

SENATE, No. 4126

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED NOVEMBER 12, 2021

Sponsored by:

Senator NILSA I. CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

Expressly authorizes medical cannabis patients under 18 years of age to have up to four designated caregivers.

CURRENT VERSION OF TEXT

As introduced.



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

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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

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

17 (1) documentation of a health care practitioner's authorization
18 for the patient for the medical use of cannabis;

19 (2) an application or renewal fee, which may be based on a
20 sliding scale as determined by the commission;

21 (3) the name, home address, and date of birth of the patient and
22 each designated caregiver, as applicable;

23 (4) the name, address, and telephone number of the patient's
24 health care practitioner; and

25 (5) up to one alternate address for the patient, which may be
26 used for delivery of medical cannabis to the patient pursuant to
27 section 27 of P.L.2019, c.153 (C.24:6I-20).

28 Each qualifying patient younger than 18 years of age may
29 concurrently have up to four designated caregivers, and each
30 qualifying patient who is 18 years of age or older may concurrently
31 have up to two designated caregivers. A qualifying patient younger
32 than 18 years of age may petition the commission for approval to
33 concurrently have more than four designated caregivers, and a
34 qualifying patient who is 18 years of age or older may petition the
35 commission for approval to concurrently have more than two
36 designated caregivers **[, which]** . A petition for additional
37 designated caregivers shall be approved if the commission finds that
38 allowing the patient additional designated caregivers is necessary to
39 meet the patient's treatment needs and is consistent with the
40 provisions of P.L.2009, c.307 (C.24:6I-1 et al.).

41 The commission shall establish a registry of institutional
42 caregivers and shall establish a means of identifying and verifying
43 the registration status of institutional caregivers who are registered
44 with the commission. Registration with the commission shall be
45 valid for one year. An institutional caregiver shall be registered

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 with the commission upon submitting the name, address, and
2 telephone number of the institutional caregiver and of the health
3 care facility at which the individual will be serving as institutional
4 caregiver and a certification that meets the requirements of
5 subsection h. of this section. The application or renewal fee for the
6 institutional caregiver shall be paid by the health care facility at
7 which the institutional caregiver will be serving as institutional
8 caregiver. An institutional caregiver shall not be limited in the
9 number of qualifying patients for whom the institutional caregiver
10 may serve as institutional caregiver at one time, provided that each
11 qualifying patient served by the institutional caregiver is a current
12 patient or resident at the health care facility at which the
13 institutional caregiver is authorized to serve as institutional
14 caregiver, and the number of qualifying patients served by the
15 institutional caregiver is commensurate with the institutional
16 caregiver's ability to fully meet the treatment and related needs of
17 each qualifying patient and attend to the institutional caregiver's
18 other professional duties at the health care facility without
19 jeopardizing the health or safety of any patient or resident at the
20 facility.

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

38 c. (1) The commission shall require each applicant seeking to
39 serve as a designated or institutional caregiver to undergo a criminal
40 history record background check; except that no criminal history
41 record background check shall be required for an applicant seeking
42 to serve as a designated caregiver if the applicant is an immediate
43 family member of the patient, and no criminal history record
44 background check shall be required for an applicant seeking to
45 serve as an institutional caregiver if the applicant completed a
46 criminal history record background check as a condition of
47 professional licensure or certification. The commission is
48 authorized to exchange fingerprint data with and receive criminal

1 history record background information from the Division of State
2 Police and the Federal Bureau of Investigation consistent with the
3 provisions of applicable federal and State laws, rules, and
4 regulations. The Division of State Police shall forward criminal
5 history record background information to the commission in a
6 timely manner when requested pursuant to the provisions of this
7 section.

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

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

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

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

44 (4) The Division of State Police shall promptly notify the
45 commission in the event that an individual who was the subject of a
46 criminal history record background check conducted pursuant to
47 this section is convicted of a crime or offense in this State after the
48 date the background check was performed. Upon receipt of that

1 notification, the commission shall make a determination regarding
2 the continued eligibility of the applicant to serve as a designated or
3 institutional caregiver.

4 (5) Notwithstanding the provisions of paragraph (2) of this
5 subsection to the contrary, no applicant shall be disqualified from
6 serving as a designated or institutional caregiver on the basis of any
7 conviction disclosed by a criminal history record background check
8 conducted pursuant to this section if the individual has affirmatively
9 demonstrated to the commission clear and convincing evidence of
10 rehabilitation. In determining whether clear and convincing
11 evidence of rehabilitation has been demonstrated, the following
12 factors shall be considered:

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

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

16 (c) the circumstances under which the crime or offense
17 occurred;

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

19 (e) the age of the individual when the crime or offense was
20 committed;

21 (f) whether the crime or offense was an isolated or repeated
22 incident;

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

25 (h) any evidence of rehabilitation, including good conduct in
26 prison or in the community, counseling or psychiatric treatment
27 received, acquisition of additional academic or vocational
28 schooling, successful participation in correctional work-release
29 programs, or the recommendation of those who have had the
30 individual under their supervision.

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

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

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

39 (2) the expiration date of the registration;

40 (3) photo identification of the registrant; and

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

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

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

5 (3) An institutional caregiver who has been registered by the
6 commission shall notify the commission of any change in the
7 caregiver's name, address, employment by a health care facility at
8 which the caregiver is registered to serve as institutional caregiver,
9 or authorization from the health care facility to assist qualifying
10 patients with the medical use of cannabis, within 10 days of such
11 change, or the caregiver's registration shall be deemed null and void
12 and the individual shall be deemed ineligible to serve as an
13 institutional caregiver for a period of not less than one year.

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

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

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

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

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

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

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

1 the facility is stored in a safe and secure manner that prevents theft,
2 diversion, adulteration, and access by unauthorized individuals;

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

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

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

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

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

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

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

38 (cf: P.L.2019, c.153, s.4)

39

40 2. This act shall take effect immediately.

41

42

43 STATEMENT

44

45 This bill revises the number of designated caregivers that are
46 expressly allowed for medical cannabis patients younger than 18
47 years of age. Designated caregivers are individuals who are
48 authorized to assist medical cannabis patients with acquiring and

1 administering medical cannabis. Current law expressly allows all
2 medical cannabis patients to concurrently have up to two designated
3 caregivers, although patients may petition for approval to have
4 additional designated caregivers, which petitions are to be granted if
5 additional caregivers are consistent with the patient's treatment
6 needs the requirements of the State's medical cannabis laws.
7 This bill expressly authorizes medical cannabis patients who are
8 younger than 18 years of age to concurrently have four designated
9 caregivers. Patients who are older than 18 years of age will still be
10 expressly authorized to have up to two designated caregivers, and
11 all patients will still have the ability to petition for approval to have
12 additional designated caregivers.