

[First Reprint]

ASSEMBLY, No. 1635

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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SYNOPSIS

Permits use of telemedicine and telehealth to authorize patients for medical cannabis and to issue written instructions for dispensing medical cannabis.

CURRENT VERSION OF TEXT

As reported by the Assembly Health Committee on March 5, 2020, with amendments.



(Sponsorship Updated As Of: 9/24/2020)

1 AN ACT concerning medical cannabis and amending P.L.2019,
2 c.153 and 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 5 of P.L.2019, c.153 (C.24:6I-5.1) is amended to read
8 as follows:

9 5. a. A health care practitioner shall not be required to be listed
10 publicly in any medical cannabis practitioner registry as a condition of
11 authorizing patients for the medical use of cannabis.

12 b. No authorization for the medical use of cannabis may be issued
13 by a health care practitioner to the practitioner's own self or to a
14 member of the practitioner's immediate family.

15 c. The commission shall establish a process to allow medical
16 cannabis to be dispensed to a patient who has been authorized for the
17 medical use of cannabis and who has initiated the process of
18 registering with the commission pursuant to section 4 of P.L.2009,
19 c.307 (C.24:6I-4), but whose registration has not been completed or
20 subject to other final action by the commission. A patient may be
21 dispensed medical cannabis in quantities of up to a two-week supply
22 during the pendency of the patient's registration, after which time the
23 patient may be dispensed medical cannabis in an amount consistent
24 with the requirements of section 10 of P.L.2009, c.307 (C.24:6I-10).
25 The commission shall impose such restrictions on access to medical
26 cannabis pursuant to this subsection as shall be necessary to protect
27 against fraud, abuse, and diversion.

28 d. For ¹a period of¹ 270 days following the ¹effective¹ date of
29 ¹~~enactment of~~¹ P.L. , c. (C.) (pending before the Legislature
30 as this bill), a health care practitioner may authorize a patient who is a
31 ¹~~child,~~¹ resident of a long-term care facility, ¹~~developmentally~~
32 ~~disabled~~¹ has a developmental disability¹ , ¹is¹ terminally ill, ¹is¹
33 receiving hospice care ¹through a licensed hospice care provider¹ , or
34 ¹is¹ housebound as certified by the patient's physician, for the medical
35 use of cannabis ¹~~in the course of the health care practitioner's~~
36 ~~practice of~~¹ using¹ telemedicine or telehealth. ¹~~Following the 270~~
37 ~~day period after the date of enactment of P.L. , c. (C.) (pending~~
38 ~~before the Legislature as this bill)]~~ Thereafter,¹ a health care
39 practitioner may ¹initially¹ authorize any patient for the medical use of
40 cannabis ¹~~in the course of the health care practitioner's practice of~~
41 using¹ telemedicine or telehealth, provided that, and except in the case
42 of a patient who is a ¹~~child, developmentally disabled~~¹ resident of a
43 long-term care facility, has a developmental disability¹ , ¹is¹

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHE committee amendments adopted March 5, 2020.

1 terminally ill, 'is' receiving hospice care 'from a licensed hospice care
2 provider' , or 'is' housebound 'as certified by the patient's physician' ,
3 the patient has had at least one previous in-office 'visit' consultation'
4 with the health care practitioner prior to the '[patient's authorization]
5 practitioner authorizing the patient' for the medical use of cannabis
6 'using telemedicine or telehealth' . 'Following the initial
7 authorization, the patient shall have at least one in-office consultation
8 with the practitioner on an annual basis in order for the patient to
9 receive continued authorization for the use of medical cannabis. The
10 practitioner may require more frequent in-office consultations if
11 additional consultations are necessary to continue to authorize the
12 patient's use of medical cannabis.'

13 As used in this subsection, "telehealth" and "telemedicine" shall
14 have the same meaning as is provided in section 1 of P.L.2017, c.117
15 (C.45:1-61).

16 (cf: P.L.2019, c.153, s.5)

17

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

20 10. a. A health care practitioner shall provide written
21 instructions for a registered qualifying patient or the patient's
22 designated caregiver, or an institutional caregiver acting on behalf
23 of the patient, to present to a medical cannabis dispensary or a
24 clinical registrant concerning the total amount of usable cannabis
25 that a patient may be dispensed, in weight, in a 30-day period,
26 which amount shall not exceed the maximum amount that may be
27 authorized for the patient pursuant to subsection f. of this section.

28 b. A health care practitioner may issue multiple written
29 instructions at one time authorizing the patient to receive a total of
30 up to a one-year supply, provided that the following conditions are
31 met:

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

35 (2) Each separate set of instructions shall indicate the earliest
36 date on which a dispensary or clinical registrant may dispense the
37 cannabis, except for the first dispensation if it is to be filled
38 immediately; and

39 (3) The health care practitioner has determined that providing
40 the patient with multiple instructions in this manner does not create
41 an undue risk of diversion or abuse.

42 c. A registered qualifying patient or the patient's designated
43 caregiver, or an institutional caregiver acting on behalf of a
44 qualifying patient, shall present verification of the patient's or
45 caregiver's registration with the commission, as applicable, and
46 these written instructions to any medical cannabis dispensary or
47 clinical registrant at the time the patient or caregiver requests the

1 dispensing or delivery of medical cannabis, which medical cannabis
2 dispensary or clinical registrant shall verify and log the
3 documentation presented. An institutional caregiver shall
4 additionally present an authorization executed by the patient
5 certifying that the institutional caregiver is authorized to obtain
6 medical cannabis on behalf of the patient. A health care
7 practitioner may provide a copy of a written instruction by
8 electronic or other means, including but not limited to, telemedicine
9 and telehealth, as determined by the commission, directly to a
10 medical cannabis dispensary or a clinical registrant on behalf of a
11 registered qualifying patient. The dispensation of medical cannabis
12 pursuant to any written instructions shall occur within one year of
13 the date that the instructions were written or become eligible for
14 dispensing, whichever is later, or the instructions are void.

15 d. (Deleted by amendment, P.L.2019, c.153)

16 e. Prior to dispensing medical cannabis to a qualifying patient,
17 the patient's designated caregiver, or an institutional caregiver, the
18 medical cannabis dispensary or clinical registrant shall access the
19 system established pursuant to section 11 of P.L.2009, c.307
20 (C.45:1-45.1) to ascertain whether medical cannabis was dispensed
21 to or on behalf of the patient by any medical cannabis dispensary or
22 clinical registrant within the preceding 30 days. Upon dispensing
23 medical cannabis to a qualifying patient, the patient's designated
24 caregiver, or an institutional caregiver, the medical cannabis
25 dispensary or clinical registrant shall transmit to the patient's health
26 care practitioner information concerning the amount, strain, and
27 form of medical cannabis that was dispensed.

28 f. (1) Except as provided in paragraph (2) of this subsection, for
29 a period of 18 months after the effective date of P.L.2019, c.153
30 (C.24:6I-5.1 et al.), the maximum amount of usable cannabis that a
31 patient may be dispensed, in weight, in a 30-day period, shall be
32 three ounces. Commencing 18 months after the effective date of
33 P.L.2019, c.153 (C.24:6I-5.1 et al.), the maximum amount of usable
34 cannabis that a patient may be dispensed shall be prescribed by the
35 commission by regulation.

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

1 g. The commission shall establish, by regulation, curricula for
2 health care practitioners and for staff at medical cannabis
3 dispensaries and clinical registrants:

4 (1) The curriculum for health care practitioners shall be
5 designed to assist practitioners in counseling patients with regard to
6 the quantity, dosing, and administration of medical cannabis as
7 shall be appropriate to treat the patient's qualifying medical
8 condition. Health care practitioners shall complete the curriculum
9 as a condition of authorizing patients for the medical use of
10 cannabis; and

11 (2) The curriculum for employees of medical cannabis
12 dispensaries and clinical registrants shall be designed to assist the
13 employees in counseling patients with regard to determining the
14 strain and form of medical cannabis that is appropriate to treat the
15 patient's qualifying medical condition. Employees of medical
16 cannabis dispensaries and clinical registrants shall be required to
17 complete the curriculum as a condition of registration with the
18 commission. Completion of the curriculum may constitute part of
19 the annual training required pursuant to paragraph (1) of subsection
20 j. of section 7 of P.L.2009, c.307 (C.24:6I-7).

21 h. Commencing July 1, 2020, the amount of the sales tax that
22 may be imposed under the "Sales and Use Tax Act," P.L.1966, c.30
23 (C.54:32B-1 et seq.) on medical cannabis dispensed by a medical
24 cannabis dispensary or clinical registrant shall not exceed four
25 percent.

26 Commencing July 1, 2021, the amount of the sales tax that may
27 be imposed under the "Sales and Use Tax Act," P.L.1966, c.30
28 (C.54:32B-1 et seq.) on medical cannabis dispensed by a medical
29 cannabis dispensary or clinical registrant shall not exceed two
30 percent.

31 Commencing July 1, 2022, medical cannabis dispensed by a
32 medical cannabis dispensary or clinical registrant shall not be
33 subject to any tax imposed under the "Sales and Use Tax Act,"
34 P.L.1966, c.30 (C.54:32B-1 et seq.).

35 Any revenue collected pursuant to a tax imposed on the sale of
36 medical cannabis under the "Sales and Use Tax Act," P.L.1966,
37 c.30 (C.54:32B-1 et seq.), shall be exclusively appropriated to
38 programs for the treatment of mental health and substance use
39 disorders.

40 i. A municipality in which a medical cannabis dispensary is
41 located may adopt an ordinance imposing a transfer tax on any
42 medical cannabis dispensed by the dispensary, including medical
43 cannabis that is furnished by the dispensary to a medical cannabis
44 handler for delivery to a registered qualifying patient or the patient's
45 caregiver. The rate of a transfer tax established pursuant to this
46 subsection shall be at the discretion of the municipality, except that

- 1 in no case shall the rate exceed two percent of the purchase price of
- 2 the medical cannabis.
- 3 (cf: P.L.2019, c.153, s.18)
- 4
- 5 3. This act shall take effect immediately.