

ASSEMBLY, No. 197

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblyman KEVIN J. ROONEY

District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Authorizes medical marijuana for treatment of substance use disorder;
authorizes all patients to be dispensed medical marijuana in edible form.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning medical marijuana 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 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.) and
10 P.L.2015, c.158 (C.18A:40-12.22 et al.):

11 "Bona fide physician-patient relationship" means a relationship
12 in which the physician has ongoing responsibility for the
13 assessment, care, and treatment of a patient's debilitating medical
14 condition.

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

19 "Commissioner" means the Commissioner of Health.

20 "Debilitating medical condition" means:

21 (1) one of the following conditions, if resistant to conventional
22 medical therapy: seizure disorder, including epilepsy; intractable
23 skeletal muscular spasticity; post-traumatic stress disorder; or
24 glaucoma;

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

30 (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal
31 cancer, muscular dystrophy, substance use disorder, or
32 inflammatory bowel disease, including Crohn's disease;

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

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

37 "Department" means the Department of Health.

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

41 "Medical marijuana alternative treatment center" or "alternative
42 treatment center" means an organization approved by the
43 department to perform activities necessary to provide registered
44 qualifying patients with usable marijuana and related paraphernalia
45 in accordance with the provisions of **【this act】** P.L.2009, c.307
46 (C.24:6I-1 et al.). This term shall include the organization's
47 officers, directors, board members, and employees.

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

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

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

9 "Physician" means a person licensed to practice medicine and
10 surgery pursuant to Title 45 of the Revised Statutes with whom the
11 patient has a bona fide physician-patient relationship and who is the
12 primary care physician, hospice physician, or physician responsible
13 for the ongoing treatment of a patient's debilitating medical
14 condition, provided, however, that the ongoing treatment shall not
15 be limited to the provision of authorization for a patient to use
16 medical marijuana or consultation solely for that purpose.

17 "Primary caregiver" or "caregiver" means a resident of the State
18 who:

- 19 a. is at least 18 years old;
- 20 b. has agreed to assist with a registered qualifying patient's
21 medical use of marijuana, is not currently serving as primary
22 caregiver for another qualifying patient, and is not the qualifying
23 patient's physician;
- 24 c. has never been convicted of possession or sale of a
25 controlled dangerous substance, unless such conviction occurred
26 after the effective date of **[this act]** P.L.2009, c.307 (C.24:6I-1 et
27 al.) and was for a violation of federal law related to possession or
28 sale of marijuana that is authorized under **[this act]** P.L.2009, c.307
29 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.);
- 30 d. has registered with the department pursuant to section 4 of
31 **[this act]** P.L.2009, c.307 (C.24:6I-4), and has satisfied the
32 criminal history record background check requirement of section 4
33 of **[this act]** P.L.2009, c.307 (C.24:6I-4); and
- 34 e. has been designated as primary caregiver on the qualifying
35 patient's application or renewal for a registry identification card or
36 in other written notification to the department.

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

40 "Registry identification card" means a document issued by the
41 department that identifies a person as a registered qualifying patient
42 or primary caregiver.

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

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

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

3 7. a. The department shall accept applications from entities for
4 permits to operate as alternative treatment centers, and may charge
5 a reasonable fee for the issuance of a permit under this section. The
6 department shall seek to ensure the availability of a sufficient
7 number of alternative treatment centers throughout the State,
8 pursuant to need, including at least two each in the northern,
9 central, and southern regions of the State. The first two centers
10 issued a permit in each region shall be nonprofit entities, and
11 centers subsequently issued permits may be nonprofit or for-profit
12 entities.

13 An alternative treatment center shall be authorized to acquire a
14 reasonable initial and ongoing inventory, as determined by the
15 department, of marijuana seeds or seedlings and paraphernalia,
16 possess, cultivate, plant, grow, harvest, process, display,
17 manufacture, deliver, transfer, transport, distribute, supply, sell, or
18 dispense marijuana, or related supplies to qualifying patients or
19 their primary caregivers who are registered with the department
20 pursuant to section 4 of **【this act】** P.L.2009, c.307 (C.24:6I-4). An
21 alternative treatment center shall not be limited in the number of
22 strains of medical marijuana cultivated, and may package and
23 directly dispense marijuana to qualifying patients in dried form, oral
24 lozenges, topical formulations, or edible form, or any other form as
25 authorized by the commissioner. Edible form shall include tablets,
26 capsules, drops, oils, liquids, or syrups, and any other form as
27 authorized by the commissioner. **【Edible forms shall be available**
28 **only to qualifying patients who are minors.】**

29 Applicants for authorization as nonprofit alternative treatment
30 centers shall be subject to all applicable State laws governing
31 nonprofit entities, but need not be recognized as a 501(c)(3)
32 organization by the federal Internal Revenue Service.

33 b. The department shall require that an applicant provide such
34 information as the department determines to be necessary pursuant
35 to regulations adopted pursuant to **【this act】** P.L.2009, c.307
36 (C.24:6I-1 et al.).

37 c. A person who has been convicted 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 (4) of subsection a. of N.J.S.2C:35-10, or any similar law
41 of the United States or any other state shall not be issued a permit to
42 operate as an alternative treatment center or be a director, officer, or
43 employee of an alternative treatment center, unless such conviction
44 occurred after the effective date of **【this act】** P.L.2009, c.307
45 (C.24:6I-1 et al.) and was for a violation of federal law relating to
46 possession or sale of marijuana for conduct that is authorized under

1 **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158
2 (C.18A:40-12.22 et al.).

3 d. (1) The commissioner shall require each applicant seeking a
4 permit to operate as an alternative treatment center to undergo a
5 criminal history record background check. For purposes of this
6 section, the term "applicant" shall include any owner, director,
7 officer, or employee of an alternative treatment center. The
8 commissioner is authorized to exchange fingerprint data with and
9 receive criminal history record background information from the
10 Division of State Police and the Federal Bureau of Investigation
11 consistent with the provisions of applicable federal and State laws,
12 rules, and regulations. The Division of State Police shall forward
13 criminal history record background information to the
14 commissioner in a timely manner when requested pursuant to the
15 provisions of this section.

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

27 (2) The commissioner shall not approve an applicant for a
28 permit to operate, or authorization to be employed at, an alternative
29 treatment center if the criminal history record background
30 information of the applicant reveals a disqualifying conviction as
31 set forth in subsection c. of this section.

32 (3) Upon receipt of the criminal history record background
33 information from the Division of State Police and the Federal
34 Bureau of Investigation, the commissioner shall provide written
35 notification to the applicant of **【his】** the applicant's qualification
36 for or disqualification for a permit to operate or be a director,
37 officer, or employee of an alternative treatment center.

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

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

1 the continued eligibility to operate or be a director, officer, or
2 employee of an alternative 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 for a period not to exceed three months if the
7 applicant submits to the commissioner a sworn statement attesting
8 that the person has not been convicted of any disqualifying
9 conviction pursuant to this section.

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

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

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

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

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

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

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

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

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

37 e. The department shall issue a permit to a person to operate as
38 an alternative treatment center if the department finds that issuing
39 such a permit would be consistent with the purposes of **【this act】**
40 P.L.2009, c.307 (C.24:6I-1 et al.) and the requirements of this
41 section are met and the department has verified the information
42 contained in the application. The department shall approve or deny
43 an application within 60 days after receipt of a completed
44 application. The denial of an application shall be considered a final
45 agency decision, subject to review by the Appellate Division of the
46 Superior Court. The department may suspend or revoke a permit to
47 operate as an alternative treatment center for cause, which shall be
48 subject to review by the Appellate Division of the Superior Court.

1 f. A person who has been issued a permit pursuant to this
2 section shall display the permit at the premises of the alternative
3 treatment center at all times when marijuana is being produced, or
4 dispensed to a registered qualifying patient or the patient's primary
5 caregiver.

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

9 h. An alternative treatment center may charge a registered
10 qualifying patient or primary caregiver for the reasonable costs
11 associated with the production and distribution of marijuana for the
12 cardholder.

13 i. The commissioner shall adopt regulations to:

14 (1) require such written documentation of each delivery of
15 marijuana to, and pickup of marijuana for, a registered qualifying
16 patient, including the date and amount dispensed, to be maintained
17 in the records of the alternative treatment center, as the
18 commissioner determines necessary to ensure effective
19 documentation of the operations of each alternative treatment
20 center;

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

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

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

27
28 3. This act shall take effect immediately.
29
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31 STATEMENT

32
33 This bill expands the list of debilitating medical conditions that
34 qualify a patient for the medical use of marijuana to include
35 substance use disorder. The bill further removes the current
36 restriction that limits edible forms of medical marijuana to patients
37 who are minors, and specifies that edible forms include oils and
38 liquids, in addition to tablets, capsules, drops and syrups.