

# ASSEMBLY, No. 1635

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**SYNOPSIS**

Permits authorization for dispensation of medical marijuana through telemedicine and telehealth under certain circumstances.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning medical cannabis and amending P.L.2019,  
2 c.153 and P.L.2009, c.307.

3

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

6

7 1. Section 5 of P.L.2019, c.153 (C.24:6I-5.1) is amended to  
8 read as follows:

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

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

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

28 d. For 270 days following the date of enactment of P.L. , c.  
29 (C. ) (pending before the Legislature as this bill), a health care  
30 practitioner may authorize a patient who is a child, resident of a  
31 long-term care facility, developmentally disabled, terminally ill,  
32 receiving hospice care, or housebound as certified by the patient's  
33 physician, for the medical use of cannabis in the course of the  
34 health care practitioner's practice of telemedicine or telehealth.  
35 Following the 270 day period after the date of enactment of P.L. ,  
36 c. (C. ) (pending before the Legislature as this bill), a health  
37 care practitioner may authorize any patient for the medical use of  
38 cannabis in the course of the health care practitioner's practice of  
39 telemedicine or telehealth, provided that, and except in the case of a  
40 patient who is a child, developmentally disabled, terminally ill,  
41 receiving hospice care, or housebound, the patient has had at least  
42 one previous in-office visit with the health care practitioner prior to  
43 the patient's authorization for the medical use of cannabis.

44 As used in this subsection, "telehealth" and "telemedicine" shall

**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 have the same meaning as is provided in section 1 of P.L.2017,  
2 c.117 (C.45:1-61).

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

4

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

7 10. a. A health care practitioner shall provide written  
8 instructions for a registered qualifying patient or the patient's  
9 designated caregiver, or an institutional caregiver acting on behalf  
10 of the patient, to present to a medical cannabis dispensary or a  
11 clinical registrant concerning the total amount of usable cannabis  
12 that a patient may be dispensed, in weight, in a 30-day period,  
13 which amount shall not exceed the maximum amount that may be  
14 authorized for the patient pursuant to subsection f. of this section.

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

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

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

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

29 c. A registered qualifying patient or the patient's designated  
30 caregiver, or an institutional caregiver acting on behalf of a  
31 qualifying patient, shall present verification of the patient's or  
32 caregiver's registration with the commission, as applicable, and  
33 these written instructions to any medical cannabis dispensary or  
34 clinical registrant at the time the patient or caregiver requests the  
35 dispensing or delivery of medical cannabis, which medical cannabis  
36 dispensary or clinical registrant shall verify and log the  
37 documentation presented. An institutional caregiver shall  
38 additionally present an authorization executed by the patient  
39 certifying that the institutional caregiver is authorized to obtain  
40 medical cannabis on behalf of the patient. A health care  
41 practitioner may provide a copy of a written instruction by  
42 electronic or other means, including but not limited to, telemedicine  
43 and telehealth, as determined by the commission, directly to a  
44 medical cannabis dispensary or a clinical registrant on behalf of a  
45 registered qualifying patient. The dispensation of medical cannabis  
46 pursuant to any written instructions shall occur within one year of  
47 the date that the instructions were written or become eligible for  
48 dispensing, whichever is later, or the instructions are void.

- 1       d. (Deleted by amendment, P.L.2019, c.153)
- 2       e. Prior to dispensing medical cannabis to a qualifying patient,  
3 the patient's designated caregiver, or an institutional caregiver, the  
4 medical cannabis dispensary or clinical registrant shall access the  
5 system established pursuant to section 11 of P.L.2009, c.307  
6 (C.45:1-45.1) to ascertain whether medical cannabis was dispensed  
7 to or on behalf of the patient by any medical cannabis dispensary or  
8 clinical registrant within the preceding 30 days. Upon dispensing  
9 medical cannabis to a qualifying patient, the patient's designated  
10 caregiver, or an institutional caregiver, the medical cannabis  
11 dispensary or clinical registrant shall transmit to the patient's health  
12 care practitioner information concerning the amount, strain, and  
13 form of medical cannabis that was dispensed.
- 14       f. (1) Except as provided in paragraph (2) of this subsection, for  
15 a period of 18 months after the effective date of P.L.2019, c.153  
16 (C.24:6I-5.1 et al.), the maximum amount of usable cannabis that a  
17 patient may be dispensed, in weight, in a 30-day period, shall be  
18 three ounces. Commencing 18 months after the effective date of  
19 P.L.2019, c.153 (C.24:6I-5.1 et al.), the maximum amount of usable  
20 cannabis that a patient may be dispensed shall be prescribed by the  
21 commission by regulation.
- 22       (2) The monthly limits set forth in paragraph (1) of this  
23 subsection shall not apply to patients who are terminally ill or who  
24 are currently receiving hospice care through a licensed hospice,  
25 which patients may be dispensed an unlimited amount of medical  
26 cannabis. Qualifying patients who are not receiving hospice care or  
27 who are not terminally ill may petition the commission, on a form  
28 and in a manner as the commission shall require by regulation, for  
29 an exemption from the monthly limits set forth in paragraph (1) of  
30 this paragraph, which petition the commission shall approve if the  
31 commission finds that granting the exemption is necessary to meet  
32 the patient's treatment needs and is consistent with the provisions of  
33 P.L.2009, c.307 (C.24:6I-1 et al.).
- 34       g. The commission shall establish, by regulation, curricula for  
35 health care practitioners and for staff at medical cannabis  
36 dispensaries and clinical registrants:
- 37       (1) The curriculum for health care practitioners shall be  
38 designed to assist practitioners in counseling patients with regard to  
39 the quantity, dosing, and administration of medical cannabis as  
40 shall be appropriate to treat the patient's qualifying medical  
41 condition. Health care practitioners shall complete the curriculum  
42 as a condition of authorizing patients for the medical use of  
43 cannabis; and
- 44       (2) The curriculum for employees of medical cannabis  
45 dispensaries and clinical registrants shall be designed to assist the  
46 employees in counseling patients with regard to determining the  
47 strain and form of medical cannabis that is appropriate to treat the  
48 patient's qualifying medical condition. Employees of medical

1 cannabis dispensaries and clinical registrants shall be required to  
2 complete the curriculum as a condition of registration with the  
3 commission. Completion of the curriculum may constitute part of  
4 the annual training required pursuant to paragraph (1) of subsection  
5 j. of section 7 of P.L.2009, c.307 (C.24:6I-7).

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

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

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

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

25 i. A municipality in which a medical cannabis dispensary is  
26 located may adopt an ordinance imposing a transfer tax on any  
27 medical cannabis dispensed by the dispensary, including medical  
28 cannabis that is furnished by the dispensary to a medical cannabis  
29 handler for delivery to a registered qualifying patient or the patient's  
30 caregiver. The rate of a transfer tax established pursuant to this  
31 subsection shall be at the discretion of the municipality, except that  
32 in no case shall the rate exceed two percent of the purchase price of  
33 the medical cannabis.  
34 (cf: P.L.2019, c.153, s.18)

35  
36 3. This act shall take effect immediately.  
37  
38

39 STATEMENT  
40

41 This bill permits patients to be authorized for medical cannabis  
42 through telemedicine and telehealth and under certain  
43 circumstances.

44 Under the bill, for 270 days following the date of the bill's  
45 enactment, a health care practitioner may authorize a patient who is  
46 a child, resident of a long-term care facility, developmentally  
47 disabled, terminally ill, receiving hospice care, or housebound as  
48 certified by the patient's physician, for the medical use of cannabis

1 using telemedicine and telehealth. Thereafter, a health care  
2 practitioner may authorize any patient for the medical use of  
3 cannabis using telemedicine and telehealth, provided that, except in  
4 the case of a patient who is a child, developmentally disabled,  
5 terminally ill, receiving hospice care, or housebound, the patient has  
6 had at least one previous in-office visit with the health care  
7 practitioner prior to the patient's authorization for the medical use  
8 of cannabis. The bill additionally allows written instructions for  
9 medical cannabis to be provided to or on behalf of a patient using  
10 telemedicine and telehealth.

11 Under current statutes, "telehealth" means the use of information  
12 and communications technologies, including telephones, remote  
13 patient monitoring devices, or other electronic means, to support  
14 clinical health care, provider consultation, patient and professional  
15 health-related education, public health, health administration, and  
16 other services in accordance with the provisions of P.L.2017, c.117  
17 (C.45:1-61 et al.). "Telemedicine" means the delivery of a health  
18 care service using electronic communications, information  
19 technology, or other electronic or technological means to bridge the  
20 gap between a health care provider who is located at a distant site  
21 and a patient who is located at an originating site, either with or  
22 without the assistance of an intervening health care provider, and in  
23 accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et  
24 al.). "Telemedicine" does not include the use, in isolation, of audio-  
25 only telephone conversation, electronic mail, instant messaging,  
26 phone text, or facsimile transmission.