

ASSEMBLY, No. 3437

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MARCH 5, 2018

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

Assemblyman TIM EUSTACE

District 38 (Bergen and Passaic)

SYNOPSIS

Expands qualifying conditions for medical marijuana; requires issuance of additional dispensary permits; revises requirements for physicians to authorize qualifying patients; and revises application, ownership, and operational requirements for alternative treatment centers.

CURRENT VERSION OF TEXT

As introduced.



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

3

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

6

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

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

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

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

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

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

25 "Commissioner" means the Commissioner of Health.

26 “Common ownership or control” means:

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

29 (2) between a nonprofit entity and a for-profit entity, a majority
30 of the directors, trustees, or members of the governing body of the
31 nonprofit entity directly or indirectly own and control more than 50
32 percent of the for-profit entity; and

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

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

40 "Debilitating medical condition" means:

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

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

Matter underlined thus is new matter.

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

6 (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal
7 cancer, muscular dystrophy, or inflammatory bowel disease,
8 including Crohn's disease;

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

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

13 "Department" means the Department of Health.

14 "Immediate family" means the spouse, child, sibling, or parent of
15 an individual, and shall include the siblings and parents of the
16 individual's spouse and the spouse of the individual's child.

17 "Interest holder" means a direct or indirect owner, part owner,
18 investor, lender, stockholder, officer, director, partner, or member
19 of any corporation, partnership, limited liability company, limited
20 liability partnership, employee cooperative, association, nonprofit
21 corporation, business entity, or any other person with a direct
22 ownership interest or indirect interest through intermediary business
23 entities or other structures in an alternative treatment center.

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

27 "Medical marijuana alternative treatment center" or "alternative
28 treatment center" or "ATC" means an organization **[approved]**
29 issued a permit by the department to **[perform activities necessary**
30 **to provide registered qualifying patients with usable marijuana and**
31 **related paraphernalia in accordance with the provisions of this act]**
32 operate as a medical marijuana cultivator-processor or as a medical
33 marijuana dispensary. This term shall include the organization's
34 officers, directors, board members, and employees.

35 "Medical marijuana cultivator-processor" means an organization
36 holding a permit issued by the department that authorizes the
37 organization to: possess and cultivate marijuana; produce,
38 manufacture, or otherwise create marijuana-infused and marijuana-
39 derived products; and deliver, transfer, transport, distribute, supply,
40 and sell medical marijuana, marijuana-infused products, marijuana-
41 derived products, and related supplies to medical marijuana
42 dispensaries. A medical marijuana cultivator-processor permit shall
43 not authorize the permit holder to deliver, transfer, transport,
44 distribute, supply, sell, or dispense medical marijuana, marijuana-
45 infused products, marijuana-derived products, or related supplies to
46 qualifying patients or their primary caregivers.

47 "Medical marijuana dispensary" means an organization issued a
48 permit by the department that authorizes the organization to obtain

1 medical marijuana, marijuana-infused products, and marijuana
2 derived products from a medical marijuana cultivator-processor,
3 and to possess, display, deliver, transfer, transport, distribute,
4 supply, sell, and dispense medical marijuana, marijuana-infused
5 products, marijuana-derived products, and related supplies to
6 qualifying patients and their primary caregivers. A medical
7 marijuana dispensary permit shall not authorize the permit holder to
8 cultivate marijuana or to manufacture or process marijuana-infused
9 or marijuana-derived products.

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

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

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

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

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

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

31 a. is at least 18 years old;

32 b. has agreed to assist with a registered qualifying patient's
33 medical use of marijuana, is not currently serving as primary
34 caregiver for another qualifying patient, and is not the qualifying
35 patient's physician;

36 c. subject to the provisions of paragraph (2) of section 4 of
37 P.L.2009, c.307 (C.24:6I-4), has never been convicted of possession
38 or sale of a controlled dangerous substance, unless such conviction
39 occurred after the effective date of **[this act]** P.L.2009, c.307
40 (C.24:6I-1 et al.) and was for a violation of federal law related to
41 possession or sale of marijuana that is authorized under **[this act]**
42 P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-
43 12.22), and P.L. , c. (C.) (pending before the Legislature as
44 this bill);

45 d. has registered with the department pursuant to section 4 of
46 **[this act]** P.L.2009, c.307 (C.24:6I-4), and has satisfied the

1 criminal history record background check requirement of section 4
2 of **[this act]** P.L.2009, c.307 (C.24:6I-4); and

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

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

9 "Region" means the northern region, the central region, or the
10 southern region, as defined in this section.

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

14 "Southern region" means the counties of Atlantic, Burlington,
15 Camden, Cape May, Cumberland, Gloucester, and Salem.

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

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

20

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

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

29 (1) a certification that meets the requirements of section 5 of
30 **[this act]** P.L.2009, c.307 (C.24:6I-5);

31 (2) an application or renewal fee, which may be based on a
32 sliding scale as determined by the commissioner and which, for a
33 period commencing on the effective date of P.L. , c. (C.)
34 (pending before the Legislature as this bill) and ending on June 30,
35 2020, shall not exceed \$10 for patients who are indigent and \$50 for
36 all other cardholders. Thereafter, the commissioner may revise the
37 maximum application and renewal fees by regulation;

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

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

42 b. Before issuing a registry identification card, the department
43 shall verify the information contained in the application or renewal
44 form submitted pursuant to this section. In the case of a primary
45 caregiver, the department shall provisionally approve an application
46 pending the results of a criminal history record background check,
47 if the caregiver otherwise meets the requirements of **[this act]**
48 P.L.2009, c.307 (C.24:6I-1 et al.). The department shall approve or

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

11 c. (1) The commissioner shall require each applicant seeking
12 to serve as a primary caregiver to undergo a criminal history record
13 background check. The commissioner is authorized to exchange
14 fingerprint data with and receive criminal history record
15 background information from the Division of State Police and the
16 Federal Bureau of Investigation consistent with the provisions of
17 applicable federal and State laws, rules, and regulations. The
18 Division of State Police shall forward criminal history record
19 background information to the commissioner in a timely manner
20 when requested pursuant to the provisions of this section.

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

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

45 (3) Upon receipt of the criminal history record background
46 information from the Division of State Police and the Federal
47 Bureau of Investigation, the commissioner shall provide written

1 notification to the applicant of **[his]** the applicant's qualification or
2 disqualification for serving as a primary caregiver.

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

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

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

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

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

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

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

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

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

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

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

42 d. A registry identification card shall contain the following
43 information:

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

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

47 (3) photo identification of the cardholder; and

1 (4) such other information that the department may specify by
2 regulation.

3 e. (1) A patient who has been issued a registry identification
4 card shall notify the department of any change in the patient's name,
5 address, or physician or change in status of the patient's debilitating
6 medical condition, within 10 days of such change, or the registry
7 identification card shall be deemed null and void.

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

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

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

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

28 g. Applying for or receiving a registry card does not constitute
29 a waiver of the qualifying patient's patient-physician privilege.

30 (cf: P.L.2009, c.307, s.4)

31

32 3. Section 5 of P.L.2009, c.307 (C.24:6I-5) is amended to read
33 as follows:

34 5. a. Medical use of marijuana by a qualifying patient may be
35 authorized pursuant to a certification which meets the requirements
36 of **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) and subsection c. of
37 this section. In order to provide such certification, a physician shall
38 be licensed and in good standing to practice in the State, shall
39 possess active registrations to prescribe controlled dangerous
40 substances issued by the United States Drug Enforcement
41 Administration and the Division of Consumer Affairs in the
42 Department of Law and Public Safety, and shall have a bona fide
43 physician-patient relationship with the patient. A physician shall
44 not be required to enroll in any medical marijuana physician
45 registry or undergo any additional registration process as a
46 condition for authorizing patients for the medical use of marijuana;
47 however, the department may create a voluntary physician registry,
48 that physicians may choose to enroll in and may be used as a

1 reference source by individuals seeking treatment for a debilitating
2 medical condition.

3 The certification shall attest that the above criteria have been
4 met.

5 b. (1) The provisions of subsection a. of this section shall not
6 apply to a qualifying patient who is a minor unless the custodial
7 parent, guardian, or person who has legal custody of the minor
8 receives from the physician an explanation of the potential risks and
9 benefits of the medical use of marijuana and consents in writing
10 that the minor patient has that person's permission for the medical
11 use of marijuana and that the person will control the acquisition and
12 possession of the medical marijuana and any related paraphernalia
13 from the **[alternative treatment center]** medical marijuana
14 dispensary. The physician shall document the explanation of the
15 potential risks and benefits in the minor patient's medical record.

16 (2) When issuing a certification pursuant to subsection a. of this
17 section for a qualifying patient who is a minor, if the treating
18 physician is not trained in the care of pediatric patients, the treating
19 physician shall, prior to issuing the certification, obtain written
20 confirmation from a physician trained in the care of pediatric
21 patients establishing, in the physician's professional opinion, and
22 following an examination of the minor patient or review of the
23 minor patient's medical record, that the minor patient is likely to
24 receive therapeutic or palliative benefits from the medical use of
25 marijuana to treat or alleviate symptoms associated with the
26 patient's debilitating medical condition. If the treating physician is
27 trained in the care of pediatric patients, no additional written
28 confirmation from any other physician shall be required as a
29 condition of issuing a certification for a qualifying patient who is a
30 minor pursuant to this paragraph.

31 c. A certification issued pursuant to subsection a. of this
32 section shall include:

33 (1) the physician's name, address, and telephone number;

34 (2) the physician's license number issued by the New Jersey
35 Board of Medical Examiners;

36 (3) a statement that the physician is licensed and in good
37 standing to practice medicine in this State and possesses active
38 registrations to prescribe controlled dangerous substances issued by
39 the Division of Consumer Affairs in the Department of Law and
40 Public Safety and the United States Drug Enforcement
41 Administration;

42 (4) a statement that the physician has an ongoing responsibility
43 for the assessment, care, and treatment of the patient's debilitating
44 medical condition;

45 (5) the patient's name, address, and telephone number;

46 (6) the patient's diagnosis;

47 (7) a statement that the patient's diagnosis qualifies as a
48 debilitating medical condition that authorizes the patient to use

1 medical marijuana consistent with P.L.2009, c.307 (C.24:6I-1 et
2 al.);

3 (8) written instructions for medical marijuana that meet the
4 requirements of section 10 of P.L.2009, c.307 (C.24:6I-10);

5 (9) the physician's certification that the physician has explained
6 the potential risks and benefits of the medical use of marijuana to
7 the qualifying patient and has documented the explanation in the
8 patient's medical record; and

9 (10) a statement, which shall read as follows:

10 (a) in the case of a qualifying patient who is an adult:

11 "I have completed a comprehensive history and physical on this
12 patient and have documented an assessment and treatment plan. I
13 have provided education to the patient on the lack of scientific
14 consensus for the use of medical marijuana, its sedative properties,
15 and the risk of addiction. The patient has provided informed
16 consent. I will continue to follow this patient at a minimum of
17 every 12 months and reassess the patient's debilitating medical
18 condition and responses to treatment options."; or

19 (b) in the case of a qualifying patient who is a minor:

20 "I have completed a comprehensive history and physical on this
21 patient and have documented an assessment and treatment plan. I
22 have provided education to the patient and to the patient's parent or
23 guardian on the lack of scientific consensus for the use of medical
24 marijuana, its sedative properties, and the risk of addiction. The
25 patient and the patient's parent or guardian have provided informed
26 consent. I will continue to follow this patient at a minimum of
27 every three months and reassess the patient's debilitating medical
28 condition and responses to treatment options."

29 (cf: P.L.2013, c.160, s.1)

30

31 4. (New section) a. Except as provided in subsection b. of this
32 section, no physician who has issued a certification pursuant to
33 section 5 of P.L.2009, c.307 (C.24:6I-5) within the past 12 months,
34 and no member of such physician's immediate family, shall be an
35 interest holder in, or receive any form of direct or indirect
36 compensation from, any alternative treatment center.

37 b. Nothing in subsection a. of this section shall be construed to
38 prevent a physician from serving on the medical advisory board of
39 an alternative treatment center established pursuant to section 8 of
40 P.L. , c. (C.) (pending before the Legislature as this bill) and
41 receiving a reasonable stipend for such service, provided that:

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

44 (2) the amount of the stipend is not based on patient volumes at
45 the alternative treatment center or on the number of certifications
46 issued by the physician pursuant to section 5 of P.L.2009, c.307
47 (C.24:6I-5).

1 c. A physician, or an immediate family member of a physician,
2 who applies for an ATC identification card shall certify that the
3 physician has not issued a certification pursuant to section 5 of
4 P.L.2009, c.307 (C.24:6I-5) within the 12 months immediately
5 preceding the date of the application.

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

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

11 7. a. The department shall accept applications from entities
12 for permits to operate as alternative treatment centers ~~], and may~~
13 charge a reasonable fee for the issuance of a permit under this
14 section]. ~~].~~ ~~].~~ ~~].~~ ~~].~~ ~~].~~ ~~].~~ ~~].~~ ~~].~~ ~~].~~ ~~].~~
15 sufficient number of] To ensure adequate access to alternative
16 treatment centers throughout the State, [pursuant to need, including
17 at least two] the department shall grant permits to two medical
18 marijuana cultivator-processors and at least six medical marijuana
19 dispensaries in each [in] of the northern, central, and southern
20 regions of the State, for a total of six medical marijuana cultivator-
21 processor permits and 18 medical marijuana dispensary permits;
22 this total number of permits shall include the six alternative
23 treatment center permits issued prior to the effective date of P.L. ,
24 c. (pending before the Legislature as this bill), which shall
25 constitute the six medical marijuana cultivator-processor permits
26 and six of the medical marijuana dispensary permits, plus the 12
27 medical marijuana dispensary permits issued pursuant to section 6
28 of P.L. , c. (C.) (pending before the Legislature as this bill).
29 The department shall not issue any additional alternative treatment
30 center permits until such time as the active patient registry has
31 reached 270,000 qualified patients, at which time the department
32 shall evaluate whether the number of existing alternative treatment
33 centers is sufficient to meet the needs of qualified patients in the
34 State, and, if it determines additional alternative treatment centers
35 are needed to meet the needs of qualifying patients, make a request
36 for applications and issue up to three additional medical marijuana
37 cultivator-processor permits and up to nine additional medical
38 marijuana dispensary permits, which shall be equally distributed
39 among the northern, central, and southern regions of the State.

40 An initial application for a medical marijuana dispensary permit
41 shall meet the application requirements set forth in subsection b. of
42 section 7 of P.L. , c. (C.) (pending before the Legislature as
43 this bill). An initial application for a medical marijuana cultivator-
44 processor permit, if requested by the department, shall meet such
45 requirements as the department specifies by rule or regulation.

46 An alternative treatment center holding a permit that was issued
47 prior to the effective date of P.L. , c. (pending before the

1 Legislature as this bill) shall be deemed to hold both a medical
2 marijuana cultivator-processor permit and a medical marijuana
3 dispensary permit, and shall be authorized to hold both permits
4 concurrently. [The first two centers issued a permit in each region
5 shall be nonprofit entities, and centers subsequently issued permits
6 may be nonprofit or for-profit entities]

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

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

23 No natural person or entity shall hold an interest in more than
24 one medical marijuana cultivator-processor or more than one
25 medical marijuana dispensary at any time, except that, an interest
26 holder in a medical marijuana alternative treatment center may
27 concurrently hold up to a 10 percent ownership interest in up to one
28 additional medical marijuana alternative treatment center.

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

34 **[An alternative treatment center]** A medical marijuana
35 cultivator-processor shall be authorized to acquire a reasonable
36 initial and ongoing inventory, as determined by the department, of
37 marijuana seeds or seedlings and paraphernalia, possess, cultivate,
38 plant, grow, harvest, process, [display,] and manufacture medical
39 marijuana and marijuana-infused and marijuana-derived products,
40 and deliver, transfer, transport, distribute, supply, sell, or dispense
41 medical marijuana, [or] marijuana-infused products, marijuana-
42 derived products, and related supplies to any medical marijuana
43 dispensary in the State. Medical marijuana dispensaries may
44 purchase or acquire medical marijuana, marijuana-infused and
45 marijuana-derived products, paraphernalia, and related supplies
46 from any medical marijuana cultivator-processor in the State, and
47 distribute, supply, sell, or dispense marijuana, marijuana-infused

1 products, marijuana-derived products, and related supplies to
2 qualifying patients or their primary caregivers who are registered
3 with the department pursuant to section 4 of [this act] P.L.2009,
4 c.307 (C.24:6I-4). [An alternative treatment center] A medical
5 marijuana cultivator-producer shall not be limited in the number of
6 strains of medical marijuana cultivated [, and] or the number of
7 products manufactured. A medical marijuana cultivator-producer
8 may package, and a medical marijuana dispensary may directly
9 dispense [marijuana] to qualifying patients and their primary
10 caregivers, medical marijuana in dried form, oral lozenges, topical
11 formulations, transdermal form, sublingual form, tincture form, or
12 edible form, or any other form as authorized by the commissioner.
13 Edible form shall include tablets, capsules, drops or syrups and any
14 other form as authorized by the commissioner. [Edible forms shall
15 be available only to qualifying patients who are minors.]

16 Applicants that choose to apply for authorization as **[nonprofit]**
17 alternative treatment centers with nonprofit status shall be subject to
18 all applicable State laws governing nonprofit entities, but need not
19 be recognized as a 501(c)(3) organization by the federal Internal
20 Revenue Service.

21 b. The department shall require that an applicant provide such
22 information as the department determines to be necessary pursuant
23 to regulations adopted pursuant to **[this act] P.L.2009, c.307**
24 (C.24:6I-1 et al.) and may, in its discretion, require any applicant to
25 submit a personal history disclosure and conduct financial due
26 diligence on any person or entity providing \$100,000 or more in
27 financial backing to an applicant.

28 c. A person who has been convicted of a crime involving any
29 controlled dangerous substance or controlled substance analog as
30 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
31 **[paragraph] : subparagraph (b) of paragraph (10) of subsection b.**
32 of N.J.S.2C:35-5, paragraphs (11) or (12) of subsection b. of
33 N.J.S.2C:35-5, or paragraphs (3) or (4) of subsection a. of
34 N.J.S.2C:35-10, or any similar law of the United States or any other
35 state shall not be issued a permit to operate as an alternative
36 treatment center or be [a director, officer, or employee of an
37 alternative treatment center] issued an ATC identification card,
38 unless such conviction occurred after the effective date of [this act]
39 P.L.2009, c.307 (C.24:6I-1 et al.) and was for a violation of federal
40 law relating to possession or sale of marijuana for conduct that is
41 authorized under [this act] P.L.2009, c.307 (C.24:6I-1 et al.),
42 P.L.2015, c.158 (C.18A:40-12.22), and P.L. _____, c. _____
43 (pending before the Legislature as this bill).

44 d. (1) The commissioner shall require each applicant seeking
45 a permit to operate as an alternative treatment center to undergo a
46 criminal history record background check. For purposes of this
47 section, the term "applicant" shall include any applicant for an ATC

1 identification card authorizing the individual to be an owner,
2 director, board member, principal officer, or employee of an
3 alternative treatment center. The commissioner is authorized to
4 exchange fingerprint data with and receive criminal history record
5 background information from the Division of State Police and the
6 Federal Bureau of Investigation consistent with the provisions of
7 applicable federal and State laws, rules, and regulations. The
8 Division of State Police shall forward criminal history record
9 background information to the commissioner in a timely manner
10 when requested pursuant to the provisions of this section.

11 An applicant shall submit to being fingerprinted in accordance
12 with applicable State and federal laws, rules, and regulations. No
13 check of criminal history record background information shall be
14 performed pursuant to this section unless the applicant has
15 furnished **【his】** written consent to that check. An applicant who
16 refuses to consent to, or cooperate in, the securing of a check of
17 criminal history record background information shall not be
18 considered for **【a permit to operate, or authorization to be employed**
19 **at, an alternative treatment center】** issuance of an ATC
20 identification card. An applicant shall bear the cost for the criminal
21 history record background check, including all costs of
22 administering and processing the check.

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

29 (3) Upon receipt of the criminal history record background
30 information from the Division of State Police and the Federal
31 Bureau of Investigation, the commissioner shall provide written
32 notification to the applicant of **【his】** the applicant's qualification
33 for or disqualification for **【a permit to operate or】** issuance of an
34 ATC identification card authorizing the individual to be 【a】 an
35 owner, director, board member, principal officer, or employee of an
36 alternative treatment center, as appropriate.

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

41 (4) The Division of State Police shall promptly notify the
42 commissioner in the event that an individual who was the subject of
43 a criminal history record background check conducted pursuant to
44 this section is convicted of a crime or offense in this State after the
45 date the background check was performed. Upon receipt of that
46 notification, the commissioner shall make a determination regarding
47 the continued eligibility to operate or be **【a】** an owner, director,

1 board member, principal officer, or employee of an alternative
2 treatment center.

3 (5) Notwithstanding the provisions of subsection b. of this
4 section to the contrary, the commissioner may offer **【provisional**
5 **authority for】** an applicant to be an employee of an alternative
6 treatment center a provisional ATC identification card, which shall
7 be valid for a period not to exceed three months, if the applicant
8 submits to the commissioner a sworn statement attesting that the
9 **【person】 applicant** has not been convicted of any disqualifying
10 conviction pursuant to this section.

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

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

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

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

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

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

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

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

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

38 e. The department shall issue **【a permit to a person to operate**
39 **as】** an alternative treatment center permit to an applicant if the
40 department finds that issuing such a permit would be consistent
41 with the purposes of **【this act】 P.L.2009, c.307 (C.24:6I-1 et al.)**
42 and the requirements of this section are met and the department has
43 verified the information contained in the application. An initial
44 permit to operate an alternative treatment center issued pursuant to
45 this subsection shall be valid for three years, and thereafter shall be
46 renewable biennially. The department shall approve or deny an
47 application within 60 days after receipt of a completed application.

1 The denial of an application shall be considered a final agency
2 decision, subject to review by the Appellate Division of the
3 Superior Court. The department may suspend or revoke a permit to
4 operate as an alternative treatment center for cause, which shall be
5 subject to review by the Appellate Division of the Superior Court.

6 f. A person **【who has been】** or entity issued a medical
7 marijuana cultivator-processor permit pursuant to this section shall
8 display the permit at the premises of the 【alternative treatment
9 center】 medical marijuana cultivator-processor facility at all times
10 when marijuana is being produced, 【or】 , cultivated, processed, or
11 manufactured, and a person who or entity issued a medical
12 marijuana dispensary permit pursuant to this section shall display
13 the permit on the premises of the medical marijuana dispensary at
14 all times when medical marijuana is being dispensed to a registered
15 qualifying patient or the patient's primary caregiver. An individual
16 who has been issued an ATC identification card shall have the card
17 on the cardholder's person at all times that the individual is on the
18 premises of an alternative treatment center.

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

22 h. **【An alternative treatment center】** A medical marijuana
23 cultivator-processor may charge a medical marijuana dispensary for
24 the reasonable costs associated with the production, cultivation,
25 processing, and manufacture of medical marijuana and marijuana-
26 infused and marijuana-derived products, and a medical marijuana
27 dispensary may charge a registered qualifying patient or primary
28 caregiver for the reasonable costs associated with the 【production
29 and】 distribution of medical marijuana 【for】 to the cardholder.

30 i. The commissioner shall adopt regulations to:

31 (1) require such written documentation of each delivery of
32 marijuana to, and pickup of marijuana for, a registered qualifying
33 patient, including the date and amount dispensed, to be maintained
34 in the records of the **【alternative treatment center】** medical
35 marijuana dispensary, as the commissioner determines necessary to
36 ensure effective documentation of the operations of each
37 **【alternative treatment center】** medical marijuana dispensary;

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

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

43 j. A medical marijuana cultivator-processor facility may apply
44 to the department for approval to relocate to another location within
45 the same region, and a medical marijuana dispensary may apply to
46 the department for approval to relocate to another location within
47 the same county. The department may approve an application for

1 relocation if the department finds the relocation would be consistent
2 with the purposes of P.L.2009, c.307 (C.24:6I-1 et al.). The denial
3 of an application to relocate a medical marijuana cultivator-
4 processor facility or medical marijuana dispensary shall be
5 considered a final agency decision, subject to review by the
6 Appellate Division of the Superior Court.

7 k. (1) An alternative treatment center may apply to the
8 department for approval to sell or transfer its permit to another
9 entity. The department shall not approve the sale or transfer of an
10 alternative treatment center permit until each applicant at the entity
11 applying to purchase or receive the transfer of the permit undergoes
12 a criminal history record background check pursuant to subsection
13 d. of this section, the department finds that the sale or transfer of
14 the permit would be consistent with the purposes of P.L.2009, c.307
15 (C.24:6I-1 et al.), the requirements of this section are met, and the
16 department has verified the information contained in the
17 application. The department shall approve or deny an application
18 within 90 days after receipt of a completed application. The denial
19 of an application to sell or transfer an alternative treatment center
20 permit shall be considered a final agency decision, subject to review
21 by the Appellate Division of the Superior Court. The sale or
22 transfer of a permit pursuant to this subsection shall not constitute
23 authorization to relocate the permitted facility unless the entity
24 purchasing or receiving transfer of the permit additionally receives
25 approval for the relocation from the department pursuant to
26 subsection j. of this section.

27 (2) If a nonprofit alternative treatment center proposes to sell or
28 transfer its permit to a for-profit entity, its board of directors may
29 proceed with the sale or transfer upon receiving approval for the
30 sale or transfer from the department pursuant to paragraph (1) of
31 this subsection, and, except as provided in paragraph (3) of this
32 subsection, after obtaining an independent appraisal for the fair
33 market value of the permit. The sale or transfer of the permit shall
34 be consistent with the requirements of the "New Jersey Nonprofit
35 Corporation Act," N.J.S.15A:1-1 et seq. The proceeds of the sale or
36 transfer, following satisfaction of the alternative treatment center's
37 obligations, shall be retained or expended in a manner consistent
38 with the requirements of the "New Jersey Nonprofit Corporation
39 Act," N.J.S.15A:1-1 et seq., or until the organization is lawfully
40 wound down or dissolved. If a nonprofit alternative treatment
41 center seeks to sell or transfer its permit to a for-profit entity with
42 which it shares common ownership or control, the sale or transfer
43 shall not proceed unless at least one disinterested director or trustee
44 approves the sale or transfer in accordance with the requirements of
45 the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq.

46 (3) If the debts and liabilities of a nonprofit alternative treatment
47 center exceed the value of all assets of the alternative center, other
48 than its alternative treatment center permit, the alternative treatment

1 center may, in lieu of obtaining an independent appraisal of the fair
2 market value of the permit as required under paragraph (2) of this
3 subsection, and upon receiving approval for the sale from the
4 department pursuant to paragraph (1) of this subsection, elect to pay
5 the department a fee of \$300,000 and sell its alternative treatment
6 center permit for a sum that satisfies its outstanding obligations.

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

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

11 (2) for authorization to relocate a medical marijuana cultivator-
12 processor facility to a new location within the same region, or for
13 authorization to relocate a medical marijuana dispensary to another
14 location within the same county, \$20,000;

15 (3) except as otherwise provided in paragraph (3) of subsection
16 k. of this section, to sell or transfer an alternative treatment center
17 permit, \$150,000;

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

19
20 6. (New section) The department shall begin accepting and
21 processing applications for 12 additional medical marijuana
22 dispensaries, with four each to be located in the northern, central,
23 and southern regions of the State, no later than 120 days after the
24 effective date of P.L. , c. (C.) (pending before the
25 Legislature as this bill).

26 The department shall make a determination as to a permit
27 application within 90 days after receiving the application, and shall
28 issue an initial permit to an approved applicant immediately upon
29 collection of the permit fee, unless the department finds the
30 applicant is not implementing the plans, procedures, protocols,
31 actions, or other measures set forth in the applicant's permit
32 application submitted pursuant to section 7 of P.L. , c. (C.)
33 (pending before the Legislature as this bill), or is otherwise not in
34 compliance with the requirements of P.L.2009, c.307 (C.24:6I-1 et
35 al.), in which case the department shall issue the permit to the next
36 highest scoring applicant for that region that is in compliance with
37 the applicant's permit application and the requirements of P.L.2009,
38 c.307 (C.24:6I-1 et al.).

39
40 7. (New section) a. Each application for an initial three year
41 permit to operate an alternative treatment center, and for biennial
42 renewal of such permit, shall be submitted to the department. A
43 separate application shall be required for each location at which an
44 alternative treatment center seeks to operate. Renewal applications
45 shall be submitted to the department no later than 90 days before
46 the date the current permit will expire.

- 1 b. An initial medical marijuana dispensary permit application
2 shall be evaluated and scored on a 100 point scale, consistent with
3 the requirements of this subsection:
- 4 (1) Up to 21 points may be awarded for the summary of the
5 applicant's operating plan, excluding safety and security criteria.
6 The operating plan summary shall include a written description, of
7 up 1,000 words per topic, concerning the applicant's qualifications
8 for, experience in, and knowledge of each of the following topics:
- 9 (a) State-licensed dispensation of medical marijuana to qualified
10 patients;
- 11 (b) healthcare, medicine, and treatment of patients with
12 debilitating medical conditions;
- 13 (c) marijuana product evaluation procedures;
- 14 (d) recall plans;
- 15 (e) packaging and labeling;
- 16 (f) inventory control and point-of-sale software or systems for
17 the sale of medical marijuana;
- 18 (g) patient counseling procedures;
- 19 (h) the routes of administration, strains, varieties, and
20 cannabinoid profiles of medical marijuana products;
- 21 (i) odor mitigation practices;
- 22 (j) onsite and offsite recordkeeping;
- 23 (k) the composition of the applicant's medical advisory board, if
24 any;
- 25 (l) compliance with State and federal patient privacy rules;
- 26 (m) waste disposal plans; and
- 27 (n) compliance with applicable laws and regulations.
- 28 (2) Up to four points may be awarded for the applicant's
29 environmental impact plan, which shall not exceed five pages.
- 30 (3) Up to 7.5 points may be awarded for the summary of the
31 applicant's safety and security plans and procedures, which shall
32 include descriptions of the following:
- 33 (a) plans for the use of security personnel;
- 34 (b) the experience or qualifications of existing security
35 personnel;
- 36 (c) security and surveillance features, including descriptions of
37 any alarm systems, video surveillance systems, and access and
38 visitor management systems, along with drawings identifying the
39 proposed locations for surveillance cameras and other security
40 features;
- 41 (d) plans for the storage of medical marijuana and medical
42 marijuana products, including any safes, vaults, and climate control
43 systems that will be utilized for this purpose;
- 44 (e) a diversion prevention plan;
- 45 (f) an emergency management plan;
- 46 (g) procedures for screening, monitoring, and performing
47 criminal history record background checks of employees;

1 (h) cybersecurity procedures, procedures for collecting,
2 processing, and storing patient data, and the applicant's familiarity
3 with State and federal privacy laws;

4 (i) workplace safety plans and the applicant's familiarity with
5 federal Occupational Safety and Health Administration regulations;

6 (j) the applicant's history of workers' compensation claims and
7 safety assessments;

8 (k) procedures for reporting adverse events; and

9 (l) a sanitation practices plan.

10 (4) Up to 15 total points may be awarded for the summary of the
11 applicant's business experience, subject to the following
12 requirements:

13 (a) up to six points may be awarded for the description of the
14 applicant's experience operating businesses in highly-regulated
15 industries;

16 (b) up to six points may be awarded for a description of the
17 applicant's experience in operating alternative treatment centers and
18 related medical marijuana production and dispensation entities
19 under the laws of New Jersey or any other state;

20 (c) up to three points may be awarded for the applicant's plan,
21 which shall not exceed three pages, to comply with and mitigate the
22 effects of 26 U.S.C. s.280E on marijuana businesses, and for
23 evidence that the applicant is not in arrears with respect to any tax
24 obligation to the State.

25 In evaluating the experience described under subparagraphs (a)
26 and (b) of this paragraph, the department shall afford the greatest
27 weight to the experience of the applicant itself, controlling owners,
28 and entities with common ownership or control with the applicant;
29 followed by the experience of those with a 20 percent or greater
30 ownership interest in the applicant's organization; followed by
31 interest holders in the applicant's organization; followed by other
32 officers, directors, and bona fide full-time employees of the
33 applicant as of the submission date of the application.

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

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

41 (b) four points may be awarded for submitting zoning approvals
42 for the proposed location, which shall consist of a letter or affidavit
43 from appropriate municipal officials that the location will conform
44 to municipal zoning requirements allowing for the dispensing of
45 medical marijuana, marijuana-infused and marijuana-derived
46 products, and related supplies; and

47 (c) four points may be awarded for submitting proof of local
48 support for the suitability of the location, which may be

1 demonstrated by a letter from the municipality's highest-ranking
2 official or by a resolution adopted by the municipality's governing
3 body indicating that the intended location is appropriately located
4 or otherwise suitable for the dispensing of medical marijuana,
5 marijuana-infused and marijuana-derived products, and related
6 supplies.

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

20 (6) Up to 15 total points may be awarded in the community
21 impact and social responsibility section of the application, subject
22 to the following requirements:

23 (a) up to four points may be awarded for a community impact
24 plan, not to exceed five pages, summarizing how the applicant
25 intends to have a positive impact on the community in which the
26 proposed medical marijuana dispensary is to be located, which shall
27 include an economic impact plan, a description of outreach
28 activities, and any financial assistance or discount plans the
29 applicant will provide to qualifying patients and primary caregivers;

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

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

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

45 In evaluating the information submitted pursuant to
46 subparagraphs (b) and (c) of this paragraph, the department shall
47 afford the greatest weight to the experience of the applicant itself,
48 controlling owners, and entities with common ownership or control

1 with the applicant; followed by the experience of those with a 20
2 percent or greater ownership interest in the applicant's organization;
3 followed by interest holders in the applicant's organization;
4 followed by other officers, directors, and bona fide full-time
5 employees of the applicant as of the submission date of the
6 application.

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

10 (a) up to four points may be awarded for a description of the
11 applicant's workforce development and job creation plan, which
12 may include information on the applicant or its owners' history of
13 job creation and planned job creation at its proposed medical
14 marijuana dispensary; education, training, and resources to be made
15 available for employees; any relevant certifications; and an optional
16 diversity plan; and

17 (b) 3.5 points shall be awarded to any applicant that has
18 executed a labor peace agreement or card check and neutrality
19 agreement with a collective bargaining unit for the proposed
20 medical marijuana dispensary. An applicant that does not submit
21 the information described in this subparagraph shall not be
22 disqualified from consideration.

23 (8) Up to 15 total points may be awarded for the description of
24 applicant's business and financial plan:

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

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

37 (c) up to five points may be awarded for a description of the
38 applicant's experience complying with guidance pertaining to
39 marijuana issued by the Financial Crimes Enforcement Network
40 under 31 U.S.C. s.5311 et seq., the federal Bank Secrecy Act, which
41 may be demonstrated by submitting letters regarding its banking
42 history from banks or credit unions that certify they are aware of the
43 business activities of the applicant, or entities with common
44 ownership or control of the applicant's organization, in any state
45 where the applicant has operated a business related to medical
46 marijuana. For the purposes of this subparagraph, the department
47 shall consider only bank references involving accounts in the name
48 of the applicant or of an entity with common ownership or control

1 of the applicant's organization. An applicant who does not submit
2 the information described in this subparagraph shall not be
3 disqualified from consideration.

4 (9) Up to a total of 30 bonus points may be added to the
5 applicant's total score based on the following:

6 (a) If any of the applicant's majority or controlling owners were
7 previously approved by the department to serve as an officer,
8 director, principal, or key employee of an alternative treatment
9 center, and the individual served in such capacity at the alternative
10 treatment center for two or more years, the department shall award
11 five bonus points, which shall be added to the applicant's total
12 score. No points shall be deducted from the applicant's total score
13 if none of the majority or controlling owners meet the requirements
14 of this subparagraph.

15 (b) If an applicant can demonstrate that its governance structure
16 includes the involvement of a licensed and accredited school of
17 medicine or osteopathic medicine, or a licensed general acute care
18 hospital, ambulatory care facility, nursing home, long term care
19 facility, adult day care services program, or pharmacy, the
20 department shall award 15 bonus points, which shall be added to the
21 applicant's total score, provided the following conditions are met:

22 (i) the school, facility, or program has conducted or participated
23 in institutional review board-approved research related to marijuana
24 involving the use of human subjects;

25 (ii) the school, facility, or program holds a profit share or
26 ownership interest in the applicant's organization of 10 percent or
27 more; and

28 (iii) the school, facility, or program participates in major
29 decision-making activities within the applicant's organization,
30 which may be demonstrated by representation on the board of
31 directors of the applicant's organization.

32 No points shall be deducted from the applicant's total score if the
33 applicant's governance structure does not include a school, facility,
34 or program that meets the requirements of this subparagraph.

35 (c) If the applicant submits evidence that the applicant, or an
36 entity with common ownership or control with the applicant, has
37 executed a collective bargaining agreement in the cannabis industry
38 that has been in effect for at least six months as of the submission
39 date of the application, the department shall award 10 bonus points,
40 which shall be added to the applicant's total score. No points shall
41 be deducted from the applicant's total score if the applicant has not
42 executed a collective bargaining agreement in the cannabis industry
43 that meets the requirements of this subparagraph.

44 c. In reviewing a medical marijuana dispensary initial permit
45 application, unless the information is otherwise solicited by the
46 department in a specific application question, the department's
47 evaluation of the application shall be limited to the experience and
48 qualifications of the applicant's organization, including any entities

1 with common ownership or control of the applicant's organization,
2 controlling owners or interest holders in the applicant's
3 organization, and the officers, directors, and actual full-time
4 existing employees of the applicant's organization. Responses
5 pertaining to consultants, independent contractors, and prospective
6 or part-time employees of the entity shall not be considered or
7 scored. Each applicant shall certify as to the status of the
8 individuals and entities included in the application.

9 d. To the extent possible, the department shall seek to ensure
10 that at least 15 percent of the total number of new medical
11 marijuana dispensary permits issued on or after the effective date of
12 P.L. , c. (C.) (pending before the Legislature as this bill) are
13 issued to a qualified applicant that:

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

19 (2) has been certified as a veteran-owned business by the
20 Department of the Treasury pursuant to P.L.2011, c.147 (C.52:32-
21 49 et seq.); or

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

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

28 e. No employee of the department shall have any direct or
29 indirect financial interest in the cultivation, processing, or
30 dispensing of medical marijuana or related paraphernalia, or
31 otherwise receive anything of value from a medical marijuana
32 dispensary permit applicant in exchange for reviewing, processing,
33 or making any recommendations with respect to a permit
34 application.

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

39 g. If the department notifies an applicant that it has scored
40 sufficiently high on multiple applications to be awarded more than
41 one medical marijuana dispensary permit by the department, the
42 applicant shall notify the department, within seven business days
43 after receiving such notice, as to which permit it will accept. For
44 any permit award declined by an applicant pursuant to this
45 subsection, the department shall, upon receiving notice from the
46 applicant of the declination, award the permit to the applicant with
47 the next highest score on an application for that permit in the same
48 region. If an applicant fails to notify the department as to which

1 permit it will accept, the department shall have the discretion to
2 determine which permit it will award to the applicant, based on the
3 department's determination of Statewide need and the scores
4 awarded to other applications in the affected regions.

5
6 8. (New section) a. An alternative treatment center may
7 appoint a medical advisory board to provide advice to the
8 alternative treatment center on all aspects of its business.

9 b. A medical advisory board appointed pursuant to this section
10 shall comprise five members: three health care professionals
11 licensed to practice in New Jersey, at least one of whom shall be a
12 physician; one qualifying patient; and one individual who owns a
13 business in the same region in which the alternative treatment
14 center is located. If the alternative treatment center is a medical
15 marijuana dispensary, the qualifying patient member shall be
16 registered with the dispensary; if the alternative treatment center is
17 a medical marijuana cultivator-processor, the qualifying patient
18 shall be registered with a medical marijuana dispensary located in
19 the same region as the medical marijuana cultivator-processor. No
20 ATC identification card holder may serve on a medical advisory
21 board.

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

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

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

35 b. A physician may issue multiple written instructions at one
36 time authorizing **the** a qualifying patient who is an adult to
37 receive a total of up to a one-year supply, or authorizing a
38 qualifying patient who is a minor to receive a total of up to a 90-day
39 supply, provided that the following conditions are met:

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

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

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

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

16 d. A patient may be registered at only one **【alternative**
17 **treatment center】** medical marijuana dispensary at any time.
18 (cf: P.L.2009, c.307, s.10)

19
20 10. Section 15 of P.L.2009, c.307 (C.24:6I-13) is amended to
21 read as follows:

22 15. a. The Department of Health is authorized to exchange
23 fingerprint data with, and receive information from, the Division of
24 State Police in the Department of Law and Public Safety and the
25 Federal Bureau of Investigation for use in reviewing applications
26 for individuals seeking to serve as primary caregivers pursuant to
27 section 4 of P.L.2009, c.307 (C.24:6I-4), applications for an ATC
28 identification card pursuant to section 7 of P.L.2009, c.307
29 (C.24:6I-7), and applications for permits to operate as **【,** or to be a
30 director, officer, or employee of,**】** alternative treatment centers
31 pursuant to section 7 of P.L.2009, c.307 (C.24:6I-7).

32 b. The Division of State Police shall promptly notify the
33 Department of Health in the event an applicant seeking to serve as a
34 primary caregiver, an applicant for an ATC identification card, or
35 an applicant for a permit to operate as **【,** or to be a director, officer,
36 or employee of,**】** an alternative treatment center, who was the
37 subject of a criminal history record background check conducted
38 pursuant to subsection a. of this section, is convicted of a crime
39 involving possession or sale of a controlled dangerous substance.
40 (cf: P.L.2012, c.17, s.91)

41
42 11. Section 11 of P.L.2009, c.307 (C.45:1-45.1) is amended to
43 read as follows:

44 11. a. A physician who provides a certification or written
45 instruction for the medical use of marijuana to a qualifying patient
46 pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) and any **【alternative**
47 **treatment center】** medical marijuana dispensary shall furnish to the

1 Director of the Division of Consumer Affairs in the Department of
2 Law and Public Safety such information, in such a format and at
3 such intervals, as the director shall prescribe by regulation, for
4 inclusion in a system established to monitor the dispensation of
5 marijuana in this State for medical use as authorized by the
6 provisions of P.L.2009, c.307 (C.24:6I-1 et al.), which system shall
7 serve the same purpose as, and be cross-referenced with, the
8 electronic system for monitoring controlled dangerous substances
9 established pursuant to section 25 of P.L.2007, c.244 (C.45:1-45).

10 b. The Director of the Division of Consumer Affairs, pursuant
11 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
12 1 et seq.), and in consultation with the Commissioner of Health
13 **【and Senior Services】**, shall adopt rules and regulations to
14 effectuate the purposes of subsection a. of this section.

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

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

28

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

33

34 13. This act shall take effect 180 days after the date of
35 enactment, except that the Commissioner of Health may take any
36 advance administrative action as may be necessary to implement the
37 requirements of this act.

38

39

40

STATEMENT

41

42 This bill makes various revisions to the requirements of the
43 "Compassionate Use Medical Marijuana Act," P.L.2009, c.307
44 (C.24:6I-1 et al.), including the application, ownership, and
45 operational requirements for alternative treatment centers (ATCs),
46 the requirements for physicians to authorize patients for the medical
47 use of marijuana, and certain requirements concerning registration
48 for, and access to, medical marijuana for qualifying patients.

1 Patient Registration and Certification and Dispensing Requirements

2

3 The bill provides that, commencing on the effective date of the
4 bill and ending on June 30, 2020, the maximum fee for initial
5 application for, or renewal of, a registry identification card for a
6 qualifying patient or primary caregiver will be \$10 for an individual
7 who is indigent and \$50 for all other cardholders. Thereafter, the
8 Commissioner of Health will be authorized to revise the maximum
9 application and renewal fees by regulation. The current application
10 fee is \$200, with a reduced fee of \$20 for low-income applicants.

11 The bill revises the list of disqualifying offenses for applicants
12 seeking to serve as a primary caregiver to provide that a conviction
13 for possession of any amount of marijuana or hashish, and a
14 conviction for manufacture, dispensing, or distributing less than 50
15 pounds of marijuana, fewer than 50 marijuana plants, or less than
16 five pounds of hashish, will not constitute a disqualifying condition.

17 The bill provides that physicians will not be required to enroll in
18 a physician registry as a condition of authorizing qualifying patients
19 for the medical use of marijuana; however, the Department of
20 Health (DOH) will be authorized to establish a voluntary physician
21 registry that individuals seeking treatment for a debilitating medical
22 condition may use as a reference source.

23 The bill codifies the current regulatory requirements for
24 physician certifications to specify the information that is to be
25 included in the certification, including the physician's personal and
26 professional information, the patient's personal and medical
27 information, including a statement of the patient's qualification for
28 medical marijuana, written instructions for medical marijuana, and
29 a statement certifying that the physician has discussed the risks,
30 benefits, and alternatives to medical marijuana with the patient.
31 The bill sets forth certain requirements to authorize a qualifying
32 patient who is a minor for medical marijuana. Specifically, the
33 certifying physician will be required to either: (1) be trained in the
34 care of pediatric patients; or (2) obtain written confirmation from a
35 physician trained in the care of pediatric patients establishing that,
36 following examination of the patient or a review of the patient's
37 record, the minor patient is likely to receive therapeutic or palliative
38 benefits from the medical use of marijuana to treat or alleviate
39 symptoms associated with the patient's debilitating medical
40 condition.

41 The bill increases the maximum amount of medical marijuana
42 that may be dispensed to a patient for a 30-day period from two
43 ounces to four ounces. Under current law, a physician may issue
44 multiple written instructions authorizing a patient to receive a total
45 of up to a 90-day supply of medical marijuana, provided the
46 instructions are for a legitimate medical purpose, include the
47 earliest date on which medical marijuana may be dispensed
48 pursuant to the instruction, and do not create an undue risk of

1 diversion or abuse. The bill revises this provision to provide that,
2 while qualifying patients who are minors will remain subject to the
3 90-day supply provision, qualifying patients who are adults may
4 receive multiple written instructions authorizing the patient to
5 receive up to a one-year supply of medical marijuana.

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

11 The bill provides that a physician or an immediate family
12 member of a physician who certifies patients for medical marijuana
13 may not hold any profit or ownership interest in an ATC. A
14 physician or the immediate family member of a physician who
15 applies for an ATC identification card is to certify that the
16 physician has not issued any patient certifications in the preceding
17 12 months. A violation of this prohibition will constitute a crime of
18 the fourth degree, which is punishable by imprisonment for up to 18
19 months, up to a \$10,000 fine, or both. The bill specifies that
20 nothing in the prohibition will prohibit any physician from serving
21 on the medical advisory board of an ATC, provided the physician
22 receives no special compensation or remuneration from the ATC,
23 including payments based on patient volumes or the number of
24 certifications issued by the physician.

25

26 ATC Application and Operational Requirements

27

28 With regard to ATCs, the bill differentiates between two
29 different types of ATC: medical marijuana cultivator-processors
30 and medical marijuana dispensaries. Medical marijuana cultivator-
31 processors are facilities that will be authorized to cultivate and
32 process marijuana and marijuana-infused and marijuana-derived
33 products, which it may supply to medical marijuana dispensaries.
34 Medical marijuana dispensaries will be authorized to dispense
35 marijuana and marijuana products to qualifying patients. An ATC
36 holding a permit as of the effective date of the bill will be deemed
37 to hold both a cultivator-processor permit and a dispensary permit.
38 The bill limits the ability of a person or entity holding a direct or
39 indirect interest in an ATC that is issued a new permit under the
40 bill.

41 Specifically, a person or entity holding an interest in any ATC
42 may simultaneously hold up to a 10 percent interest in up to one
43 other ATC; no person or entity will be permitted to simultaneously
44 hold any other interest in any other ATC. These ownership
45 restrictions do not apply in the case of a person or entity holding an
46 ownership interest of less than one percent of the total capitalization
47 of a publicly traded company, provided the stockholder is not an

1 employee, officer, or director of the publicly traded company.
2 ATCs may, but are not required to be, nonprofit entities.

3 To ensure adequate access to ATCs throughout the State, the bill
4 requires the DOH to issue a request for applications for 12
5 additional medical marijuana dispensary permits within 120 days
6 after the effective date of the bill; these 12 new medical marijuana
7 dispensaries, along with the six ATCs currently operating in the
8 State, will result in a total of six medical marijuana cultivator-
9 processors and 18 total medical marijuana dispensaries. No
10 additional permits may be issued until the active patient registry
11 reaches 270,000 qualified patients, at which time DOH will be
12 authorized, as may be necessary based on patient need throughout
13 the State, to issue up to three additional medical marijuana
14 cultivator-processor permits and up to nine additional medical
15 marijuana dispensary permits, to be distributed evenly throughout
16 the northern, central, and southern regions of the State.

17 The bill adds specific requirements for DOH to review and score
18 initial permit applications for new medical marijuana dispensaries
19 based on a 100-point scale, which includes evaluations of the
20 applicant's operational plan, environmental impact plan, safety and
21 security plan, business experience, proposed location, record of
22 social responsibility, philanthropy, involvement in research
23 concerning the medical efficacy and adverse effects of medical
24 marijuana, workforce development and job creation plan, and
25 business and financial plan. In evaluating an application, DOH is to
26 limit its review to the controlling owners, officers, directors, and
27 employees, and is not to consider responses pertaining to
28 consultants, independent contractors, or prospective or part-time
29 employees. To the extent possible, DOH is to seek to ensure that at
30 least 15 percent of the new medical marijuana dispensary permits
31 issued under the bill are awarded to entities certified as a minority
32 business, a women's business, a veteran-owned business, or a
33 disabled-veteran business, with higher preference going to entities
34 that are certified in up to two such categories. Application
35 materials submitted to DOH will not constitute a public record
36 subject to the statutory or common laws concerning access to public
37 records.

38 Applicants are to submit a separate application for each proposed
39 medical marijuana dispensary location. If an applicant scores
40 sufficiently high on multiple applications to be awarded more than
41 one permit, the applicant is to notify DOH within seven business
42 days as to which permit it will accept; for any permit declined by an
43 applicant, DOH will award the permit to the next highest-scoring
44 applicant. If an applicant fails to provide notice as to which permit
45 it will accept within seven business days, DOH will have the
46 discretion to determine which permit to award the applicant, based
47 on its determination of Statewide need and the scores awarded to
48 other applicants in the relevant locations.

1 The bill prohibits DOH employees from holding any financial
2 interest in an ATC or receiving anything of value from an ATC in
3 connection with reviewing, processing, or making recommendations
4 with respect to an ATC permit application.

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

7 The bill provides that DOH may require ATC permit applicants
8 to submit a personal history disclosure and may conduct financial
9 due diligence on any person or entity providing \$100,000 or more in
10 financial backing to an applicant. The bill revises the list of
11 disqualifying offenses for ATC permit applicants to provide that a
12 conviction for possession of any amount of marijuana or hashish,
13 and a conviction for manufacture, dispensing, or distributing less
14 than 50 pounds of marijuana, fewer than 50 marijuana plants, or
15 less than five pounds of hashish, will not constitute a disqualifying
16 condition.

17 The bill clarifies that the officers, directors, board members,
18 owners, and employees of an ATC will be issued "ATC
19 identification cards" upon approval of the ATC's permit
20 application.

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

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

38 The bill provides that ATCs will be permitted to establish a
39 medical advisory board to advise the ATC on all aspects of its
40 business. A medical advisory board is to comprise five members:
41 three healthcare professionals, including at least one physician; one
42 qualifying patient; and one business owner from the same region as
43 the ATC. If the ATC is a medical marijuana dispensary, the
44 qualifying patient member is to be registered with the dispensary; if
45 the ATC is a medical marijuana cultivator-processor, the qualifying
46 patient member is to be registered at a medical marijuana
47 dispensary located in the same region as the medical marijuana

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- 1 cultivator-processor. No ATC identification card holder may serve
- 2 on an ATC medical advisory board. Medical advisory boards are to
- 3 meet at least two times per year.