

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 20

STATE OF NEW JERSEY

DATED: JUNE 18, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 20.

This bill makes various revisions to the “Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et al.), including renaming the act the “Jake Honig Compassionate Use Medical Cannabis Act,” establishing a new Cannabis Regulatory Commission (CRC) to oversee the medical cannabis program; revising the requirements to authorize a patient for medical cannabis; revising the permit and operational requirements for alternative treatment centers (ATCs), including establishing discrete cultivator, manufacturer, and dispensary permits; creating a new clinical registrant permit; authorizing delivery of medical cannabis, and establishing additional protections for registry cardholders.

Cannabis Regulatory Commission

The CRC will consist of five, full-time members. At least one member is to be a State representative of a national organization or State branch of such an organization with a stated mission of studying, advocating, or adjudicating against forms of social injustice or inequality, and all members are to possess education, training, or experience with: legal, policy, or criminal justice issues; corporate or industry management, finance, securities, or production or distribution; medicine or pharmacology; or public health, mental health, or substance use disorders.

The initially designated chair and two other initial members will be appointed by the Governor, another initial member will be appointed by the Governor upon the recommendation of the Senate President, and the final initial member will be appointed by the Governor upon the recommendation of the Speaker of the General Assembly. Thereafter, the Governor will appoint, with the advice and consent of the Senate, the chair and the two other members not requiring any legislative leadership recommendation. The appointments based upon based upon the Senate President’s and Speaker’s recommendation would continue to be direct gubernatorial appointments that are not subject to the advice and consent of the Senate. All five members will serve terms of five years, although the initial terms would include one four-year term and one three-year term in order to stagger

reappointments. The chair will be provided a salary not to exceed \$141,000, and the other members will be provided a salary not to exceed \$125,000.

The CRC will assume responsibility for oversight, administration, and enforcement of the medical cannabis program from the Department of Health at such time as the members of the commission are appointed and the commission first organizes. The bill will permit, based on the transfer of responsibility, employees of the department who performed the duties of any position to be filled by the CRC a one-time right of first refusal offer of employment. Any department employee who is employed by the CRC in this manner will retain seniority, and all rights related to seniority, that the employee had with the department as of the last day of employment with the department.

The CRC will be charged with establishing a plan of organization, and employing personnel as it deems necessary to operate under the direct supervision of a full-time executive director. The new executive director position will be initially filled directly by the Governor, and thereafter will be appointed by the Governor with the advice and consent of the Senate.

One mandatory aspect to the CRC's organization plan will be the inclusion of an Office of Minority, Disabled Veterans, and Women Cannabis Business Development, operating under the supervision of a director appointed by the Governor. This office is to establish and administer, under the direction of the CRC, unified practices and procedures for promoting participation in the medical cannabis industry by persons from socially and economically disadvantaged communities, including by prospective and existing minority owned and women's owned businesses and disabled veterans' businesses. These unified practices and procedures are to include a business's certification and subsequent recertification at regular intervals as a minority owned or women's owned business, or a disabled veterans' business, in accordance with eligibility criteria and a certification application process established by the CRC in consultation with the office.

The effectiveness of these methods will be measured by whether the office's actions result in at least 30 percent of the total number of ATC permits issued by the CRC being issued to businesses certified by the office; the effectiveness will be further assessed by considering whether the actions resulted in at least 15 percent of new permits being issued to certified minority owned businesses, and at least 15 percent of new permits being issued to certified women-owned and disabled veterans' businesses. The office, in support of these efforts, is to conduct advertising and promotional campaigns, as well as sponsor seminars and informational programs, directed toward those persons and prospective and existing certified businesses, which would address medical cannabis business management, marketing, and other practical business matters.

Ethical and Conflicts-of-Interest Requirements for the CRC

The members of the CRC and all CRC employees will be subject to ethical and conflicts-of-interest restrictions, addressing activities engaged in prior to, during, and following service with the CRC. For instance, a person generally may not be an appointed member or employee of the CRC if, during the period commencing three years prior to appointment or employment, the person held any direct or indirect interest in, or any employment by, a holder of or applicant for an ATC permit, unless the person's prior interest would not, in the opinion of the CRC, interfere with the person's obligations of appointment or employment. Additionally, for a period of two years commencing from the date that a member's or employee's service terminates, that former member or employee will not be permitted to hold any direct or indirect interest in, or any employment by, a holder of or applicant for an ATC permit; provided that the two-year post-service restriction would not apply to secretarial or clerical employees.

At the time each member and employee commences service, with the exception of secretarial and clerical employees, the member or employee will be required to file a financial disclosure statement with the State Ethics Commission listing all assets and liabilities, property and business interests, and sources of income for the person and for the person's spouse or domestic or civil union partner. Additionally, CRC members are to provide the same information for each dependent child or stepchild of the member, and of the member's spouse or domestic or civil union partner, who resides in the same household as the member.

Members and employees will generally be subject to the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.), as well as a Code of Ethics promulgated by the CRC that is modeled upon the Code of Judicial Conduct of the American Bar Association. All members and employees will be prohibited from using any official authority to interfere with or affect the result of an election or nomination for office, coerce or advise any person to contribute anything of value to another person or organization for political purposes, or take active part in any political campaign. Additionally, the members of the CRC, the executive director, and any other employee holding a supervisory or policy-making management position will be prohibited from making any political contributions to candidates or campaigns. A violation of this prohibition constitutes a crime of the fourth degree, which is punishable by imprisonment for up to 18 months, a fine of up to \$10,000, or both.

The bill also revises the "New Jersey Conflicts of Interest Law" to establish restrictions on various State officers or employees, the Governor and full-time professionals employed in the Governor's Office, full-time members of the Judiciary, and various officers of the municipality in which an ATC is located. These restrictions concern

not only their own activities, but the activities of their associated partnerships, firms, or corporations, and their family members in connection with either employment or another interest in, or representation of, current ATCs. These restrictions are similar to the restrictions that apply to these people and businesses under the current law concerning casino licensees and applicants, and casino-related activities, and include a general prohibition on employment, representation, appearance for, or negotiation on behalf of, any permit holder or applicant in connection with any cause, application, or matter, and these restrictions can carry over into the post-employment or post-service period following the departure of a person from State or local employment or office.

The ethical and conflicts-of-interest restrictions will be enforced by the State Ethics Commission, and any person found to have committed a violation will be subject to a civil penalty of not less than \$500 or more than \$10,000. Additionally, any willful violation of these restrictions will constitute a disorderly persons offense, punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both.

If the CRC finds that a holder of or applicant for an ATC permit committed a violation involving a CRC member or employee with respect to pre-service activities, activities during service, or post-service activities, the permit holder or applicant will be subject to a civil penalty of not less than \$500 or more than \$10,000, and possible permit revocation or suspension, or denial of an application, as applicable.

The bill provides that nothing in the ethics and conflict-of-interest restrictions would prohibit a member or employee from being a registered qualifying patient or from serving as a designated or institutional caregiver for a patient.

Patient and Caregiver Requirements

Current law sets forth an enumerated list of debilitating medical conditions that can qualify a patient for the medical use of cannabis. The bill changes the term “debilitating medical condition” to “qualifying medical condition,” and updates and revises the list of conditions in certain ways, including adding additional conditions and providing that medical cannabis may be used as a treatment of first resort for any condition included in the list, which are: seizure disorder, including epilepsy; intractable skeletal muscular spasticity; post-traumatic stress disorder; glaucoma; positive status for human immunodeficiency virus; acquired immune deficiency syndrome; cancer; amyotrophic lateral sclerosis; multiple sclerosis; muscular dystrophy; inflammatory bowel disease, including Crohn's disease; terminal illness, if the patient has a prognosis of less than 12 months of life; anxiety; migraine; Tourette's syndrome; dysmenorrhea; chronic

pain; opioid use disorder; or any other condition that is approved by the CRC.

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

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

The bill also establishes the position of “institutional caregiver,” which is an employee of a health care facility who is authorized to assist qualifying patients who are patients or residents at the health care facility with the medical use of cannabis, including obtaining medical cannabis for the patient from a medical cannabis dispensary or clinical registrant and accepting deliveries of medical cannabis for the patient. An institutional caregiver registration will be valid for one year. Each institutional caregiver will be required to be a New Jersey resident, at least 18 years of age, and authorized, within the individual’s scope of professional practice, to possess and administer controlled dangerous substances to patients and residents at the facility. An institutional caregiver will be required to undergo a criminal history record background check unless the individual has already done so as a condition of professional licensure or certification. Medical cannabis may be dispensed to an institutional caregiver if authorized by the patient. There will be no limit to the number of patients an institutional caregiver can serve at one time, provided that the caregiver is able to meet the needs of all such patients and attend to the caregiver’s other duties at the facility without jeopardizing the health or safety of any patient or resident at the facility. Facilities that choose to authorize the use of institutional caregivers will be required to certify, with each caregiver application,

that the facility has established appropriate security measures to prevent unauthorized access to medical cannabis to guard against theft, diversion, and adulteration while the cannabis is stored at the facility or is being transported to the facility by an institutional caregiver; the facility has established protocols to prevent adverse drug interactions between medical cannabis and other medications; the facility will not charge a patient for medical cannabis in excess of the actual cost of the medical cannabis plus reasonable acquisition costs; and the facility will promptly notify the CRC in the event that an institutional caregiver ceases to be employed by the facility or is convicted of a crime. For the purposes of the bill, “health care facility” includes a general acute care hospital, nursing home, long term care facility, hospice care facility, group home, facility that provides services to persons with developmental disabilities, behavioral health care facility, and rehabilitation center.

The bill provides that qualifying patients and designated caregivers who are registered with a medical cannabis program in another state will be deemed to be qualifying patients and designated caregivers for the purposes of New Jersey law for up to six months, provided the individual possesses a valid registry card and a photo identification card issued by the other state. Medical cannabis may only be dispensed to an out-of-State patient or caregiver pursuant to written instructions issued by a New Jersey practitioner, and medical cannabis cannot be delivered to any individual who is not registered with the CRC. After six months, the out-of-State registrant will be prohibited from engaging in conduct related to medical cannabis in New Jersey unless the individual is registered as a qualifying patient or caregiver in New Jersey. The CRC is to seek to establish medical cannabis reciprocity agreements with other states.

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

Dispensing Requirements for Medical Cannabis

Current law provides that up to two ounces of medical cannabis may be dispensed to a patient in a 30-day period. The bill revises these quantity restrictions to provide that, for a period of 18 months after the effective date of the bill, patients may be dispensed up to three ounces of medical cannabis in dried form or the equivalent amount in any other form. Thereafter, the maximum amount that may be dispensed to a patient will be established by the CRC by regulation. Current law provides that a physician may authorize a patient for up to a 90-day supply of medical cannabis at one time, with specified dates on which each set of written instructions becomes valid for dispensing. The bill revises this to allow a practitioner to authorize up to a one-year supply at one time, subject to the same staggered dispensing

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

The bill authorizes delivery of medical cannabis to patients by a certified medical cannabis handler who holds a medical cannabis delivery certification. Medical cannabis may be delivered to the patient at the patient's home address or at a second address on file with the CRC, to the home address of the patient's designated caregiver, or directly to an institutional caregiver at a health care facility where the patient is a current resident. The CRC is to additionally establish a process to authorize deliveries of medical cannabis to the patient at an alternate address in cases of need. Medical cannabis deliveries may be made by an employee of a medical cannabis dispensary or clinical registrant or by an independent third party contractor. A handler who holds a medical cannabis delivery certification may simultaneously hold a medical cannabis transfer certification, described below. Municipalities may not restrict or prohibit deliveries of medical cannabis by municipal ordinance or any other measure, and any such prohibition, if enacted, would be deemed null and void. The CRC may authorize the use of an Internet-based web service operated by an independent third party entity for patients and their caregivers to request and schedule deliveries. Permitted entities that use a third party delivery service will be exempt from any criminal liability for any reportable events occurring during delivery, such as motor vehicle accidents, diversion, or losses.

The CRC is to establish recommended dosing guidelines for medical cannabis products that are equivalent to one ounce of medical cannabis in dried form.

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

The bill provides that medical cannabis may be dispensed to a patient by any medical cannabis dispensary or clinical registrant in the State; under current law, patients are to be registered with, and may only be dispensed medical cannabis from, a single ATC where the patient is registered. The bill requires that, prior to dispensing medical cannabis to a patient, the dispensary or clinical registrant will be required to access a system currently maintained by the Division of Consumer Affairs in the Department of Law and Public Safety that tracks written instructions for, and dispensations of, medical cannabis,

in order to ascertain whether any medical cannabis was dispensed to or on behalf of the patient within the preceding 30 days.

The bill provides that a practitioner or an immediate family member of a practitioner who authorizes patients for medical cannabis may not hold any profit or ownership interest in an ATC. A practitioner or the immediate family member of a practitioner who applies for an ATC identification card is to certify that the practitioner has not authorized any patients for medical cannabis in the preceding 90 days. A person who violates the prohibition will be guilty of a crime of the fourth degree, which is punishable by imprisonment for up to 18 months, up to a \$10,000 fine, or both. The bill specifies that nothing in the prohibition will ban any practitioner from serving on the governing board or medical advisory board of an ATC, provided the practitioner receives no special compensation or remuneration from the ATC, including payments based on patient volumes or the number of authorizations for medical cannabis the practitioner issues.

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

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

Currently, medical cannabis is subject to the State sales tax. The bill will phase out the sales tax over three years, with the tax dropping to four percent on July 1, 2020, to two percent on July 1, 2021, and being completely exempt from all state sales tax as of July 1, 2022. Until then, any sales tax assessed on medical cannabis is to be exclusively appropriated to programs for the treatment of mental health and substance use disorders.

The bill also authorizes municipalities in which a medical cannabis dispensary or clinical registrant is located to assess a transfer tax of up to two percent on the purchase price of all medical cannabis dispensed by the dispensary or clinical registrant.

ATC Application and Permitting Requirements

The bill establishes three distinct permit types in connection with the production and dispensing of medical cannabis: medical cannabis cultivators, medical cannabis manufacturers, and medical cannabis dispensaries. The bill identifies the specific activities and functions

authorized for each permit type. The CRC will be required to issue a request for new permit applications within 90 days of the effective date of the bill, and to make a determination on any permit application within 90 days after the date of submission.

For a period of 18 months after the effective date of the bill, an entity will be permitted to hold only one permit of any type. After 18 months, an entity will be authorized to concurrently hold medical cannabis cultivator, medical cannabis manufacturer, and medical cannabis dispensary permits.

However, the bill provides that the CRC is to issue three new ATC permits that are not subject to these restrictions; these three ATCs will be deemed to concurrently hold medical cannabis cultivator, medical cannabis manufacturer, and medical cannabis dispensary permits immediately upon approval, regardless on the general 18-month restriction on vertical integration. These three ATCs will also be authorized to establish one satellite dispensary location each, provided the entity applies for the satellite dispensary within 18 months after the effective date of the bill. The three ATC permits are to be distributed with one located in each of the northern, central, and southern regions of the State.

The restriction on vertical integration will also not apply to ATCs that were issued a permit prior to the effective date of the bill or that were issued a permit after the effective date of the bill pursuant to an application submitted prior to the effective date of the bill, or to up to four ATCs issued permits after the effective date of the bill pursuant to a request for applications published in the New Jersey Register prior to the effective date of the bill, which will be deemed to hold medical cannabis cultivator, medical cannabis manufacturer, and medical cannabis dispensary permits. Any ATC issued a permit prior to the effective date of the bill and any ATCs issued a permit after the effective date of the bill pursuant to an application submitted prior to the effective date of the bill will be authorized to hold up to two satellite dispensary permits, including any satellite dispensary permit approved prior to the effective date of the bill or approved pursuant to an application submitted prior to the effective date of the bill, and any satellite dispensary approved pursuant to an application submitted within the first 18 months after the effective date of the bill. Aside from these grandfathered satellite dispensaries and the new satellite dispensaries expressly authorized under the bill, plus any satellite dispensary authorized for a clinical registrant, no new satellite dispensaries will be approved.

The bill restricts the total number of entities authorized to cultivate medical cannabis to 28 for the first 18 months after the effective date of the bill, which will include any ATCs issued a permit prior to the effective date of the bill and the new permits required to be issued under the bill, but will not include microbusinesses issued a cultivator permit.

The CRC will be required to specify by regulation the number of new permits of each type that it will authorize in the first year following the effective date of the bill, and thereafter periodically evaluate whether the current number of permits is sufficient to meet the needs of qualifying patients and issue requests for new applications as needed. The CRC may additionally convene a task force comprising individuals with expertise in the medical cannabis industry to make recommendations to the CRC concerning the content of rules and regulations governing the medical cannabis program.

The bill sets forth the specific information to be considered when reviewing new permit applications, which includes specific information concerning the applicant's operational experience, workforce development plan, community impact analysis, security capabilities, storage systems, emergency management plan, prisoner reentry program plan, and proposed location, along with any other criteria the CRC deems appropriate. The CRC will determine the weight to be afforded to each criterion. Applications submitted pursuant to a request for applications published in the New Jersey Register prior to the effective date of the bill will not be subject to these application criteria.

Additionally, each applicant will be required to submit an attestation by a bona fide labor organization stating that the applicant has entered into a labor peace agreement with the organization. Maintenance of a labor peace agreement will be an ongoing condition for maintaining a permit. In reviewing applications, the CRC is to additionally evaluate the applicant's history and relationships with labor organizations, as well as any current collective bargaining agreements the applicant is part of. Microbusinesses, described below, are exempt from these requirements.

The bill requires that at least one-third of new permits of all types, other than clinical registrant permits, be issued as "conditional permits," which are permits issued pursuant to a less-restrictive application process for entities funded by smaller investors with an adjusted gross income of no more than \$200,000, or \$400,000 if filing jointly. The CRC is to provide the conditional permit holder with a list of requirements with which the permit holder will be required to comply within 120 days after issuance of the conditional permit. If the CRC determines that, during this 120-day period, the permit holder was in compliance with the CRC's requirements, the CRC may convert the conditional permit into a full permit, which will be renewable annually. If the permit holder is not in compliance with the requirements, the permit will expire at the end of the 120-day period, unless it is revoked by the CRC sooner. A converted conditional permit will continue to count towards the total percentage of conditional permits required for that permit type. The requirement that one third of all new permits be conditional permits will not apply to the first three ATC permits issued after the effective date of the bill.

The bill additionally requires that at least 10 percent of the total permits issued for each permit type, other than clinical registrant permits, are to be issued to microbusinesses. The requirements for a microbusiness are: 100 percent of the ownership of a microbusiness is to be held by current New Jersey residents who have resided in the State for at least the past two years; at least 51 percent of the owners, directors, officers, and employees of the microbusiness are to be residents of the municipality where the microbusiness is located or a bordering municipality; the microbusiness may employ no more than 10 employees, inclusive of owners, officers, and directors; and the microbusiness facility may occupy an area of no more than 2,500 square feet. The bill sets forth certain restrictions for each type of microbusiness permit: microbusiness medical cannabis cultivators will be restricted to a grow canopy of no more than 2,500 square feet and a height restriction of 24 feet, and will be limited to possessing no more than 1,000 mature and immature plants at one time; microbusiness medical cannabis manufacturers will be restricted to acquiring and processing no more than 1,000 pounds of medical cannabis in dried form, or the equivalent amount in any other form, in a month; and a microbusiness medical cannabis dispensary will be permitted to acquire and dispense no more than 1,000 pounds of medical cannabis in dried form, or the equivalent in any other form, in a month. Permit fees for microbusinesses are half the regular permit fees. The application process for a microbusiness permit is the same as for any other permit, and a permit issued to a microbusiness, like any other permit, is renewable annually.

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

The CRC will be required to conduct a disparity study to evaluate the adverse effects of the State's drug laws on New Jersey communities to determine whether race-based measures should be considered when issuing new medical cannabis cultivator, manufacturer, and dispensary permits, and incorporate the policies, practices, protocols, standards, and criteria developed by the Office of Minority, Disabled Veterans, and Women Medical Cannabis Business Development to promote participation in the medical cannabis industry by persons from socially and economically disadvantaged communities. The CRC is to seek to issue at least 15 percent of the total number of new permits to minority-owned businesses, and an additional 15 percent of the total number of new permits to women-owned or disabled veteran-owned businesses.

The CRC is to grant special consideration to an applicant for an integrated curriculum permit or "IC permit," pursuant to which the applicant establishes an agreement with an institution of higher education to create an integrated curriculum involving the theoretical

or practical application of medical cannabis cultivation, manufacturing, or dispensing to an area of academic study. Integrated curricula are subject to approval by the CRC and the Office of the Secretary of Higher Education. If an IC permit holder's agreement with an institution of higher education ends, the IC permit holder will have six months to establish a new integrated curriculum or the IC permit will be revoked, unless the CRC determines that the entity should be allowed to retain the permit. The CRC may establish incentives to encourage applicants to seek IC permits, such as revised permit fees.

The bill additionally establishes requirements for issuance of a clinical registrant permit, which will authorize the permit holder to engage in all conduct related to the cultivation, manufacturing, and dispensing of medical cannabis and medical cannabis products as is authorized for other ATC permit holders. The clinical registrant will be required to enter into a contractual relationship with an academic medical center, which is a facility located in New Jersey that has a faculty practice in addiction medicine or is in the same health care system as another facility in the State that offers substance use disorder treatment services, has a faculty practice in pain management or a facility-based pain management practice, has a graduate medical training program that includes primary care and specialized medicine, is the principal teaching affiliate of a New Jersey medical school, and has the ability to conduct research related to cannabis. If the facility is part of a health care system, the health care system is required to be principally located in New Jersey in order for the facility to qualify as an academic medical center. The CRC will be required to request applications for at least four clinical registrant permits within 90 days after the effective date of the bill or upon the adoption of rules and regulations required under the bill, whichever occurs first.

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

A clinical registrant permit will be valid for the term of the contractual relationship, and may be renewed based upon the clinical registrant renewing its contractual relationship with the academic medical center. A clinical registrant permit may not be sold or transferred. Each clinical registrant may contract with no more than one academic medical center.

Clinical registrants will be authorized to serve all qualifying patients, as well as qualifying patients who agree to participate in clinical research. Clinical registrants may operate from more than one location and may be approved for a satellite dispensing location, and may relocate to another location in the same region unless the CRC

determines relocation would be contrary to the purposes of the medical cannabis laws. Clinical registrants are required to report the results of the clinical research to the CRC upon completion of the study or following publication of the study in a peer-reviewed medical journal.

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

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

The bill further provides that no criminal history record background check will be required for an applicant who holds less than a five percent investment interest in the medical cannabis cultivator, manufacturer, dispensary, or clinical registrant, or who is a member of a group that holds less than a 20 percent investment interest where no member of the group holds more than a five percent interest in the total group investment, and the applicant does not have the authority to make operational decisions for the permitted entity. Individuals and groups that are exempt from the criminal history record background check requirement will not be required to complete any application information. If the applicant or group gains an investment interest above these thresholds or the applicant gains the authority to make operational decisions, the individual or group will be required to notify the CRC, provide all information as may be required by the CRC, and undergo a criminal history record background check within 30 days, or the permit will be revoked and the individual or group will be prohibited from holding any investment interest in a medical cannabis cultivator, manufacturer, dispensary, or clinical registrant for a period of at least two years, and for such additional period as the CRC deems appropriate in light of the duration of the nondisclosure, the size of the undisclosed interest, the profits realized from the entity during the period of nondisclosure, and whether the individual would have been otherwise ineligible to hold the investment interest or controlling authority based on a disqualifying conviction or other factor.

The bill prohibits an employee of any department, division, agency, board, or other governmental entity involved in the process of reviewing, processing, or making determinations with regard to a medical cannabis permit from having any financial interest in medical cannabis or receiving anything of value from a permit applicant in exchange for reviewing, processing, or making recommendations with regard to a permit application.

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

ATC Operational Requirements

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

The bill provides that medical cannabis may be transferred between medical cannabis cultivators, manufacturers, dispensaries, clinical registrants, and testing laboratories by a medical cannabis handler certified as a medical cannabis transporter. Transfers may be effectuated using either medical cannabis handlers employed by a permitted entity or by an independent third-party entity. The bill sets forth certain operational protocols and recordkeeping requirements for the transfer of medical cannabis, which are generally comparable to the operational requirements and protocols for deliveries of medical cannabis. A medical cannabis handler may possess both delivery and transfer certifications. Municipalities may not restrict or prohibit transfers of medical cannabis by municipal ordinance or any other measure, and any such prohibition, if enacted, would be deemed null and void.

The bill requires the CRC to develop and maintain a comprehensive tracking system for medical cannabis that covers cultivation through

final dispensing. The tracking system is to be designed to prevent diversion and tampering while promoting accurate accounting and recording of all information relevant to the medical cannabis or medical cannabis product. The system is to utilize a stamp for tracking purposes, which is to be affixed to medical cannabis packages and containers by medical cannabis cultivators, medical cannabis manufacturers, and clinical registrants. The purchase price of the stamp is to be reasonable and commensurate with the cost of producing the stamp.

The owners, directors, officers, and employees at each medical cannabis cultivator, manufacturer, dispensary, courier, and clinical registrant will be required to undergo eight hours of ongoing training each calendar year. The training is to be tailored to the roles and responsibilities of the individual's job function and include training on confidentiality and any other topics required by the CRC. For medical cannabis dispensary and clinical registrant employees, the ongoing training may include completing the curriculum developed by the CRC concerning patient consultations. Additionally, all individuals who handle medical cannabis in any capacity are required to be certified by the CRC as medical cannabis handlers. The training required for handler certification will only be required once, and will count toward the required eight hours of annual training.

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

The bill provides that the first six ATC permits issued after P.L.2009, c.307 (C.24:6I-1 et al.) took effect may sell or transfer that permit to a for profit entity, provided that: the owners, officers, directors, employees, and applicable investors complete a criminal history record background check; the CRC approves the sale or transfer; and the sale or transfer takes place within one year after the effective date of the bill. The sale or transfer will not be subject to the requirements of the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq., provided that, prior to or at the time of the sale or transfer, all debts and obligations of the nonprofit entity are either paid in full or assumed by the for-profit entity purchasing or acquiring the permit, or a reserve fund is established for the purpose of paying in full the debts and obligations of the nonprofit entity, and the for-profit entity pays the full value of all assets held by the nonprofit entity, as reflected on the nonprofit entity's balance sheet, in addition to the agreed-upon price for the sale or transfer of the entity's alternative treatment center permit. Any other sale or transfer of an interest in a permitted entity of five percent or more will be subject to approval by the CRC and will be conditioned on the entity purchasing or receiving the transfer of the interest completing a criminal history record background check.

The bill authorizes medical cannabis dispensaries and clinical registrants to establish medical cannabis consumption areas, subject to approval by the CRC and the municipality in which the dispensary or clinical registrant is located. A consumption area is required to be on the premises of the dispensary or clinical registrant, accessible only to patients and their designated caregivers, and screened by sufficient walls or other barriers to prevent any view of patients consuming medical cannabis. Consumption areas may be indoor or outdoor, provided that no consumption of medical cannabis by smoking occurs indoors and no medical cannabis smoke seeps into any indoor public area or workplace. The CRC may require any ventilation features for a consumption area as it deems necessary and appropriate, and smoke from the consumption of medical cannabis may not seep into any indoor public place or workplace.

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

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

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

Other Cannabis-Related Licensure

The bill requires each batch of medical cannabis and each batch of a medical cannabis product to be tested by a laboratory to determine its chemical composition and potency and to screen for contamination by microbial contaminants, foreign material, residual pesticides, other agricultural residue and residual solvents, and heavy metals. The laboratory is to produce a written report detailing the results of the testing, a summary of which is to be included in any packaging

materials for the medical cannabis or cannabis product. Laboratories may charge a reasonable fee for performing the test. The testing requirement will take effect once the CRC certifies that there are a sufficient number of testing laboratories licensed to ensure that the testing and labeling requirements can be satisfied without disrupting timely patient access to medical cannabis.

Laboratories providing testing services will be required to register with the CRC and will be subject to inspection to ensure that the equipment used is in good condition and properly calibrated. The owners, directors, officers, and employees of a testing laboratory will be required to undergo a criminal history record background check as a condition of licensure; no applicant with a disqualifying conviction will be authorized to own, operate, or be employed by a medical cannabis testing laboratory. “Disqualifying conviction” means any drug offense other than minor cannabis possession; applicants with a disqualifying conviction may still be approved if the applicant demonstrates clear and convincing evidence of rehabilitation. As a condition of licensure, each laboratory will be required to certify its intention to seek third party accreditation in accordance with ISO 17025 to ensure equipment is routinely inspected, calibrated, or maintained, until such time as the CRC issues its own standards or confirms the use of ISO 17025.

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

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

Legal Protections for Patients and Caregivers

The bill provides that qualifying patients and designated caregivers may not be discriminated against when enrolling in schools and institutions of higher education, when renting or leasing real property, or in the issuance of professional licensing, certifications, or permits issued by the State, solely on the basis of the individual’s status as a registry cardholder or engaging in authorized conduct in relation to medical cannabis. However, schools, institutions of higher education, landlords, and licensing authorities will not be required to take any action that would jeopardize a monetary grant or privilege of licensure

based on federal law. Schools, institutions, and landlords may not be penalized or denied benefits under State law solely on the basis of enrolling or renting or leasing real property to a registered patient. A person's status as a patient or caregiver, or as an owner, officer, director, or employee of a medical cannabis cultivator, manufacturer, dispensary, or clinical registrant will not constitute the sole grounds for entering an order restricting or denying custody of, or visitation with, a minor child of the person.

The bill provides that medical cannabis is to be treated the same as any other medication for the purposes of furnishing medical care, including determining the individual's eligibility for an organ transplant.

The bill prohibits employers from taking any adverse employment action against an employee based on the employee's status as a registry identification cardholder. If an employer has a drug testing policy and an employee or job applicant tests positive for cannabis, the employee or job applicant is to be offered an opportunity to present a legitimate medical explanation for the positive test result or request a retest. Nothing in the bill will restrict an employer's ability to prohibit or take adverse employment action for the possession or use of intoxicating substances during work hours or on workplace premises outside of work hours, or require an employer to commit any act that would violate federal law or result in the loss of a federal contract or federal funding. Employers will not be penalized or denied any benefit under State law for employing a person who is a registry cardholder.

The bill provides that health care facilities are prohibited from taking adverse employment action or ending a professional affiliation with a health care practitioner solely based on the practitioner authorizing patients for the medical use of medical cannabis or otherwise engaging in authorized conduct in relation to medical cannabis. Health care facilities may not be penalized or denied benefits under State law for employing or maintaining a professional affiliation with a practitioner who engages in authorized conduct in relation to medical cannabis.

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

Insurance carriers will be prohibited from denying health care practitioners medical malpractice coverage or charging increased

premiums, deductibles, or other fees based on the practitioner engaging in authorized conduct in relation to medical cannabis.

The bill prohibits any action or proceeding by the Division of Child Protection and Permanency in the Department of Children and Families be initiated against a pregnant woman or against the parent or guardian of a minor child on the sole grounds that the individual is a registered qualifying patient, a designated or institutional caregiver, or a director, officer, or employee of an ATC.

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

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

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

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

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will increase annual State expenditures associated with regulation and oversight of the State's medical cannabis program by indeterminate amounts. The magnitude of this increase will ultimately be affected by the rules and regulations promulgated by the Cannabis Regulatory Commission (CRC) and the degree of expansion of participation in the medical cannabis program. For reference, the Governor's FY 2020 Budget proposes supporting the administrative expenditures of the medicinal cannabis program with an \$857,000 State appropriation, which is unchanged from the FY 2019 Appropriations Act, and an estimated \$1.5 million in dedicated program fee collections.

The OLS also concludes that the amount of registration and permit fees collected by the State under the bill will increase annually by an indeterminate amount due to: 1) the provisions of the bill that are anticipated to increase the number of patients and caregivers

participating in the program; and 2) the establishment of new permit types, as well as an increased number of permits issued. The application and fee schedules decided upon by the CRC and any increase in the number of participants in the medical cannabis program will determine the impact on State registration and permit fee revenues which, due to the variables involved, the OLS cannot estimate at this time.

In addition, the bill will result in a decrease in State sales tax revenue, as the bill phases out imposition of the sales tax on the sale of medical cannabis over a multi-year period. The OLS is unable to determine the year to year impact of this provision due to the countervailing effects of the bill. As of July 1, 2022, however, the bill provides that no sales tax may be assessed against medical cannabis, ultimately providing for a net State revenue loss. For reference, the Executive estimates collecting \$20 million in sales tax revenue from the sale of medical cannabis in FY 2020.

Finally, the bill will result in an indeterminate annual increase in local revenue for certain municipalities, as the bill allows municipalities in which a medical cannabis dispensary or clinical registrant is located to establish a local transfer tax of up to 2 percent on the sale price of all medical cannabis dispensed by that dispensary or clinical registrant.