

SENATE, No. 619

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator DECLAN J. O'SCANLON, JR.

District 13 (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. _____,
29 c. (C. _____) (pending before the Legislature as this bill), a health
30 care practitioner may authorize a patient who is a child, resident of
31 a 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.

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 As used in this subsection, “telehealth” and “telemedicine” shall
2 have the same meaning as is provided in section 1 of P.L.2017,
3 c.117 (C.45:1-61).
4 (cf: P.L.2019, c.153, s.5)

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

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

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

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

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

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

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

1 the date that the instructions were written or become eligible for
2 dispensing, whichever is later, or the instructions are void.

3 d. (Deleted by amendment, P.L.2019, c.153)

4 e. Prior to dispensing medical cannabis to a qualifying patient,
5 the patient's designated caregiver, or an institutional caregiver, the
6 medical cannabis dispensary or clinical registrant shall access the
7 system established pursuant to section 11 of P.L.2009, c.307
8 (C.45:1-45.1) to ascertain whether medical cannabis was dispensed
9 to or on behalf of the patient by any medical cannabis dispensary or
10 clinical registrant within the preceding 30 days. Upon dispensing
11 medical cannabis to a qualifying patient, the patient's designated
12 caregiver, or an institutional caregiver, the medical cannabis
13 dispensary or clinical registrant shall transmit to the patient's health
14 care practitioner information concerning the amount, strain, and
15 form of medical cannabis that was dispensed.

16 f. (1) Except as provided in paragraph (2) of this subsection,
17 for a period of 18 months after the effective date of P.L.2019,
18 c.153 (C.24:6I-5.1 et al.), the maximum amount of usable cannabis
19 that a patient may be dispensed, in weight, in a 30-day period, shall
20 be three ounces. Commencing 18 months after the effective date of
21 P.L.2019, c.153 (C.24:6I-5.1 et al.), the maximum amount of usable
22 cannabis that a patient may be dispensed shall be prescribed by the
23 commission by regulation.

24 (2) The monthly limits set forth in paragraph (1) of this
25 subsection shall not apply to patients who are terminally ill or who
26 are currently receiving hospice care through a licensed hospice,
27 which patients may be dispensed an unlimited amount of medical
28 cannabis. Qualifying patients who are not receiving hospice care or
29 who are not terminally ill may petition the commission, on a form
30 and in a manner as the commission shall require by regulation, for
31 an exemption from the monthly limits set forth in paragraph (1) of
32 this paragraph, which petition the commission shall approve if the
33 commission finds that granting the exemption is necessary to meet
34 the patient's treatment needs and is consistent with the provisions of
35 P.L.2009, c.307 (C.24:6I-1 et al.).

36 g. The commission shall establish, by regulation, curricula for
37 health care practitioners and for staff at medical cannabis
38 dispensaries and clinical registrants:

39 (1) The curriculum for health care practitioners shall be
40 designed to assist practitioners in counseling patients with regard to
41 the quantity, dosing, and administration of medical cannabis as
42 shall be appropriate to treat the patient's qualifying medical
43 condition. Health care practitioners shall complete the curriculum
44 as a condition of authorizing patients for the medical use of
45 cannabis; and

46 (2) The curriculum for employees of medical cannabis
47 dispensaries and clinical registrants shall be designed to assist the
48 employees in counseling patients with regard to determining the

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

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

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

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

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

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

36 (cf: P.L.2019, c.153, s.18)

37

38 3. This act shall take effect immediately.

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STATEMENT

42

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

46 Under the bill, for 270 days following the date of the bill's
47 enactment, a health care practitioner may authorize a patient who is
48 a child, resident of a long-term care facility, developmentally

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

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