

CHAPTER 88

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

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

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

C.24:6I-4 Registry of qualifying patients, designated, institutional caregivers.

4. a. The commission shall establish a registry of qualifying patients and their designated caregivers and shall establish a means of identifying and verifying the registration status of patients and designated caregivers who are registered with the commission. Registration with the commission shall be valid for two years. A patient or designated caregiver shall be registered with the commission upon submitting the following, in accordance with regulations adopted by the commission:

- (1) documentation of a health care practitioner's authorization for the patient for the medical use of cannabis;
- (2) an application or renewal fee, which may be based on a sliding scale as determined by the commission;
- (3) the name, home address, and date of birth of the patient and each designated caregiver, as applicable;
- (4) the name, address, and telephone number of the patient's health care practitioner; and
- (5) up to one alternate address for the patient, which may be used for delivery of medical cannabis to the patient pursuant to section 27 of P.L.2019, c.153 (C.24:6I-20).

Each qualifying patient younger than 18 years of age may concurrently have up to four designated caregivers, and each qualifying patient who is 18 years of age or older may concurrently have up to two designated caregivers. A qualifying patient younger than 18 years of age may petition the commission for approval to concurrently have more than four designated caregivers, and a qualifying patient who is 18 years of age or older may petition the commission for approval to concurrently have more than two designated caregivers. A petition for additional designated caregivers shall be approved if the commission finds that allowing the patient additional designated caregivers is necessary to meet the patient's treatment needs and is consistent with the provisions of P.L.2009, c.307 (C.24:6I-1 et al.).

The commission shall establish a registry of institutional caregivers and shall establish a means of identifying and verifying the registration status of institutional caregivers who are registered with the commission. Registration with the commission shall be valid for one year. An institutional caregiver shall be registered with the commission upon submitting the name, address, and telephone number of the institutional caregiver and of the health care facility at which the individual will be serving as institutional caregiver and a certification that meets the requirements of subsection h. of this section. The application or renewal fee for the institutional caregiver shall be paid by the health care facility at which the institutional caregiver will be serving as institutional caregiver. An institutional caregiver shall not be limited in the number of qualifying patients for whom the institutional caregiver may serve as institutional caregiver at one time, provided that each qualifying patient served by the institutional caregiver is a current patient or resident at the health care facility at which the institutional caregiver is authorized to serve as institutional caregiver, and the number of qualifying patients served by the institutional caregiver is commensurate with the institutional caregiver's ability to fully meet the treatment and related needs of each qualifying patient and attend to the institutional caregiver's other professional duties at the health care facility without jeopardizing the health or safety of any patient or resident at the facility.

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

c. (1) The commission shall require each applicant seeking to serve as a designated or institutional caregiver to undergo a criminal history record background check; except that no criminal history record background check shall be required for an applicant seeking to serve as a designated caregiver if the applicant is an immediate family member of the patient, and no criminal history record background check shall be required for an applicant seeking to serve as an institutional caregiver if the applicant completed a criminal history record background check as a condition of professional licensure or certification. The commission 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 commission in a timely manner when requested pursuant to the provisions of this section.

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

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

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

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

(4) The Division of State Police shall promptly notify the commission 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 commission shall make a determination regarding the continued eligibility of the applicant to serve as a designated or institutional caregiver.

(5) Notwithstanding the provisions of paragraph (2) of this subsection to the contrary, no applicant shall be disqualified from serving as a designated or institutional caregiver on the basis of any conviction disclosed by a criminal history record background check conducted pursuant to this section if the individual has affirmatively demonstrated to the commission 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.

d. A verification of registration issued by the commission shall contain the following information:

(1) (a) in the case of a patient or designated caregiver registration, the name, address, and date of birth of the patient and each designated caregiver, if applicable; and

(b) in the case of an institutional caregiver, the caregiver's name and date of birth and the name and address of the health care facility at which the caregiver is serving as institutional caregiver;

(2) the expiration date of the registration;

(3) photo identification of the registrant; and

(4) such other information that the commission may specify by regulation.

e. (1) A patient who has been registered by the commission shall notify the commission of any change in the patient's name, address, or health care practitioner or change in status of the patient's qualifying medical condition, within 10 days of such change, or the patient's registration shall be deemed null and void.

(2) A designated caregiver who has been registered by the commission shall notify the commission of any change in the caregiver's name or address within 10 days of such change, or the caregiver's registration shall be deemed null and void.

(3) An institutional caregiver who has been registered by the commission shall notify the commission of any change in the caregiver's name, address, employment by a health care facility at which the caregiver is registered to serve as institutional caregiver, or authorization

from the health care facility to assist qualifying patients with the medical use of cannabis, within 10 days of such change, or the caregiver's registration shall be deemed null and void and the individual shall be deemed ineligible to serve as an institutional caregiver for a period of not less than one year.

f. The commission shall maintain a confidential list of the persons registered with the commission. Individual names and other identifying information on the list, and information contained in any application form, or accompanying or supporting document shall be confidential, and shall not be considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records, and shall not be disclosed except to:

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

(2) authorized employees of State or local law enforcement agencies, only as necessary to verify that a person who is engaged in the suspected or alleged medical use of cannabis is lawfully registered with the commission.

g. Applying for registration or being registered by the commission does not constitute a waiver of the qualifying patient's practitioner-patient privilege.

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

(1) the facility has authorized the applicant to assist registered qualifying patients at the facility with the medical use of cannabis, including obtaining medical cannabis from a medical cannabis dispensary, accepting deliveries of medical cannabis on behalf of registered qualifying patients, and assisting registered qualifying patients with the administration of medical cannabis;

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

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

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

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

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

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

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

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

2. This act shall take effect immediately.

Approved August 5, 2022.