill), up
27 to one medical marijuana cultivator-processor, or up to one medical
28 marijuana dispensary; a medical marijuana cultivator-processor may
29 concurrently hold up to a 15 percent ownership interest in up to one
30 additional medical marijuana cultivator-processor or up to one
31 medical marijuana alternative treatment center that was issued a
32 permit by the department prior to the effective date of
33 P.L. , c. (C.) (pending before the Legislature as this bill);
34 and a medical marijuana dispensary may concurrently hold up to a
35 15 percent ownership interest in up to one additional medical
36 marijuana dispensary or up to one medical marijuana alternative
37 treatment center that was issued a permit by the department prior to
38 the effective date of P.L. , c. (C.) (pending before the
39 Legislature as this bill).

40 None of the ownership restrictions set forth in this subsection
41 shall be construed to be implicated solely by any person's
42 ownership of less than one percent of the total capitalization of a
43 publicly traded company, provided that the stockholder is not also
44 an employee, officer, or director of the publicly traded company.

45 **【An alternative treatment center】** A medical marijuana
46 cultivator-processor shall be authorized to acquire a reasonable
47 initial and ongoing inventory, as determined by the department, of
48 marijuana seeds or seedlings and paraphernalia, possess, cultivate,

1 plant, grow, harvest, process, **【display,】** and manufacture medical
2 marijuana and marijuana-infused and marijuana-derived products,
3 and deliver, transfer, transport, distribute, supply, sell, or dispense
4 medical marijuana, **【or】** marijuana-infused products, marijuana-
5 derived products, and related supplies to any medical marijuana
6 dispensary in the State. If approved by the department, a medical
7 marijuana cultivator-processor may operate, within the scope of its
8 permit, from more than one physical location. Medical marijuana
9 dispensaries may purchase or acquire medical marijuana,
10 marijuana-infused and marijuana-derived products, paraphernalia,
11 and related supplies from any medical marijuana cultivator-
12 processor in the State, and distribute, supply, sell, or dispense
13 marijuana, marijuana-infused products, marijuana-derived products,
14 and related supplies to qualifying patients or their primary
15 caregivers who are registered with the department pursuant to
16 section 4 of **【this act】** P.L.2009, c.307 (C.24:6I-4). **【An alternative**
17 treatment center**】** A medical marijuana cultivator-producer shall not
18 be limited in the number of strains of medical marijuana cultivated
19 **【, and】** or the number of products manufactured. A medical
20 marijuana cultivator-producer may package, and a medical
21 marijuana dispensary may directly dispense **【marijuana】** to
22 qualifying patients and their primary caregivers, medical marijuana
23 in dried form, oral lozenges, topical formulations, transdermal form,
24 sublingual form, tincture form, or edible form, or any other form as
25 authorized by the commissioner. Edible form shall include tablets,
26 capsules, drops or syrups, and any other form as authorized by the
27 commissioner. **【Edible forms shall be available only to qualifying**
28 patients who are minors.**】**

29 Applicants that choose to apply for authorization as **【nonprofit】**
30 alternative treatment centers with nonprofit status shall be subject to
31 all applicable State laws governing nonprofit entities, but need not
32 be recognized as a 501(c)(3) organization by the federal Internal
33 Revenue Service.

34 b. The department shall require that an applicant provide such
35 information as the department determines to be necessary pursuant
36 to regulations adopted pursuant to **【this act】** P.L.2009, c.307
37 (C.24:6I-1 et al.) and may, in its discretion, require any applicant to
38 submit a personal history disclosure and conduct financial due
39 diligence on any person or entity providing \$100,000 or more in
40 financial backing to an applicant.

41 c. A person who has been convicted of a crime involving any
42 controlled dangerous substance or controlled substance analog as
43 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
44 **【paragraph】** : subparagraph (b) of paragraph (10) of subsection b.
45 of N.J.S.2C:35-5, paragraphs (11) or (12) of subsection b. of
46 N.J.S.2C:35-5, or paragraphs (3) or (4) of subsection a. of
47 N.J.S.2C:35-10, or any similar law of the United States or any other

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

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

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

36 (2) The commissioner shall not approve an applicant for **【a**
37 **permit to operate, or authorization to be employed at, an alternative**
38 **treatment center】** issuance of an ATC identification card if the
39 criminal history record background information of the applicant
40 reveals a disqualifying conviction as set forth in subsection c. of
41 this section.

42 (3) Upon receipt of the criminal history record background
43 information from the Division of State Police and the Federal
44 Bureau of Investigation, the commissioner shall provide written
45 notification to the applicant of **【his】** the applicant's qualification
46 for or disqualification for **【a permit to operate or】** issuance of an
47 ATC identification card authorizing the individual to be 【a】 an

1 owner, director, board member, principal officer, or employee of an
2 alternative treatment center, as appropriate.

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

7 (4) The Division of State Police shall promptly notify the
8 commissioner in the event that an individual who was the subject of
9 a criminal history record background check conducted pursuant to
10 this section is convicted of a crime or offense in this State after the
11 date the background check was performed. Upon receipt of that
12 notification, the commissioner shall make a determination regarding
13 the continued eligibility to operate or be **[a]** an owner, director,
14 board member, principal officer, or employee of an alternative
15 treatment center.

16 (5) Notwithstanding the provisions of subsection b. of this
17 section to the contrary, the commissioner may offer **[provisional**
18 **authority for]** an applicant to be an employee of an alternative
19 treatment center a provisional ATC identification card, which shall
20 be valid for a period not to exceed three months, if the applicant
21 submits to the commissioner a sworn statement attesting that the
22 **[person]** applicant has not been convicted of any disqualifying
23 conviction pursuant to this section.

24 (6) Notwithstanding the provisions of subsection b. of this
25 section to the contrary, no employee of an alternative treatment
26 center shall be disqualified from issuance of an ATC identification
27 card on the basis of any conviction disclosed by a criminal history
28 record background check conducted pursuant to this section if the
29 individual has affirmatively demonstrated to the commissioner clear
30 and convincing evidence of rehabilitation. In determining whether
31 clear and convincing evidence of rehabilitation has been
32 demonstrated, the following factors shall be considered:

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

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

36 (c) the circumstances under which the crime or offense
37 occurred;

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

39 (e) the age of the individual when the crime or offense was
40 committed;

41 (f) whether the crime or offense was an isolated or repeated
42 incident;

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

45 (h) any evidence of rehabilitation, including good conduct in
46 prison or in the community, counseling or psychiatric treatment
47 received, acquisition of additional academic or vocational
48 schooling, successful participation in correctional work-release

1 programs, or the recommendation of those who have had the
2 individual under their supervision.

3 e. The department shall issue **【a permit to a person to operate**
4 **as】** an alternative treatment center permit to an applicant if the
5 department finds that issuing such a permit would be consistent
6 with the purposes of **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.)
7 and the requirements of this section are met and the department has
8 verified the information contained in the application. An initial
9 permit to operate an alternative treatment center issued pursuant to
10 this subsection shall be valid for three years, and thereafter shall be
11 renewable biennially. The department shall approve or deny an
12 application within 60 days after receipt of a completed application.
13 The denial of an application shall be considered a final agency
14 decision, subject to review by the Appellate Division of the
15 Superior Court. The department may suspend or revoke a permit to
16 operate as an alternative treatment center for cause, which shall be
17 subject to review by the Appellate Division of the Superior Court.

18 f. A person **【who has been】** or entity issued a medical
19 marijuana cultivator-processor permit pursuant to this section shall
20 display the permit at the premises of the **【alternative treatment**
21 **center】** medical marijuana cultivator-processor facility at all times
22 when marijuana is being produced, **【or】** , cultivated, processed, or
23 manufactured, and a person or entity issued a medical marijuana
24 dispensary permit pursuant to this section shall display the permit
25 on the premises of the medical marijuana dispensary at all times
26 when medical marijuana is being dispensed to a registered
27 qualifying patient or the patient's primary caregiver. An individual
28 who has been issued an ATC identification card shall have the card
29 on the cardholder's person at all times that the individual is on the
30 premises of an alternative treatment center.

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

34 h. **【An alternative treatment center】** A medical marijuana
35 cultivator-processor may charge a medical marijuana dispensary for
36 the reasonable costs associated with the production, cultivation,
37 processing, and manufacture of medical marijuana and marijuana-
38 infused and marijuana-derived products, and a medical marijuana
39 dispensary may charge a registered qualifying patient or primary
40 caregiver for the reasonable costs associated with the **【production**
41 **and】** distribution of medical marijuana **【for】** to the cardholder.

42 i. The commissioner shall adopt regulations to:

43 (1) require such written documentation of each delivery of
44 marijuana to, and pickup of marijuana for, a registered qualifying
45 patient, including the date and amount dispensed, to be maintained
46 in the records of the **【alternative treatment center】** medical
47 marijuana dispensary, as the commissioner determines necessary to

1 ensure effective documentation of the operations of each
2 **[alternative treatment center]** medical marijuana dispensary;

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

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

8 j. A medical marijuana cultivator-processor may apply to the
9 department for approval to relocate to another location within the
10 same region, and a medical marijuana dispensary may apply to the
11 department for approval to relocate the medical marijuana
12 dispensary or a satellite dispensary, if any, to another location
13 within the same county. The department may approve an
14 application for relocation if the department finds the relocation
15 would be consistent with the purposes of P.L.2009, c.307 (C.24:6I-
16 1 et al.). The denial of an application to relocate a medical
17 marijuana cultivator-processor, medical marijuana dispensary, or
18 satellite dispensary shall be considered a final agency decision,
19 subject to review by the Appellate Division of the Superior Court.

20 k. (1) A medical marijuana cultivator-processor or medical
21 marijuana dispensary may apply to the department for approval to
22 sell or transfer its permit to another entity. The department shall
23 not approve the sale or transfer of a medical marijuana cultivator
24 processor or medical marijuana dispensary permit until each
25 applicant at the entity applying to purchase or receive the transfer of
26 the permit undergoes a criminal history record background check
27 pursuant to subsection d. of this section, the department finds that
28 the sale or transfer of the permit would be consistent with the
29 purposes of P.L.2009, c.307 (C.24:6I-1 et al.), the requirements of
30 this section are met, and the department has verified the information
31 contained in the application. The department shall approve or deny
32 an application within 90 days after receipt of a completed
33 application. The denial of an application to sell or transfer a
34 medical marijuana cultivator processor or medical marijuana
35 dispensary permit shall be considered a final agency decision,
36 subject to review by the Appellate Division of the Superior Court.
37 The sale or transfer of a permit pursuant to this subsection shall not
38 constitute authorization to relocate the permitted facility unless the
39 entity purchasing or receiving transfer of the permit additionally
40 receives approval for the relocation from the department pursuant to
41 subsection j. of this section.

42 (2) If a nonprofit medical marijuana cultivator processor or
43 medical marijuana dispensary proposes to sell or transfer its permit
44 to a for-profit entity, its board of directors may proceed with the
45 sale or transfer upon receiving approval for the sale or transfer from
46 the department pursuant to paragraph (1) of this subsection, and,
47 except as provided in paragraph (3) of this subsection, after
48 obtaining an independent appraisal for the fair market value of the

1 permit. The sale or transfer of the permit shall be consistent with
2 the requirements of the “New Jersey Nonprofit Corporation Act,”
3 N.J.S.15A:1-1 et seq. The proceeds of the sale or transfer,
4 following satisfaction of the obligations of the medical marijuana
5 cultivator-processor or medical marijuana dispensary, shall be
6 retained or expended in a manner consistent with the requirements
7 of the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et
8 seq., or until the organization is lawfully wound down or dissolved.
9 If a nonprofit medical marijuana cultivator processor or medical
10 marijuana dispensary seeks to sell or transfer its permit to a for-
11 profit entity with which it shares common ownership or control, the
12 sale or transfer shall not proceed unless at least one disinterested
13 director or trustee approves the sale or transfer in accordance with
14 the requirements of the “New Jersey Nonprofit Corporation Act,”
15 N.J.S.15A:1-1 et seq.

16 (3) In the case of a nonprofit alternative treatment center that
17 was issued a permit prior to the effective date of P.L. , c. (C.)
18 (pending before the Legislature as this bill), in lieu of obtaining an
19 independent appraisal of the fair market value of the alternative
20 treatment center’s medical marijuana cultivator-processor or
21 medical marijuana dispensary permit as required under paragraph
22 (2) of this subsection, upon receiving approval for the sale from the
23 department pursuant to paragraph (1) of this subsection, a nonprofit
24 alternative treatment center that was issued a permit prior to the
25 effective date of P.L. , c. (C.) (pending before the
26 Legislature as this bill) may, on a single occasion and no later than
27 one year after the effective date of P.L. , c. (C.) (pending
28 before the Legislature as this bill), elect to pay the department a fee
29 of \$300,000 and sell or transfer its medical marijuana cultivator
30 processor permit or medical marijuana dispensary permit for a sum
31 that satisfies its outstanding obligations.

32 1. The maximum fees that may be charged in connection with
33 an alternative treatment center permit shall be as follows:

34 (1) for issuance of an initial three-year permit or biennial
35 renewal of an existing permit, \$40,000;

36 (2) for authorization to relocate a medical marijuana cultivator-
37 processor to a new location within the same region, or for
38 authorization to relocate a medical marijuana dispensary or satellite
39 dispensary to another location within the same county, \$20,000;

40 (3) for a permit to open a satellite dispensary, \$20,000; and

41 (4) except as otherwise provided in paragraph (3) of subsection
42 k. of this section, to sell or transfer an alternative treatment center
43 permit, \$150,000.

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

45

46 7. (New section) The department shall begin accepting and
47 processing applications for three additional cultivator-processors
48 and 21 additional medical marijuana dispensaries no later than 90

1 days after the effective date of P.L. , c. (C.) (pending before
2 the Legislature as this bill).

3 The department shall make a determination as to a permit
4 application within 90 days after receiving the application, and shall
5 issue an initial permit to an approved applicant immediately upon
6 collection of the permit fee, unless the department finds the
7 applicant is not implementing the plans, procedures, protocols,
8 actions, or other measures set forth in the applicant's permit
9 application submitted pursuant to section 8 of P.L. , c. (C.)
10 (pending before the Legislature as this bill), or is otherwise not in
11 compliance with the requirements of P.L.2009, c.307 (C.24:6I-1 et
12 al.), in which case the department shall issue the permit to the next
13 highest scoring applicant in the same region that is in compliance
14 with the applicant's permit application and the requirements of
15 P.L.2009, c.307 (C.24:6I-1 et al.).

16

17 8. (New section) a. Each application for an initial three year
18 permit to operate a medical marijuana cultivator processor or
19 medical marijuana dispensary, and for biennial renewal of such
20 permit, shall be submitted to the department. A separate application
21 shall be required for each location at which an applicant seeks to
22 operate. Renewal applications shall be submitted to the department
23 no later than 90 days before the date the current permit will expire.

24 b. An initial medical marijuana cultivator-processor or medical
25 marijuana dispensary permit application shall be evaluated and
26 scored on a 100 point scale, consistent with the requirements of
27 subsections c. and d. of this section, plus any bonus points awarded
28 pursuant to subsection e. of this section.

29 c. In addition to any points awarded for an initial application
30 for a medical marijuana cultivator-processor permit or a medical
31 marijuana dispensary permit pursuant to subsection d. of this
32 section and any bonus points awarded pursuant to subsection e. of
33 this section, up to 21 points may be awarded for the summary of the
34 applicant's operating plan, excluding safety and security criteria:

35 (1) In the case of an applicant for a medical marijuana
36 cultivator-processor permit, the operating plan summary shall
37 include a written description, of up to 1,000 words per topic,
38 concerning the applicant's qualifications for, experience in, and
39 knowledge of each of the following topics:

40 (a) State-licensed cultivation of medical marijuana and
41 manufacture of marijuana products using appropriate extraction
42 methods;

43 (b) conventional horticulture or agriculture, familiarity with
44 good agricultural practices, and any relevant certifications or
45 degrees;

46 (c) pharmaceutical manufacturing, good manufacturing
47 practices, quality control, and quality assurance;

48 (d) recall plans;

- 1 (e) packaging and labeling;
- 2 (f) inventory control and tracking software or systems for the
- 3 production of medical marijuana;
- 4 (g) analytical chemistry and testing of marijuana and marijuana-
- 5 infused or marijuana-derived products and formulations;
- 6 (h) water management practices;
- 7 (i) odor mitigation practices;
- 8 (j) onsite and offsite recordkeeping;
- 9 (k) strain variety and plant genetics;
- 10 (l) pest control and disease management practices, including
- 11 plans for the use of pesticides, nutrients, and additives;
- 12 (m) waste disposal plans; and
- 13 (n) compliance with applicable laws and regulations.
- 14 (2) In the case of an applicant for a medical marijuana
- 15 dispensary permit, the operating plan summary shall include a
- 16 written description, of up 1,000 words per topic, concerning the
- 17 applicant's qualifications for, experience in, and knowledge of each
- 18 of the following topics:
- 19 (a) State-licensed dispensation of medical marijuana to
- 20 qualifying patients;
- 21 (b) healthcare, medicine, and treatment of patients with
- 22 debilitating medical conditions;
- 23 (c) marijuana product evaluation procedures;
- 24 (d) recall plans;
- 25 (e) packaging and labeling;
- 26 (f) inventory control and point-of-sale software or systems for
- 27 the sale of medical marijuana;
- 28 (g) patient counseling procedures;
- 29 (h) the routes of administration, strains, varieties, and
- 30 cannabinoid profiles of medical marijuana products;
- 31 (i) odor mitigation practices;
- 32 (j) onsite and offsite recordkeeping;
- 33 (k) the composition of the applicant's medical advisory board, if
- 34 any;
- 35 (l) compliance with State and federal patient privacy rules;
- 36 (m) waste disposal plans; and
- 37 (n) compliance with applicable laws and regulations.
- 38 d. In addition to any points awarded for an operating plan
- 39 summary submitted pursuant to subsection c. of this section and any
- 40 bonus points awarded pursuant to subsection e. of this section, up
- 41 79 points may be awarded for an initial application for a medical
- 42 marijuana cultivator-processor permit or a medical marijuana
- 43 dispensary permit, as follows:
- 44 (1) Up to four points may be awarded for the applicant's
- 45 environmental impact plan, which shall not exceed five pages.
- 46 (2) Up to 7.5 points may be awarded for the summary of the
- 47 applicant's safety and security plans and procedures, which shall
- 48 include descriptions of the following:

- 1 (a) plans for the use of security personnel;
 - 2 (b) the experience or qualifications of existing security
3 personnel;
 - 4 (c) security and surveillance features, including descriptions of
5 any alarm systems, video surveillance systems, and access and
6 visitor management systems, along with drawings identifying the
7 proposed locations for surveillance cameras and other security
8 features;
 - 9 (d) plans for the storage of medical marijuana and medical
10 marijuana products, including any safes, vaults, and climate control
11 systems that will be utilized for this purpose;
 - 12 (e) a diversion prevention plan;
 - 13 (f) an emergency management plan;
 - 14 (g) procedures for screening, monitoring, and performing
15 criminal history record background checks of employees;
 - 16 (h) cybersecurity procedures, including, in the case of an
17 applicant for a medical marijuana dispensary permit, procedures for
18 collecting, processing, and storing patient data, and the applicant's
19 familiarity with State and federal privacy laws;
 - 20 (i) workplace safety plans and the applicant's familiarity with
21 federal Occupational Safety and Health Administration regulations;
 - 22 (j) the applicant's history of workers' compensation claims and
23 safety assessments;
 - 24 (k) procedures for reporting adverse events; and
 - 25 (l) a sanitation practices plan.
- 26 (3) Up to 15 total points may be awarded for the summary of the
27 applicant's business experience, subject to the following
28 requirements:
- 29 (a) up to six points may be awarded for the description of the
30 applicant's experience operating businesses in highly-regulated
31 industries;
 - 32 (b) up to six points may be awarded for a description of the
33 applicant's experience in operating alternative treatment centers and
34 related medical marijuana production and dispensation entities
35 under the laws of New Jersey or any other state; and
 - 36 (c) up to three points may be awarded for the applicant's plan,
37 which shall not exceed three pages, to comply with and mitigate the
38 effects of 26 U.S.C. s.280E on marijuana businesses, and for
39 evidence that the applicant is not in arrears with respect to any tax
40 obligation to the State.
- 41 In evaluating the experience described under subparagraphs (a)
42 and (b) of this paragraph, the department shall afford the greatest
43 weight to the experience of the applicant itself, controlling owners,
44 and entities with common ownership or control with the applicant;
45 followed by the experience of those with a 15 percent or greater
46 ownership interest in the applicant's organization; followed by
47 interest holders in the applicant's organization; followed by other

1 officers, directors, and bona fide full-time employees of the
2 applicant as of the submission date of the application.

3 (4) Up to 15 points may be awarded based on a description of
4 the proposed location for the applicant's alternative treatment center
5 site, which shall be awarded as follows:

6 (a) up to seven points may be awarded for a description of the
7 proposed location, the surrounding area, and the suitability or
8 advantages of the proposed location, along with a floor plan and
9 optional renderings or architectural or engineering plans;

10 (b) four points may be awarded for submitting zoning approvals
11 for the proposed location, which shall consist of a letter or affidavit
12 from appropriate municipal officials that the location will conform
13 to municipal zoning requirements allowing for the cultivation,
14 processing, or dispensing of medical marijuana, marijuana-infused
15 and marijuana-derived products, and related supplies, as
16 appropriate; and

17 (c) four points may be awarded for submitting proof of local
18 support for the suitability of the location, which may be
19 demonstrated by a letter from the municipality's highest-ranking
20 official or by a resolution adopted by the municipality's governing
21 body indicating that the intended location is appropriately located
22 or otherwise suitable for the cultivation, processing, or dispensing
23 of medical marijuana, marijuana-infused and marijuana-derived
24 products, and related supplies, as appropriate.

25 Notwithstanding any other provision of this subsection, an
26 application shall be disqualified from consideration unless it
27 includes documentation demonstrating that the applicant will have
28 final control of the premises upon approval of the application,
29 including, but not limited to, a lease agreement, contract for sale,
30 title, deed, or similar documentation. In addition, if the applicant
31 will lease the premises, the application will be disqualified from
32 consideration unless it includes certification from the landlord that
33 the landlord is aware that the tenant's use of the premises will
34 involve cultivation, processing, or dispensing of medical marijuana
35 and medical marijuana products, as appropriate. An application
36 shall not be disqualified from consideration if the application does
37 not include the materials described in subparagraphs (b) or (c) of
38 this paragraph.

39 (5) Up to 15 total points may be awarded in the community
40 impact and social responsibility section of the application, subject
41 to the following requirements:

42 (a) up to four points may be awarded for a community impact
43 plan, not to exceed five pages, summarizing how the applicant
44 intends to have a positive impact on the community in which the
45 proposed medical marijuana cultivator-processor or medical
46 marijuana dispensary is to be located, which shall include an
47 economic impact plan, a description of outreach activities, and any

1 financial assistance or discount plans the applicant will provide to
2 qualifying patients and primary caregivers;

3 (b) up to three points may be awarded for a written description
4 of the applicant's record of social responsibility, philanthropy, and
5 ties to the proposed host community, which shall not exceed five
6 pages;

7 (c) up to four points may be awarded for a written description of
8 any research the applicant has conducted on the medical efficacy or
9 adverse effects of marijuana use and the applicant's participation in
10 or support of marijuana-related research and educational activities,
11 which shall not exceed three pages; and

12 (d) up to four points may be awarded for a written plan, which
13 shall not exceed three pages, describing any research and
14 development regarding the medical efficacy or adverse effects of
15 marijuana, and any marijuana-related educational and outreach
16 activities, the applicant intends to conduct if issued a permit by the
17 department.

18 In evaluating the information submitted pursuant to
19 subparagraphs (b) and (c) of this paragraph, the department shall
20 afford the greatest weight to the experience of the applicant itself,
21 controlling owners, and entities with common ownership or control
22 with the applicant; followed by the experience of those with a 15
23 percent or greater ownership interest in the applicant's organization;
24 followed by interest holders in the applicant's organization;
25 followed by other officers, directors, and bona fide full-time
26 employees of the applicant as of the submission date of the
27 application.

28 (6) Up to 7.5 total points may be awarded for the applicant's
29 workforce development and job creation plan, which may be
30 awarded based on the following criteria:

31 (a) up to four points may be awarded for a description of the
32 applicant's workforce development and job creation plan, which
33 may include information on the applicant or its owners' history of
34 job creation and planned job creation at its proposed medical
35 marijuana cultivator-processor or medical marijuana dispensary;
36 education, training, and resources to be made available for
37 employees; any relevant certifications; and an optional diversity
38 plan; and

39 (b) 3.5 points shall be awarded to any applicant that has
40 executed a labor peace agreement or card check and neutrality
41 agreement with a collective bargaining unit for the proposed
42 medical marijuana cultivator-processor or medical marijuana
43 dispensary. An applicant that does not submit the information
44 described in this subparagraph shall not be disqualified from
45 consideration.

46 (7) Up to 15 total points may be awarded for the description of
47 applicant's business and financial plan:

1 (a) up to five points may be awarded for an executive summary
2 of the applicant's business plan, which shall not exceed 1,500
3 words;

4 (b) up to five points may be awarded for a demonstration of the
5 applicant's financial ability to implement its business plan, which
6 shall not exceed 10 pages including attachments, and which may
7 include, but shall not be limited to, bank statements, business and
8 individual financial statements, net worth statements, and debt and
9 equity financing statements. An applicant who demonstrates the
10 availability of at least \$500,000 in a bank account in the applicant's
11 name at the time the application is submitted shall be awarded full
12 points under this subparagraph;

13 (c) up to five points may be awarded for a description of the
14 applicant's experience complying with guidance pertaining to
15 marijuana issued by the Financial Crimes Enforcement Network
16 under 31 U.S.C. s.5311 et seq., the federal Bank Secrecy Act, which
17 may be demonstrated by submitting letters regarding its banking
18 history from banks or credit unions that certify they are aware of the
19 business activities of the applicant, or entities with common
20 ownership or control of the applicant's organization, in any state
21 where the applicant has operated a business related to medical
22 marijuana. For the purposes of this subparagraph, the department
23 shall consider only bank references involving accounts in the name
24 of the applicant or of an entity with common ownership or control
25 of the applicant's organization. An applicant who does not submit
26 the information described in this subparagraph shall not be
27 disqualified from consideration.

28 e. Up to a total of 40 bonus points may be added to the
29 applicant's total score based on the following:

30 (1) If any of the applicant's majority or controlling owners were
31 previously approved by the department to serve as an officer,
32 director, principal, or key employee of an alternative treatment
33 center, and the individual served in such capacity at the alternative
34 treatment center for two or more years, the department shall award
35 10 bonus points, which shall be added to the applicant's total score.
36 No points shall be deducted from the applicant's total score if none
37 of the majority or controlling owners meet the requirements of this
38 paragraph.

39 (2) If an applicant can demonstrate that its governance structure
40 includes the involvement of a licensed and accredited school of
41 medicine or osteopathic medicine, a general acute care hospital or
42 ambulatory care facility licensed in New Jersey, or a pharmacy, the
43 department shall award 15 bonus points, which shall be added to the
44 applicant's total score, provided the following conditions are met:

45 (a) the school, hospital, facility, or pharmacy has conducted or
46 participated in institutional review board-approved research related
47 to marijuana involving the use of human subjects;

1 (b) the school, hospital, facility, or pharmacy holds a profit
2 share or ownership interest in the applicant's organization of 10
3 percent or more; and

4 (c) the school, hospital, facility, or pharmacy participates in
5 major decision-making activities within the applicant's
6 organization, which may be demonstrated by representation on the
7 board of directors of the applicant's organization.

8 No points shall be deducted from the applicant's total score if the
9 applicant's governance structure does not include a school, hospital,
10 facility, or pharmacy that meets the requirements of this paragraph.

11 (3) If the applicant submits evidence that the applicant, or an
12 entity with common ownership or control with the applicant, has
13 executed a collective bargaining agreement in the cannabis industry
14 that has been in effect for at least six months as of the submission
15 date of the application, the department shall award 15 bonus points,
16 which shall be added to the applicant's total score. No points shall
17 be deducted from the applicant's total score if the applicant has not
18 executed a collective bargaining agreement in the cannabis industry
19 that meets the requirements of this paragraph.

20 f. In reviewing a medical marijuana cultivator-processor or
21 medical marijuana dispensary initial permit application, unless the
22 information is otherwise solicited by the department in a specific
23 application question, the department's evaluation of the application
24 shall be limited to the experience and qualifications of the
25 applicant's organization, including any entities with common
26 ownership or control of the applicant's organization, controlling
27 owners or interest holders in the applicant's organization, and the
28 officers, directors, and actual full-time existing employees of the
29 applicant's organization. Responses pertaining to consultants,
30 independent contractors, and prospective or part-time employees of
31 the entity shall not be considered or scored. Each applicant shall
32 certify as to the status of the individuals and entities included in the
33 application.

34 g. To the extent possible, the department shall seek to ensure
35 that at least 15 percent of the total number of new medical
36 marijuana dispensary permits issued on or after the effective date of
37 P.L. , c. (C.) (pending before the Legislature as this bill) are
38 issued to a qualified applicant that:

39 (1) has been certified as a minority business or as a women's
40 business by the Division of Development for Small Businesses and
41 Women's and Minority Businesses in the New Jersey Commerce
42 and Economic Growth Commission pursuant to P.L.1986, c.195
43 (C.52:27H-21.18 et seq.);

44 (2) has been certified as a veteran-owned business by the
45 Department of the Treasury pursuant to P.L.2011, c.147 (C.52:32-
46 49 et seq.); or

47 (3) is a disabled-veteran business, as defined in section 2 of
48 P.L.2015, c.116 (C.52:32-31.2).

1 In selecting among applicants who meet these criteria, the
2 Department of Health shall grant a higher preference to applicants
3 with up to two groups in its ownership composition that meet the
4 criteria described in this subsection.

5 h. No employee of the department shall have any direct or
6 indirect financial interest in the cultivation, processing, or
7 dispensing of medical marijuana or related paraphernalia, or
8 otherwise receive anything of value from a medical marijuana
9 cultivator-processor or medical marijuana dispensary permit
10 applicant in exchange for reviewing, processing, or making any
11 recommendations with respect to a permit application.

12 i. Application materials submitted to the department pursuant
13 to this section not be considered a public record pursuant to
14 P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et
15 al.), or the common law concerning access to public records.

16 j. If the department notifies an applicant that it has scored
17 sufficiently high on multiple applications to be awarded more than
18 one medical marijuana cultivator-processor or medical marijuana
19 dispensary permit by the department, the applicant shall notify the
20 department, within seven business days after receiving such notice,
21 as to which permit it will accept. For any permit award declined by
22 an applicant pursuant to this subsection, the department shall, upon
23 receiving notice from the applicant of the declination, award the
24 permit to the applicant with the next highest score on an application
25 for that permit in the same region. If an applicant fails to notify the
26 department as to which permit it will accept, the department shall
27 have the discretion to determine which permit it will award to the
28 applicant, based on the department's determination of Statewide
29 need and the scores awarded to other applications in the affected
30 regions.

31 k. Any application submitted by a medical marijuana
32 dispensary to open a satellite dispensary shall include a description
33 of the proposed location for the applicant's satellite dispensary site,
34 including:

35 (1) a description of the proposed location, the surrounding area,
36 and the suitability or advantages of the proposed location, along
37 with a floor plan and optional renderings or architectural or
38 engineering plans;

39 (2) zoning approvals for the proposed location, which shall
40 consist of a letter or affidavit from appropriate municipal officials
41 that the location will conform to municipal zoning requirements
42 allowing for the dispensing of medical marijuana, marijuana-
43 infused and marijuana-derived products, and related supplies; and

44 (3) proof of local support for the suitability of the location,
45 which may be demonstrated by a letter from the municipality's
46 highest-ranking official or by a resolution adopted by the
47 municipality's governing body indicating that the intended location
48 is appropriately located or otherwise suitable for the dispensing of

1 medical marijuana, marijuana-infused and marijuana-derived
2 products, and related supplies.

3 Notwithstanding any other provision of this subsection, an
4 application shall be disqualified from consideration unless it
5 includes documentation demonstrating that the applicant will have
6 final control of the premises upon approval of the application,
7 including, but not limited to, a lease agreement, contract for sale,
8 title, deed, or similar documentation. In addition, if the applicant
9 will lease the premises, the application will be disqualified from
10 consideration unless it includes certification from the landlord that
11 the landlord is aware that the tenant's use of the premises will
12 involve dispensing of medical marijuana and medical marijuana
13 products. An application shall not be disqualified from
14 consideration if the application does not include the materials
15 described in paragraphs (2) or (3) of this subsection.

16

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

20 b. A medical advisory board appointed pursuant to this section
21 shall comprise five members: three health care professionals
22 licensed to practice in New Jersey, at least one of whom shall be a
23 physician; one qualifying patient; and one individual who owns a
24 business in the same region in which the alternative treatment
25 center is located. The qualifying patient member shall reside in the
26 county in which the alternative treatment center is located. No ATC
27 identification card holder may serve on a medical advisory board.

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

30

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

33 10. a. A physician shall provide written instructions for a
34 registered qualifying patient or **【his】** the patient's primary caregiver
35 to present to **【an alternative treatment center】** a medical marijuana
36 dispensary concerning the total amount of usable marijuana that a
37 patient may be dispensed, in weight, in a 30-day period, which
38 amount shall not exceed **【two】** four ounces. If no amount is noted,
39 the maximum amount that may be dispensed at one time is **【two】**
40 four ounces.

41 b. A physician may issue multiple written instructions at one
42 time authorizing the patient to receive a total of up to a 90-day
43 supply, provided that the following conditions are met:

44 (1) Each separate set of instructions shall be issued for a
45 legitimate medical purpose by the physician, as provided in **【this**
46 **act】** P.L.2009, c.307 (C.24:6I-1 et al.);

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

4 (3) The physician has determined that providing the patient with
5 multiple instructions in this manner does not create an undue risk of
6 diversion or abuse.

7 c. A registered qualifying patient or **his** the patient's primary
8 caregiver shall present the patient's or caregiver's registry
9 identification card, as applicable, and these written instructions to
10 the **alternative treatment center** medical marijuana dispensary,
11 which shall verify and log the documentation presented. A
12 physician may provide a copy of a written instruction by electronic
13 or other means, as determined by the commissioner, directly to **an**
14 alternative treatment center a medical marijuana dispensary on
15 behalf of a registered qualifying patient. The dispensation of
16 marijuana pursuant to any written instructions shall occur within
17 one month of the date that the instructions were written or the
18 instructions are void.

19 d. **A** Medical marijuana may be dispensed to a patient or the
20 patient's primary caregiver **may be registered at only one**
21 alternative treatment center at any time **by any medical marijuana**
22 dispensary in the State. Prior to dispensing medical marijuana to a
23 qualifying patient or the patient's primary caregiver, the medical
24 marijuana dispensary shall access the system established pursuant
25 to section 11 of P.L.2009, c.307 (C.45:1-45.1) to ascertain whether
26 medical marijuana was dispensed to the patient or the patient's
27 primary caregiver by any medical marijuana dispensary within the
28 preceding 30 days. Upon dispensing medical marijuana to a
29 qualifying patient or the patient's primary caregiver, the medical
30 marijuana dispensary shall transmit to the patient's physician
31 information concerning the amount, strain, and form of medical
32 marijuana that was dispensed.

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

34
35 11. Section 14 of P.L.2009, c.307 (C.24:6I-12) is amended to
36 read as follows:

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

39 (1) no later than one year after the effective date of **this act**
40 P.L.2009, c.307 (C.24:6I-1 et al.), on the actions taken to
41 implement the provisions of **this act** P.L.2009, c.307 (C.24:6I-1
42 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); and

43 (2) annually thereafter on the number of applications for registry
44 identification cards, the number of qualifying patients registered,
45 the number of primary caregivers registered, the nature of the
46 **debilitating** qualifying medical conditions of the patients, the
47 number of registry identification cards revoked, the number of

1 alternative treatment center permits issued and revoked, and the
2 number of physicians **【providing certifications for】** authorizing
3 patients for the medical use of marijuana.

4 b. The reports shall not contain any identifying information of
5 patients, caregivers, or physicians.

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

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

21

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

24 15. a. The Department of Health is authorized to exchange
25 fingerprint data with, and receive information from, the Division of
26 State Police in the Department of Law and Public Safety and the
27 Federal Bureau of Investigation for use in reviewing applications
28 for individuals seeking to serve as primary caregivers who are not
29 an immediate family member of the patient pursuant to section 4 of
30 P.L.2009, c.307 (C.24:6I-4), applications for an ATC identification
31 card pursuant to section 7 of P.L.2009, c.307 (C.24:6I-7), and
32 applications for permits to operate as **【,** or to be a director, officer,
33 or employee of,**】** alternative treatment centers pursuant to section 7
34 of P.L.2009, c.307 (C.24:6I-7).

35 b. The Division of State Police shall promptly notify the
36 Department of Health in the event an applicant seeking to serve as a
37 primary caregiver who is not an immediate family member of the
38 patient, an applicant for an ATC identification card, or an applicant
39 for a permit to operate as **【,** or to be a director, officer, or employee
40 of,**】** an alternative treatment center, who was the subject of a
41 criminal history record background check conducted pursuant to
42 subsection a. of this section, is convicted of a crime involving
43 possession or sale of a controlled dangerous substance.

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

45

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

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

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

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

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

34

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

36

37 15. The Commissioner of Health shall adopt, pursuant to the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
39 seq., such rules and regulations as may be necessary to effectuate
40 the purposes of this act.

41

42 16. This act shall take effect 90 days after the date of enactment,
43 except that the Commissioner of Health may take any advance
44 administrative action as may be necessary to implement the
45 requirements of this act.

STATEMENT

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This bill makes various revisions to the requirements of the “Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et al.), including allowing medical marijuana to be authorized for any condition, revising the application, ownership, and operational requirements for alternative treatment centers (ATCs), revising the requirements for physicians to authorize patients for the medical use of marijuana, and revising certain requirements concerning patients and primary caregivers.

Patient Registration and Certification and Dispensing Requirements

The bill provides that medical marijuana may be authorized for the treatment of any medical condition diagnosed by a physician, including the symptoms of the medical condition and the symptoms resulting from any treatment for the medical condition, rather than the list of enumerated conditions as provided under current law.

The bill provides that no application or renewal fee will apply in the case of an immediate family member of a qualifying patient who serves as primary caregiver to the patient; in all other cases, the maximum fee will be \$10 for an individual who is indigent and \$50 for all other cardholders. The current application fee is \$200, with a reduced fee of \$20 for low-income applicants. In addition, an immediate family member of a patient will not be required to undergo a criminal history record background check. The bill provides that a person may serve as primary caregiver for up to two patients at one time; under current law, primary caregivers are restricted to serving as primary caregiver for no more than one patient at a time.

The bill revises the list of disqualifying offenses for applicants seeking to serve as a primary caregiver who are not an immediate family member of the patient to provide that a conviction for possession of any amount of marijuana or hashish, and a conviction for manufacture, dispensing, or distributing less than 50 pounds of marijuana, fewer than 50 marijuana plants, or less than five pounds of hashish, will not constitute a disqualifying condition.

The bill provides that physicians will not be required to enroll in a physician registry as a condition of authorizing qualifying patients for the medical use of marijuana and removes the requirement that physicians certify a patient for medical marijuana.

The bill provides that, in order to authorize a qualifying patient who is a minor for medical marijuana, the certifying physician will be required to either: (1) be trained in the care of pediatric patients; or (2) obtain written confirmation from a physician 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

1 use of marijuana to treat or alleviate symptoms associated with the
2 patient's debilitating medical condition.

3 The bill increases the maximum amount of medical marijuana
4 that may be dispensed to a patient for a 30-day period from two
5 ounces to four ounces.

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

11 The bill provides that medical marijuana may be dispensed to a
12 patient by any medical marijuana dispensary in the State; under
13 current law, patients are to be registered with, and may only be
14 dispensed medical marijuana from, a single alternative treatment
15 center where the patient is registered. The bill requires that, prior to
16 dispensing medical marijuana to a patient, a medical marijuana
17 dispensary will be required to access a system currently maintained
18 by the Division of Consumer Affairs in the Department of Law and
19 Public Safety that tracks medical marijuana dispensations in the
20 State, in order to ascertain whether any medical marijuana was
21 dispensed to the patient or the patient's primary caregiver within the
22 preceding 30 days. Upon dispensing medical marijuana to a patient,
23 the medical marijuana dispensary will be required to transmit to the
24 authorizing physician information concerning the amount, form,
25 and strain of medical marijuana that was dispensed.

26 The bill provides that a physician or an immediate family
27 member of a physician who authorizes patients for medical
28 marijuana may not hold any profit or ownership interest in an ATC.
29 A physician or the immediate family member of a physician who
30 applies for an ATC identification card is to certify that the
31 physician has not authorized any patients for medical marijuana in
32 the preceding 90 days. A violation of this prohibition will
33 constitute a crime of the fourth degree, which is punishable by
34 imprisonment for up to 18 months, up to a \$10,000 fine, or both.
35 The bill specifies that nothing in the prohibition will prohibit any
36 physician from serving on the medical advisory board of an ATC,
37 provided the physician receives no special compensation or
38 remuneration from the ATC, including payments based on patient
39 volumes or the number of certifications issued by the physician.

40

41 ATC Application and Operational Requirements

42

43 With regard to ATCs, the bill differentiates between two
44 different types of ATC: medical marijuana cultivator-processors
45 and medical marijuana dispensaries. Medical marijuana cultivator-
46 processors are facilities that will be authorized to cultivate and
47 process marijuana and marijuana-infused and marijuana-derived
48 products, which it may supply to medical marijuana dispensaries.

1 Medical marijuana dispensaries will be authorized to dispense
2 marijuana and marijuana products to qualifying patients. An ATC
3 holding a permit as of the effective date of the bill will be deemed
4 to hold both a cultivator-processor permit and a dispensary permit.
5 The bill limits the ability of a person or entity holding a direct or
6 indirect interest in an ATC that is issued a new permit under the
7 bill. Specifically:

- 8 • A person or entity holding an interest in an ATC issued a
9 permit prior to the effective date of the bill may
10 simultaneously hold up to a 15 percent interest in up to one
11 other ATC issued a permit prior to the effective date of the
12 bill, one medical marijuana cultivator-processor, or one
13 medical marijuana dispensary;
- 14 • A person or entity holding an interest in a medical marijuana
15 cultivator-processor may simultaneously hold up to a 15
16 percent interest in up to one other medical marijuana
17 cultivator-processor or in one ATC that was issued a permit
18 prior to the effective date of the bill; and
- 19 • A person or entity holding an interest in a medical marijuana
20 dispensary may simultaneously hold up to a 15 percent
21 interest in up to one other medical marijuana dispensary or
22 in one ATC that was issued a permit prior to the effective
23 date of the bill.

24 No person or entity will be permitted to simultaneously hold any
25 other interest in any other ATC. These ownership restrictions do not
26 apply in the case of a person or entity holding an ownership interest
27 of less than one percent of the total capitalization of a publicly
28 traded company, provided the stockholder is not an employee,
29 officer, or director of the publicly traded company. ATCs may, but
30 are not required to be, nonprofit entities.

31 To ensure adequate access to ATCs throughout the State, the bill
32 requires the Department of Health (DOH) to issue a request for
33 applications for three additional medical marijuana cultivator-
34 processors and 21 additional medical marijuana dispensary permits
35 within 90 days after the effective date of the bill; these new
36 facilities, along with the six ATCs currently operating in the State,
37 will result in a total of nine medical marijuana cultivator-processors
38 and 27 total medical marijuana dispensaries. Thereafter, DOH will
39 be required to periodically evaluate whether the number of existing
40 ATCs is sufficient to meet the needs of qualifying patients in the
41 State, and, if it determines additional ATCs are needed, make a
42 request for applications and issue such additional permits as it
43 deems necessary.

44 The bill adds specific requirements for DOH to review and score
45 initial permit applications for new medical marijuana cultivator-
46 processors and medical marijuana dispensaries based on a 100-point
47 scale, which includes evaluations of the applicant's operational
48 plan, environmental impact plan, safety and security plan, business

1 experience, proposed location, record of social responsibility,
2 philanthropy, involvement in research concerning the medical
3 efficacy and adverse effects of medical marijuana, workforce
4 development and job creation plan, and business and financial plan.
5 In evaluating an application, DOH is to limit its review to the
6 controlling owners, officers, directors, and employees, and is not to
7 consider responses pertaining to consultants, independent
8 contractors, or prospective or part-time employees. To the extent
9 possible, DOH is to seek to ensure that at least 15 percent of the
10 new medical marijuana dispensary permits issued under the bill are
11 awarded to entities certified as a minority business, a women's
12 business, a veteran-owned business, or a disabled-veteran business,
13 with higher preference going to entities that are certified in up to
14 two such categories. Application materials submitted to DOH will
15 not constitute a public record subject to the statutory or common
16 laws concerning access to public records.

17 Applicants are to submit a separate application for each proposed
18 medical marijuana cultivator-processor or medical marijuana
19 dispensary location. If an applicant scores sufficiently high on
20 multiple applications to be awarded more than one permit, the
21 applicant is to notify DOH within seven business days as to which
22 permit it will accept; for any permit declined by an applicant, DOH
23 will award the permit to the next highest-scoring applicant. If an
24 applicant fails to provide notice as to which permit it will accept
25 within seven business days, DOH will have the discretion to
26 determine which permit to award the applicant, based on its
27 determination of Statewide need and the scores awarded to other
28 applicants in the relevant locations.

29 Commencing 18 months after the effective date of the bill,
30 medical marijuana dispensaries will be allowed to apply to DOH for
31 approval to open up to one satellite dispensary. The application is
32 to include information concerning the proposed location for the
33 satellite dispensary. Medical marijuana dispensaries will be limited
34 to a single satellite dispensary; with DOH approval, a satellite
35 dispensary may be closed or relocated. If a medical marijuana
36 dispensary permit is sold or transferred, such sale or transfer will
37 include the dispensary's satellite dispensary, if any. The fee for a
38 satellite dispensary permit will be \$20,000.

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

43 The bill provides that an initial ATC permit will be valid for
44 three years and will thereafter be renewable on a biennial basis.

45 The bill provides that DOH may require ATC permit applicants
46 to submit a personal history disclosure and may conduct financial
47 due diligence on any person or entity providing \$100,000 or more in
48 financial backing to an applicant. The bill revises the list of

1 disqualifying offenses for ATC permit applicants to provide that a
2 conviction for possession of any amount of marijuana or hashish,
3 and a conviction for manufacture, dispensing, or distributing less
4 than 50 pounds of marijuana, fewer than 50 marijuana plants, or
5 less than five pounds of hashish, will not constitute a disqualifying
6 condition.

7 The bill clarifies that the officers, directors, board members,
8 owners, and employees of an ATC will be issued “ATC
9 identification cards” upon approval of the ATC’s permit
10 application.

11 The bill sets forth certain requirements for the sale or transfer of
12 an ATC permit, which include completing a criminal history record
13 background check of the entity purchasing or receiving the permit,
14 as well as certain requirements specific to nonprofit ATCs, which
15 will be required to comply with the requirements of the “New
16 Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq. If the
17 debts and liabilities of a nonprofit ATC exceed the value of all
18 assets of the ATC other than the permit, the ATC may pay \$300,000
19 to DOH and sell its permit for a sum that satisfies all outstanding
20 obligations. The bill provides that, with DOH approval, medical
21 marijuana cultivator-processors may relocate within the same
22 region and medical marijuana dispensaries may relocate within the
23 same county.

24 The bill provides that the maximum fee for initial issuance or
25 renewal of an ATC permit will be \$40,000; the maximum fee for
26 relocation of an ATC will be \$20,000; and the maximum fee to sell
27 or transfer an ATC permit will be \$150,000.

28 The bill provides that ATCs will be permitted to establish a
29 medical advisory board to advise the ATC on all aspects of its
30 business. A medical advisory board is to comprise five members:
31 three healthcare professionals, including at least one physician; one
32 qualifying patient; and one business owner from the same region as
33 the ATC. The qualifying patient member is to reside in the same
34 county in which the ATC is located. No ATC identification card
35 holder may serve on an ATC medical advisory board. Medical
36 advisory boards are to meet at least two times per year.