



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

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

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

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

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

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

"Commissioner" means the Commissioner of Health.

"Debilitating medical condition" means:

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

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

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

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

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

"Department" means the Department of Health.

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

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

**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.

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

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

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

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

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

- a. is at least 18 years old;
- b. has agreed to assist with a registered qualifying patient's medical use of marijuana, is not currently serving as primary caregiver for another qualifying patient, and is not the qualifying patient's physician;
- c. has never been convicted of possession or sale of a controlled dangerous substance, unless such conviction occurred after the effective date of **[this act] P.L.2009, c.307 (C.24:6I-1 et al.)** and was for a violation of federal law related to possession or sale of marijuana that is authorized under **[this act] P.L.2009, c.307 (C.24:6I-1 et al.)** and **P.L.2015, c.158 (C.18A:40-12.22 et al.)**;
- d. has registered with the department pursuant to section 4 of **[this act] P.L.2009, c.307 (C.24:6I-4)**, and has satisfied the criminal history record background check requirement of section 4 of **[this act] P.L.2009, c.307 (C.24:6I-4)**; and
- e. has been designated as primary caregiver on the qualifying patient's application or renewal for a registry identification card or in other written notification to the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Notwithstanding the provisions of subsection b. of this section to the contrary, the commissioner may offer provisional

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authority for an applicant to be an employee of an alternative treatment center for a period not to exceed three months if the applicant submits to the commissioner a sworn statement attesting that the person has not been convicted of any disqualifying conviction pursuant to this section.

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

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

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

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

(d) the date of the crime or offense;

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

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

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

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

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

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

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

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

i. The commissioner shall adopt regulations to:

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

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

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

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

3. This act shall take effect immediately.

#### STATEMENT

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

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

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