

[Third Reprint]

SENATE, No. 119

STATE OF NEW JERSEY
213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

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SYNOPSIS

"New Jersey Compassionate Use Medical Marijuana Act."

CURRENT VERSION OF TEXT

As amended by the General Assembly Senate on January 7, 2010.

(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning the medical use of marijuana ²[and
 2 supplementing Title 24 of the Revised Statutes] ³and³ revising
 3 parts of statutory law².

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

7
 8 1. This act shall be known and may be cited as the "New Jersey
 9 Compassionate Use Medical Marijuana Act."

10
 11 2. ³(New section)³ The Legislature finds and declares that:

12 a. Modern medical research has discovered a beneficial use for
 13 marijuana in treating or alleviating the pain or other symptoms
 14 associated with certain debilitating medical conditions, as found by
 15 the National Academy of Sciences' Institute of Medicine in March
 16 1999;

17 b. According to the U.S. Sentencing Commission and the
 18 Federal Bureau of Investigation, 99 out of every 100 marijuana
 19 arrests in the country are made under state law, rather than under
 20 federal law. Consequently, changing state law will have the
 21 practical effect of protecting from arrest the vast majority of
 22 seriously ill people who have a medical need to use marijuana²[.];²

23 c. Although federal law currently prohibits the use of
 24 marijuana, the laws of Alaska, California, Colorado, Hawaii, Maine,
 25 ¹Michigan, ¹Montana, ¹Nevada, ¹New Mexico, ¹Oregon, ¹Rhode
 26 ¹Island, ¹Vermont, ¹and ¹Washington ¹[and Montana]¹ permit the
 27 use of marijuana for medical purposes, and in Arizona doctors are
 28 permitted to prescribe marijuana. New Jersey joins this effort for
 29 the health and welfare of its citizens²[.];²

30 d. States are not required to enforce federal law or prosecute
 31 people for engaging in activities prohibited by federal law;
 32 therefore, compliance with this act does not put the State of New
 33 Jersey in violation of federal law²[.]; and²

34 e. Compassion dictates that a distinction be made between
 35 medical and non-medical uses of marijuana. Hence, the purpose of
 36 this act is to protect from arrest, prosecution, property forfeiture,
 37 and criminal and other penalties, those patients ¹who use marijuana
 38 ¹to alleviate¹ suffering from debilitating medical conditions, ¹[and]
 39 ¹as well as¹ their physicians ¹[and] ²[¹ primary caregivers,]² ¹[if
 40 such patients engage in the medical use of marijuana] ³, primary
 41 caregivers,³ and those who are authorized to produce marijuana for
 42 medical purposes¹.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted December 15, 2008.

²Assembly AHE committee amendments adopted June 4, 2009.

³Assembly floor amendments adopted January 7, 2010.

1 ²[3. As used in this act:

2 “Bona fide physician-patient relationship” means a physician has
3 completed a full assessment of the patient's medical history and
4 current medical condition, including a personal physical
5 examination.

6 “Commissioner” means the Commissioner of Health and Senior
7 Services.

8 “Debilitating medical condition” means:

9 (1) cancer, glaucoma, positive status for human
10 immunodeficiency virus, acquired immune deficiency syndrome, or
11 the treatment of these conditions;

12 (2) a chronic or debilitating disease or medical condition or its
13 treatment that produces one or more of the following: cachexia or
14 wasting syndrome; severe or chronic pain; severe nausea; seizures,
15 including, but not limited to, those characteristic of epilepsy; severe
16 and persistent muscle spasms, including, but not limited to, those
17 characteristic of multiple sclerosis or Crohn's disease; or

18 (3) any other medical condition or its treatment that is approved
19 by the department by regulation.

20 “Department” means the Department of Health and Senior
21 Services.

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

25 ¹“Medical marijuana alternative treatment center” or “alternative
26 treatment center” means an entity registered pursuant to section 5 of
27 this act, which acquires, possesses, cultivates, manufactures,
28 delivers, transfers, transports, supplies, or dispenses marijuana or
29 related supplies and educational materials to registered patients or
30 their registered primary caregivers.¹

31 “Medical use” means the acquisition, possession, cultivation,
32 manufacture, use, delivery, transfer¹[,]¹ or transportation of
33 marijuana or paraphernalia relating to a qualifying patient's
34 consumption of marijuana to alleviate the symptoms or effects of
35 the patient's debilitating medical condition.

36 “Physician” means a person licensed to practice medicine and
37 surgery pursuant to Title 45 of the Revised Statutes.

38 “Primary caregiver” or “caregiver” means a person who is at
39 least 18 years old, who has never been convicted of a felony drug
40 offense, has agreed to assist with a qualifying patient's medical use
41 of marijuana and has been designated as primary caregiver on the
42 qualifying patient's application or renewal for a registry
43 identification card or in other written notification to the department.
44 A primary caregiver shall only have one qualifying patient at any
45 one time. “Primary caregiver” shall not include the qualifying
46 patient's physician.

1 “Qualifying patient” or “patient” means a person who has been
2 diagnosed by a physician as having a debilitating medical condition.

3 “Registry identification card” means a document issued by the
4 department that identifies a person as a qualifying patient or
5 primary caregiver, and shall include a registry identification card or
6 its equivalent, issued by another state government to permit the
7 medical use of marijuana by a qualifying patient or to permit a
8 person to assist with a qualifying patient's medical use of marijuana.

9 “Usable marijuana” means the dried leaves and flowers of
10 marijuana, and any mixture or preparation thereof, and does not
11 include the seeds, stalks and roots of the plant.

12 “Written certification” means the qualifying patient's medical
13 records, or a statement signed by a physician with whom the patient
14 has a bona fide physician-patient relationship, stating that in the
15 physician's professional opinion, after having completed a full
16 assessment of the qualifying patient's medical history and current
17 medical condition, the qualifying patient has a debilitating medical
18 condition for which recognized drugs or treatments are not or would
19 not be effective and the potential benefits of the medical use of
20 marijuana would likely outweigh the health risks for the qualifying
21 patient.]²

22

23 ²[4. a. (1) A qualifying patient shall not be subject to arrest,
24 prosecution or penalty in any manner, or denied any right or
25 privilege, including, but not limited to, civil penalty or disciplinary
26 action by a professional licensing board, for the medical use of
27 marijuana, provided that the patient possesses a registry
28 identification card and no more than six marijuana plants and one
29 ounce of usable marijuana.

30 (2) There shall exist a rebuttable presumption that a qualifying
31 patient is engaged in the medical use of marijuana if he possesses a
32 registry identification card and no more than six marijuana plants
33 and one ounce of usable marijuana. The presumption may be
34 rebutted by evidence that conduct related to marijuana was not for
35 the purpose of alleviating the symptoms or effects of a patient's
36 debilitating medical condition.

37 (3) A qualifying patient may assert the medical use of marijuana
38 as an affirmative defense to any prosecution involving marijuana
39 unless the patient was in violation of section ¹[5] 7¹ of this act
40 when the events giving rise to the prosecution occurred. The
41 defense shall be presumed valid where the evidence shows that:

42 (a) at the time of the events giving rise to the prosecution, the
43 patient's medical records indicated or a physician stated that, in the
44 physician's professional opinion, after having completed a full
45 assessment of the patient's medical history and current medical
46 condition made in the course of a bona fide physician-patient

1 relationship, the potential benefits of the medical use of marijuana
2 would likely outweigh the health risks for the patient; and

3 (b) the patient and his caregiver, if any, were collectively in
4 possession of no more than six marijuana plants and one ounce of
5 usable marijuana.

6 (4) Possession of, or application for, a registry identification
7 card shall not alone constitute probable cause to search the person
8 or the property of the person possessing or applying for the registry
9 identification card, or otherwise subject the person or his property
10 to inspection by any governmental agency.

11 (5) The provisions of section 2 of P.L.1939, c.248 (C.26:2-82),
12 relating to destruction of marijuana determined to exist by the
13 department, shall not apply if a qualifying patient has in his
14 possession a registry identification card and no more than six
15 marijuana plants and one ounce of usable marijuana¹, or if an
16 alternative treatment center permit holder has in his possession no
17 more than six marijuana plants and one ounce of usable marijuana
18 per registry identification card holder¹.

19 b. The provisions of subsection a. of this section shall not apply
20 to a qualifying patient under the age of 18 years, unless:

21 (1) the patient's physician has explained to the patient and the
22 patient's custodial parent, guardian, or person having legal custody,
23 the potential risks and benefits of the medical use of marijuana; and

24 (2) the custodial parent, guardian, or person having legal custody
25 consents in writing to: allow the patient's medical use of marijuana;
26 serve as the patient's primary caregiver; and control the acquisition,
27 dosage, and frequency of the medical use of marijuana by the
28 patient.

29 c. (1) A primary caregiver who has in his possession a registry
30 identification card shall not be subject to arrest, prosecution, or
31 penalty in any manner, or denied any right or privilege, including,
32 but not limited to, civil penalty or disciplinary action by a
33 professional licensing board, for assisting a qualifying patient to
34 whom the caregiver is connected through the department's
35 registration process with the medical use of marijuana, provided
36 that the caregiver possesses no more than six marijuana plants and
37 one ounce of usable marijuana for the patient to whom he is
38 connected through the department's registration process.

39 (2) There shall exist a rebuttable presumption that a primary
40 caregiver is engaged in the medical use of marijuana if the caregiver
41 possesses a registry identification card and no more than six
42 marijuana plants and one ounce of usable marijuana. The
43 presumption may be rebutted by evidence that conduct related to
44 marijuana was not for the purpose of alleviating the symptoms or
45 effects of a qualifying patient's debilitating medical condition.

46 (3) A primary caregiver may assert the medical use of marijuana
47 as an affirmative defense to any prosecution involving marijuana

1 unless the caregiver was in violation of section '[5] 7' of this act
2 when the events giving rise to the prosecution occurred. The
3 defense shall be presumed valid where the evidence shows that:

4 (a) at the time of the events giving rise to the prosecution, the
5 patient's medical records indicated or a physician stated that, in the
6 physician's professional opinion, after having completed a full
7 assessment of the patient's medical history and current medical
8 condition made in the course of a bona fide physician-patient
9 relationship, the potential benefits of the medical use of marijuana
10 would likely outweigh the health risks for the patient; and

11 (b) the patient and his caregiver, if any, were collectively in
12 possession of no more than six marijuana plants and one ounce of
13 usable marijuana.

14 (4) Possession of, or application for, a registry identification
15 card shall not alone constitute probable cause to search a person or
16 property of a person possessing or applying for the registry
17 identification card, or otherwise subject the person or his property
18 to inspection by any governmental agency.

19 (5) The provisions of section 2 of P.L.1939, c.248 (C.26:2-82),
20 relating to destruction of marijuana determined to exist by the
21 department, shall not apply if a primary caregiver has in his
22 possession a registry identification card and no more than six
23 marijuana plants and one ounce of usable marijuana¹, or if an
24 alternative treatment center permit holder has in his possession no
25 more than six marijuana plants and one ounce of usable marijuana
26 per registry identification card holder¹.

27 d. A physician shall not be subject to arrest, prosecution, or
28 penalty in any manner, or denied any right or privilege, including,
29 but not limited to, civil penalty or disciplinary action by the State
30 Board of Medical Examiners, for providing written certification for
31 the medical use of marijuana to a qualifying patient.

32 e. No person shall be subject to arrest or prosecution for
33 constructive possession, conspiracy or any other offense for simply
34 being in the presence or vicinity of the medical use of marijuana as
35 permitted under this act.]²

36

37 ²[15. a. The department shall establish a registration program
38 authorizing medical marijuana alternative treatment centers to
39 produce marijuana for medical purposes, and may charge a
40 reasonable fee for the issuance of a registration permit under this
41 section.

42 b. The department shall require that a permit applicant provide
43 information that includes, but is not limited to:

44 (1) the name of the person responsible for operating the
45 alternative treatment center;

46 (2) the names of all employees, whether volunteer or paid;

47 (3) the location of the alternative treatment center;

1 (4) the registry identification card number of each cardholder for
2 whom marijuana is to be produced; and

3 (5) any other information that the department considers
4 necessary.

5 c. A person who has been convicted of possession or sale of a
6 controlled dangerous substance shall not be issued a permit to
7 operate an alternative treatment center or be an employee of an
8 alternative treatment center, unless such conviction was for a
9 violation of federal law relating to possession or sale of marijuana
10 for conduct that is legal under this act.

11 d. The department shall issue a permit to a person to operate an
12 alternative treatment center if the requirements of this section are
13 met and the department has verified the information contained in
14 the application. The department shall approve or deny an
15 application within 60 days after receipt of a completed application.
16 The denial of an application shall be considered a final agency
17 decision, subject to review by the Appellate Division of the
18 Superior Court.

19 e. A person who has been issued a permit pursuant to this
20 section shall display the permit at the alternative treatment center at
21 all times when marijuana is being produced, or dispensed to a
22 registered qualifying patient or designated primary caregiver of the
23 patient.

24 f. An alternative treatment center permit holder shall report any
25 change in information to the department not later than 10 days after
26 such change, or the permit shall be deemed null and void.

27 g. All usable marijuana, plants, seedlings and seeds associated
28 with the production of marijuana for a registry identification
29 cardholder are the property of the registered patient and must be
30 provided to the patient upon request.

31 h. A registered patient or the designated primary caregiver of the
32 patient may reimburse the alternative treatment center for
33 reasonable costs associated with the production of marijuana for the
34 cardholder.¹²

35
36 ²[¹⁶. A medical marijuana alternative treatment center permit
37 holder or his employee shall not be subject to arrest or prosecution,
38 penalized in any manner, including, but not limited to, being subject
39 to any civil penalty, or denied any right or privilege, including, but
40 not limited to, being subject to any disciplinary action by a
41 professional licensing board, for the acquisition, distribution,
42 possession, cultivation, or transportation of marijuana or
43 paraphernalia related to marijuana on behalf of a registered patient,
44 provided the amount of any marijuana so acquired, distributed,
45 possessed, cultivated, or transported, together with the combined
46 amount of marijuana possessed by the registered patient and his
47 primary caregiver, shall not exceed six marijuana plants and one

1 ounce of usable marijuana for each registered patient for whom the
2 alternative treatment center permit holder is authorized to produced
3 marijuana. For the purposes of this subsection, “distribution” or
4 “distributed” means the transfer of marijuana and paraphernalia
5 related to marijuana from the alternative treatment center permit
6 holder to the registered patient or his primary caregiver. ¹ ²

7
8 ¹~~[5.]~~ ²~~[7.]~~ ¹ The provisions of this act shall not be construed to
9 permit any person to operate, navigate, or be in actual physical
10 control of any motor vehicle, aircraft or motorboat while under the
11 influence of marijuana; or smoke marijuana in a school bus or other
12 form of public transportation, on any school grounds, in any
13 correctional facility, at any public park or beach, or at any
14 recreation center. A person who commits an act as provided in this
15 section shall be subject to such penalties as provided by law. ¹ ²

16
17 ¹~~[6.]~~ ²~~[8.]~~ ¹ It shall be a disorderly persons offense for a person
18 to fabricate or misrepresent a registry identification card ¹or a
19 medical marijuana alternative treatment center permit ¹ to a law
20 enforcement official. ¹ ²

21
22 ¹~~[7.]~~ ²~~[9.]~~ ¹ a. The department shall establish a registry and shall
23 issue a registry identification card to a qualifying patient who
24 submits the following, in accordance with the department's
25 regulations:

- 26 (1) written certification that the person is a qualifying patient;
27 (2) an application or renewal fee, which may be based on a
28 sliding scale as determined by the commissioner;
29 (3) name, address and date of birth of the patient;
30 (4) name, address and telephone number of the patient's
31 physician; and
32 (5) name, address and date of birth of the patient's primary
33 caregiver, if any.

34 Before issuing a registry identification card, the department shall
35 verify the information contained in the application or renewal form
36 submitted pursuant to this section. The department shall approve or
37 deny an application or renewal within 15 days of receipt of the
38 application or renewal, and shall issue a registry identification card
39 within five days of approving the application or renewal. The
40 department may deny an application or renewal only if the applicant
41 fails to provide the information required pursuant to this section, or
42 if the department determines that the information was falsified.
43 Denial of an application is considered a final agency decision,
44 subject to review by the Appellate Division of the Superior Court.

45 b. The department shall issue a registry identification card to the
46 caregiver named in a patient's approved application, if the caregiver
47 signs a statement agreeing to provide marijuana only to the patient

1 who has named him as caregiver. However, the department shall
2 not issue a registry identification card to a proposed caregiver who
3 has previously been convicted of a felony drug offense.

4 c. A registry identification card shall contain the following
5 information:

6 (1) the name, address and date of birth of the patient;

7 (2) the name, address and date of birth of the patient's caregiver,
8 if any;

9 (3) the date of issuance and expiration date of the registry
10 identification card;

11 (4) photo identification of the cardholder; and

12 (5) such other information that the department may specify in its
13 regulations.

14 A patient who has been issued a registry identification card shall
15 notify the department of any change in the patient's name, address,
16 physician or caregiver, or change in status of the patient's
17 debilitating medical condition, within 10 days of such change, or
18 the registry identification card shall be deemed null and void.

19 d. The department shall maintain a confidential list of the
20 persons to whom it has issued registry identification cards.
21 Individual names and other identifying information on the list shall
22 be confidential, and shall not be considered a public record under
23 P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et
24 al.), and shall not be disclosed except to:

25 (1) authorized employees of the department as necessary to
26 perform official duties of the department; or

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

31

32 ¹[8.] ²[10.]¹ The commissioner may accept from any
33 governmental department or agency, public or private body or any
34 other source grants or contributions to be used in carrying out the
35 purposes of this act.]²

36

37 ¹[9.] ²[11.]¹ The commissioner shall report annually to the
38 Governor and the Legislature on the number of applications for
39 registry identification cards, the number of qualifying patients and
40 primary caregivers ¹[approved] registered¹, ¹the number of medical
41 marijuana alternative treatment center permits issued,¹ the nature of
42 the debilitating medical conditions of the patients, the number of
43 registry identification cards ¹and alternative treatment center
44 permits¹ revoked, and the number of physicians providing written
45 certifications for patients. The report shall not contain any
46 identifying information of patients, caregivers¹, alternative
47 treatment centers,¹ or physicians.]²

1 ²3. (New section) As used in this act:

2 “Bona fide physician-patient relationship” means a relationship
3 in which the physician has ³[the]³ ongoing ³[primary]³
4 responsibility for the assessment, care and treatment of a patient’s
5 debilitating medical condition.

6 ³“Certification” means a statement signed by a physician with
7 whom a qualifying patient has a bona fide physician-patient
8 relationship, which attests to the physician’s authorization for the
9 patient to apply for registration for the medical use of marijuana.³

10 “Commissioner” means the Commissioner of Health and Senior
11 Services.

12 “Debilitating medical condition” means:

13 (1) ³one of the following conditions, if resistant to conventional
14 medical therapy:³ seizure disorder, including epilepsy³[.],³
15 intractable skeletal muscular spasticity^{3,3} or glaucoma ³[that is
16 resistant to conventional medical therapy]³;

17 (2) ³one of the following conditions, if severe or chronic pain,
18 severe nausea or vomiting, cachexia, or wasting syndrome results
19 from the condition or treatment thereof:³ positive status for human
20 immunodeficiency virus, acquired immune deficiency syndrome, or
21 cancer ³[that results in severe or chronic pain, severe nausea or
22 vomiting, cachexia, or wasting syndrome]³;

23 (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal
24 cancer³, muscular dystrophy, or inflammatory bowel disease,
25 including Crohn’s disease;

26 (4) terminal illness, if the physician has determined a prognosis
27 of less than 12 months of life³; or

28 ³[(4)] (5)³ any other medical condition or its treatment that is
29 approved by the department by regulation.

30 “Department” means the Department of Health and Senior
31 Services.

32 “Marijuana” has the meaning given in section 2 of the “New
33 Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226
34 (C.24:21-2).

35 “Medical marijuana alternative treatment center” or “alternative
36 treatment center” means ³[a nonprofit] an³ organization approved
37 by the department to perform activities necessary to provide
38 registered qualifying patients with usable marijuana and related
39 paraphernalia in accordance with the provisions of this act. This
40 term shall include the organization’s officers, directors, board
41 members, and employees.

42 “Medical use of marijuana” means the acquisition, possession,
43 ³transport,³ or use of marijuana or paraphernalia by a registered
44 qualifying patient as authorized by this act.

1 “Minor” means a person who is under 18 years of age and who
2 has not been married or previously declared by a court or an
3 administrative agency to be emancipated.

4 “Paraphernalia” has the meaning given in N.J.S.2C:36-1.

5 “Physician” means a person licensed to practice medicine and
6 surgery pursuant to Title 45 of the Revised Statutes with whom the
7 patient has a bona fide physician-patient relationship and who is the
8 ³primary care physician, hospice physician, or³ physician
9 responsible for the ongoing ³[primary]³ treatment of a patient’s
10 debilitating medical condition ³, provided, however, that such
11 ongoing treatment shall not be limited to the provision of
12 authorization for a patient to use medical marijuana or consultation
13 solely for that purpose³.

14 ³“Primary caregiver” or “caregiver” means a resident of the State
15 who:

16 a. is at least 18 years old;

17 b. has agreed to assist with a registered qualifying patient’s
18 medical use of marijuana, is not currently serving as primary
19 caregiver for another qualifying patient, and is not the qualifying
20 patient’s physician;

21 c. has never been convicted of possession or sale of a
22 controlled dangerous substance, unless such conviction occurred
23 after the effective date of this act and was for a violation of federal
24 law related to possession or sale of marijuana that is authorized
25 under this act;

26 d. has registered with the department pursuant to section 4 of
27 this act, and has satisfied the criminal history record background
28 check requirement of section 4 of this act; and

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

32 “Qualifying patient” or “patient” means a ³[person] resident of
33 the State³ who has been provided with a ³[written]³ certification by
34 a physician pursuant to a bona fide physician-patient relationship.

35 “Registry identification card” means a document issued by the
36 department that identifies a person as a registered qualifying patient
37 ³or primary caregiver³.

38 “Usable marijuana” means the dried leaves and flowers of
39 marijuana, and any mixture or preparation thereof, and does not
40 include the seeds, stems, stalks or roots of the plant.

41 ³“Written certification” means a statement signed by a
42 physician with whom a qualifying patient has a bona fide physician-
43 patient relationship, which attests to the physician’s authorization
44 for the patient to apply for registration for the medical use of
45 marijuana.²]³

1 24. (New section) a. The department shall establish a registry of
2 qualifying patients³ and their primary caregivers,³ and shall issue a
3 registry identification card³ [that], which³ shall be valid for³ [one
4 year] two years,³ to a qualifying patient³ and primary caregiver, if
5 applicable,³ who submits the following, in accordance with
6 regulations adopted by the department:

7 (1) a [written]³ certification that meets the requirements of
8 section 5 of³ [P.L. , c. (C.)](pending before the Legislature
9 as this bill)] this act³;

10 (2) an application or renewal fee, which may be based on a
11 sliding scale as determined by the commissioner;

12 (3) the name, address and date of birth of the patient³ and
13 caregiver, as applicable³;³ and³

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

16 b. Before issuing a registry identification card, the department
17 shall verify the information contained in the application or renewal
18 form submitted pursuant to this section. ³In the case of a primary
19 caregiver, the department shall provisionally approve an application
20 pending the results of a criminal history record background check,
21 if the caregiver otherwise meets the requirements of this act.³ The
22 department shall approve or deny an application or renewal within
23 30 days of receipt of the³ completed³ application or renewal, and
24 shall issue a registry identification card within five days of
25 approving the application or renewal. The department may deny an
26 application or renewal only if the applicant fails to provide the
27 information required pursuant to this section, or if the department
28 determines that the information was incorrect or falsified or does
29 not meet the requirements of this act. Denial of an application shall
30 be a final agency decision, subject to review by the Superior Court,
31 Appellate Division.

32 c. ³(1) The commissioner shall require each applicant seeking to
33 serve as a primary caregiver to undergo a criminal history record
34 background check. The commissioner is authorized to exchange
35 fingerprint data with and receive criminal history record
36 background information from the Division of State Police and the
37 Federal Bureau of Investigation consistent with the provisions of
38 applicable federal and State laws, rules, and regulations. The
39 Division of State Police shall forward criminal history record
40 background information to the commissioner in a timely manner
41 when requested pursuant to the provisions of this section.

42 An applicant seeking to serve as a primary caregiver shall submit
43 to being fingerprinted in accordance with applicable State and
44 federal laws, rules, and regulations. No check of criminal history
45 record background information shall be performed pursuant to this
46 section unless the applicant has furnished his written consent to that

1 check. An applicant who refuses to consent to, or cooperate in, the
2 securing of a check of criminal history record background
3 information shall not be considered for inclusion in the registry as a
4 primary caregiver or issuance of an identification card. An
5 applicant shall bear the cost for the criminal history record
6 background check, including all costs of administering and
7 processing the check.

8 (2) The commissioner shall not approve an applicant seeking to
9 serve as a primary caregiver if the criminal history record
10 background information of the applicant reveals a disqualifying
11 conviction. For the purposes of this section, a disqualifying
12 conviction shall mean a conviction of a crime involving any
13 controlled dangerous substance or controlled substance analog as
14 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
15 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
16 of the United States of any other state.

17 (3) Upon receipt of the criminal history record background
18 information from the Division of State Police and the Federal
19 Bureau of Investigation, the commissioner shall provide written
20 notification to the applicant of his qualification or disqualification
21 for serving as a primary caregiver.

22 If the applicant is disqualified because of a disqualifying
23 conviction pursuant to the provisions of this section, the conviction
24 that constitutes the basis for the disqualification shall be identified
25 in the written notice.

26 (4) The Division of State Police shall promptly notify the
27 commissioner in the event that an individual who was the subject of
28 a criminal history record background check conducted pursuant to
29 this section is convicted of a crime or offense in this State after the
30 date the background check was performed. Upon receipt of that
31 notification, the commissioner shall make a determination regarding
32 the continued eligibility of the applicant to serve as a primary
33 caregiver.

34 (5) Notwithstanding the provisions of subsection b. of this
35 section to the contrary, no applicant shall be disqualified from
36 serving as a registered primary caregiver on the basis of any
37 conviction disclosed by a criminal history record background check
38 conducted pursuant to this section if the individual has affirmatively
39 demonstrated to the commissioner clear and convincing evidence of
40 rehabilitation. In determining whether clear and convincing
41 evidence of rehabilitation has been demonstrated, the following
42 factors shall be considered:

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

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

46 (c) the circumstances under which the crime or offense
47 occurred;

- 1 (d) the date of the crime or offense;
2 (e) the age of the individual when the crime or offense was
3 committed;
4 (f) whether the crime or offense was an isolated or repeated
5 incident;
6 (g) any social conditions which may have contributed to the
7 commission of the crime or offense; and
8 (h) any evidence of rehabilitation, including good conduct in
9 prison or in the community, counseling or psychiatric treatment
10 received, acquisition of additional academic or vocational
11 schooling, successful participation in correctional work-release
12 programs, or the recommendation of those who have had the
13 individual under their supervision.
14 d.³ A registry identification card shall contain the following
15 information:
16 (1) the name, address and date of birth of the patient ³and
17 primary caregiver, if applicable³;
18 (2) the ³[date of]³ expiration date of the registry identification
19 card;
20 (3) photo identification of the cardholder; and
21 (4) such other information that the department may specify by
22 regulation.
23 ³e. (1)³ A patient who has been issued a registry identification
24 card shall notify the department of any change in the patient's
25 name, address, or physician or change in status of the patient's
26 debilitating medical condition, within 10 days of such change, or
27 the registry identification card shall be deemed null and void.
28 ³(2) A primary caregiver who has been issued a registry
29 identification card shall notify the department of any change in the
30 caregiver's name or address within 10 days of such change, or the
31 registry identification card shall be deemed null and void.³
32 ³[d.] f.³ The department shall maintain a confidential list of the
33 persons to whom it has issued registry identification cards.
34 Individual names and other identifying information on the list, and
35 information contained in any application form, or accompanying or
36 supporting document shall be confidential, and shall not be
37 considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.)
38 or P.L.2001, c.404 (C.47:1A-5 et al.), and shall not be disclosed
39 except to:
40 (1) authorized employees of the department and the Division of
41 Consumer Affairs in the Department of Law and Public Safety as
42 necessary to perform official duties of the department and the
43 division, as applicable; and
44 (2) authorized employees of State or local law enforcement
45 agencies, only as necessary to verify that a person who is engaged
46 in the suspected or alleged medical use of marijuana is lawfully in
47 possession of a registry identification card.

1 ³[e.] g.³ Applying for or receiving a registry card does not
2 constitute a waiver of the qualifying patient's patient-physician
3 privilege.²

4
5 ²5. (New section) a. Medical use of marijuana by a qualifying
6 patient may be authorized pursuant to a ³[written]³ certification
7 which meets the requirements of this act. In order to provide such
8 ³[a written]³ certification, a physician shall be licensed and in good
9 standing to practice in the State ³[and be board-certified, if
10 available, in the specialty appropriate for the assessment, care, and
11 ongoing primary treatment of the debilitating medical condition for
12 which the medical use of marijuana is being considered]³.

13 The ³[written]³ certification shall attest that the above criteria
14 have been met.

15 b. The provisions of subsection a. of this section shall not
16 apply to a qualifying patient who is a minor unless the custodial
17 parent, guardian, or person who has legal custody of the minor,
18 consents in writing that the minor patient has that person's
19 permission for the medical use of marijuana and that the person will
20 control the acquisition and possession of the medical marijuana and
21 any related paraphernalia from the alternative treatment center.²

22
23 ²6. (New section) a. The provisions of N.J.S.2C:35-18 shall
24 apply to any qualifying patient, ³primary caregiver,³ alternative
25 treatment center, physician, or any other person acting in
26 accordance with the provisions of this act.

27 b. A qualifying patient, ³primary caregiver,³ alternative
28 treatment center, physician, or any other person acting in
29 accordance with the provisions of this act shall not be subject to any
30 civil or administrative penalty, or denied any right or privilege,
31 including, but not limited to, civil penalty or disciplinary action by
32 a professional licensing board, related to the medical use of
33 marijuana as authorized under this act.

34 c. Possession of, or application for, a registry identification
35 card shall not alone constitute probable cause to search the person
36 or the property of the person possessing or applying for the registry
37 identification card, or otherwise subject the person or his property
38 to inspection by any governmental agency.

39 d. The provisions of section 2 of P.L.1939, c.248 (C.26:2-82),
40 relating to destruction of marijuana determined to exist by the
41 department, shall not apply if a qualifying patient ³or primary
42 caregiver³ has in his possession a registry identification card and no
43 more than the maximum amount of usable marijuana that may be
44 obtained in accordance with section 10 of ³[P.L. , c. (C.)]
45 (pending before the Legislature as this bill)] this act³.

1 e. No person shall be subject to arrest or prosecution for
2 constructive possession, conspiracy or any other offense for simply
3 being in the presence or vicinity of the medical use of marijuana as
4 authorized under this act.

5 f. No custodial parent, guardian, or person who has legal
6 custody of a qualifying patient who is a minor shall be subject to
7 arrest or prosecution for constructive possession, conspiracy or any
8 other offense for assisting the minor in the medical use of marijuana
9 as authorized under this act.²

10
11 ²7. (New section) a. The department shall accept applications
12 from ³[nonprofit]³ entities ³for permits³ to operate as alternative
13 treatment centers, and may charge a reasonable fee for the issuance
14 of a permit under this section. The department shall seek to ensure
15 the availability of ³a sufficient number of³ alternative treatment
16 centers throughout the State, ³pursuant to need,³ including³[, to the
17 maximum extent practicable,]³ at least two each in the northern,
18 central, and southern regions of the State. ³The first two centers
19 issued a permit in each region shall be nonprofit entities, and
20 centers subsequently issued permits may be nonprofit or for-profit
21 entities.³

22 An alternative treatment center shall be authorized to acquire ³a
23 reasonable initial and ongoing inventory, as determined by the
24 department, of³ marijuana seeds or seedlings and paraphernalia,
25 possess, cultivate, plant, grow, harvest, process, display,
26 manufacture, deliver, transfer, transport, distribute, supply, sell, or
27 dispense marijuana, or related supplies to ³[registered]³ qualifying
28 patients ³or their primary caregivers³ who are registered with the
29 department pursuant to section 4 of ³[P.L. , c. (C.)](pending
30 before the Legislature as this bill)] this act³.

31 Applicants for authorization as ³[an] nonprofit³ alternative
32 treatment ³[center] centers³ shall be subject to all applicable State
33 laws governing nonprofit entities, but need not be recognized as a
34 501(c)(3) organization by the federal Internal Revenue Service.

35 b. The department shall require that an applicant provide such
36 information as the department determines to be necessary pursuant
37 to regulations adopted pursuant to this act.

38 c. A person who has been convicted of ³[possession or sale of
39 a controlled dangerous substance] a crime involving any controlled
40 dangerous substance or controlled substance analog as set forth in
41 chapter 35 of Title 2C of the New Jersey Statutes except paragraph
42 (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the
43 United States or any other state³ shall not be issued a permit to
44 operate as ³[a] an³ alternative treatment center or be a director,
45 officer, or employee of an alternative treatment center, unless such

1 conviction³ occurred after the effective date of this act and³ was for
2 a violation of federal law relating to possession or sale of marijuana
3 for conduct that is authorized under this act.

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

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

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

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

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

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

1 notification, the commissioner shall make a determination regarding
2 the continued eligibility to operate or be a director, officer, or
3 employee of an alternative treatment center.

4 (5) Notwithstanding the provisions of subsection b. of this
5 section to the contrary, the commissioner may offer provisional
6 authority for an applicant to be an employee of an alternative
7 treatment center for a period not to exceed three months if the
8 applicant submits to the commissioner a sworn statement attesting
9 that the person 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 on the basis of any conviction disclosed
14 by a criminal history record background check conducted pursuant
15 to this section if the individual has affirmatively demonstrated to
16 the commissioner clear and convincing evidence of rehabilitation.
17 In determining whether clear and convincing evidence of
18 rehabilitation has been demonstrated, the following factors shall be
19 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.³

38 e. The department shall issue a permit to a person to operate as
39 an alternative treatment center if the department finds that issuing
40 such a permit would be consistent with the purposes of this act and
41 the requirements of this section are met and the department has
42 verified the information contained in the application. The
43 department shall approve or deny an application within 60 days
44 after receipt of a completed application. The denial of an
45 application shall be considered a final agency decision, subject to
46 review by the Appellate Division of the Superior Court. The
47 department may suspend or revoke a permit to operate as an

1 alternative treatment center for cause, which shall be subject to
2 review by the Appellate Division of the Superior Court.

3 f. A person who has been issued a permit pursuant to this
4 section shall display the permit at the premises of the alternative
5 treatment center at all times when marijuana is being produced, or
6 dispensed to a registered qualifying patient³ or the patient's primary
7 caregiver³.

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

11 h. An alternative treatment center may charge a registered
12 qualifying patient³ or primary caregiver³ for the reasonable costs
13 associated with the production and distribution of marijuana for the
14 cardholder.

15 i. The commissioner shall adopt regulations to:

16 (1)³ [provide for the use by a registered qualifying patient of a
17 designated individual in an emergency situation to transport
18 marijuana to the patient who is otherwise unable to obtain
19 marijuana from an alternative treatment center; and

20 (2)³ require such written documentation of each delivery of
21 marijuana to, and pickup of marijuana for, a registered qualifying
22 patient, including the date and amount dispensed, to be maintained
23 in the records of the alternative treatment center, as the
24 commissioner determines necessary to ensure effective
25 documentation of the operations of each alternative treatment
26 center³;

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

29 (3) ensure adequate security of all facilities 24 hours per day,
30 including production and retail locations, and security of all
31 delivery methods to registered qualifying patients^{3, 2}.

32
33 ²8. (New section) The provisions of this act shall not be
34 construed to permit a person to:

35 a. operate, navigate, or be in actual physical control of any
36 vehicle, aircraft, railroad train, stationary heavy equipment or vessel
37 while under the influence of marijuana; or

38 b. smoke marijuana in a school bus or other form of public
39 transportation, in a private vehicle unless the vehicle is not in
40 operation, on any school grounds, in any correctional facility, at any
41 public park or beach, at any recreation center, or in any place where
42 smoking is prohibited pursuant to N.J.S.2C:33-13.

43 A person who commits an act as provided in this section shall be
44 subject to such penalties as are provided by law.²

1 ²9. (New section) A person who knowingly sells, offers, or
2 exposes for sale, or otherwise transfers, or possesses with the intent
3 to sell, offer or expose for sale or transfer a document that falsely
4 purports to be a registration card issued pursuant to this act, or a
5 registration card issued pursuant to this act that has been altered, is
6 guilty of a crime of the third degree. A person who knowingly
7 presents to a law enforcement officer a document that falsely
8 purports to be registration card issued pursuant to this act, or a
9 registration card that has been issued pursuant to this act that has
10 been altered, is guilty of a crime of the fourth degree. The
11 provisions of this section are intended to supplement current law
12 and shall not limit prosecution or conviction for any other offense.²

13
14 ²10. (New section) a. A physician shall provide written
15 instructions for a registered ³qualifying³ patient ³or his caregiver³
16 to present to an alternative treatment center ³[, at the time of pickup
17 or delivery,]³ concerning the total amount of usable marijuana that
18 a patient may be dispensed, in weight, in a 30-day period, which
19 amount shall not exceed ³[one ounce] two ounces³. If no amount
20 is noted, the maximum amount that may be dispensed at one time is
21 ³[one ounce] two ounces³.

22 b. A physician may issue multiple written instructions at one
23 time authorizing the patient to receive a total of up to a 90-day
24 supply, provided that the following conditions are met:

25 (1) Each separate set of instructions shall be issued for a
26 legitimate medical purpose by the physician, as provided in this act;

27 (2) ³[The physician shall provide written instructions for each
28 dispensation, other than the first dispensation if it is to be filled
29 immediately, indicating] Each separate set of instructions shall
30 indicate³ the earliest date on which a center may dispense the
31 marijuana³, except for the first dispensation if it is to be filled
32 immediately³; and

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

36 c. A registered qualifying patient ³or his primary caregiver³
37 shall present the patient's ³or caregiver's³ registry identification
38 card³, as applicable,³ and these written instructions ³[at the time of
39 pickup or delivery, and] to³ the alternative treatment center³,
40 which³ shall verify and log the documentation presented. ³A
41 physician may provide a copy of a written instruction by electronic
42 or other means, as determined by the commissioner, directly to an
43 alternative treatment center on behalf of a registered qualifying
44 patient.³ The dispensation of marijuana pursuant to any written
45 instructions shall occur within one month of the date that the
46 instructions were written or the instructions are void.

1 d. A patient may be registered at only one alternative treatment
2 center at any time.²

3
4 ²11. (New section) a. A physician who provides ³[written] a³
5 certification or written instruction for the medical use of marijuana
6 to a qualifying patient pursuant to P.L. , c. (C.)(pending before the
7 Legislature as this bill) and any alternative treatment center shall
8 furnish to the Director of the Division of Consumer Affairs in the
9 Department of Law and Public Safety such information, in such a
10 format and at such intervals, as the director shall prescribe by
11 regulation, for inclusion in a system established to monitor the
12 dispensation of marijuana in this State for medical use as authorized
13 by the provisions of P.L. , c. (C.)(pending before the
14 Legislature as this bill), which system shall serve the same purpose
15 as³, and be cross-referenced with,³ the electronic system for
16 monitoring controlled dangerous substances established pursuant to
17 section 25 of P.L.2007, c.244 (C.45:1-45).

18 b. The Director of the Division of Consumer Affairs, pursuant
19 to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
20 1 et seq.), ³and³ in consultation with the Commissioner of Health
21 and Senior Services, shall adopt rules and regulations to effectuate
22 the purposes of subsection a. of this section.

23 c. Notwithstanding any provision of P.L.1968, c.410 to the
24 contrary, the Director of the Division of Consumer Affairs shall
25 adopt, immediately upon filing with the Office of Administrative
26 Law and no later than the 90th day after the effective date of ³[this
27 act] P.L. , c. (C.)(pending before the Legislature as this
28 bill)³, such regulations as the director deems necessary to
29 implement the provisions of subsection a. of this section.
30 Regulations adopted pursuant to this subsection shall be effective
31 until the adoption of rules and regulations pursuant to subsection b.
32 of this section and may be amended, adopted, or readopted by the
33 director in accordance with the requirements of P.L.1968, c.410.²

34
35 ²12. N.J.S.2C:35-18 is amended to read as follows:

36 2C:35-18. Exemption; Burden of Proof. a. If conduct is
37 authorized by the provisions of P.L.1970, c.226 (C.24:21-1 et seq.)
38 or P.L. , c. (C.)(pending before the Legislature as this bill),
39 that authorization shall, subject to the provisions of this section,
40 constitute an exemption from criminal liability under this chapter or
41 chapter 36, and the absence of such authorization shall not be
42 construed to be an element of any offense in this chapter or chapter
43 36. It is an affirmative defense to any criminal action arising under
44 this chapter or chapter 36 that the defendant is the authorized holder
45 of an appropriate registration, permit or order form or is otherwise
46 exempted or excepted from criminal liability by virtue of any
47 provision of P.L.1970, c 226 (C.24:21-1 et seq.) or P.L. ,

1 c. (C.) (pending before the Legislature as this bill). The
2 affirmative defense established herein shall be proved by the
3 defendant by a preponderance of the evidence. It shall not be
4 necessary for the State to negate any exemption set forth in this act
5 or in any provision of Title 24 of the Revised Statutes in any
6 complaint, information, indictment or other pleading or in any trial,
7 hearing or other proceeding under this act.

8 b. No liability shall be imposed by virtue of this chapter or
9 chapter 36 upon any duly authorized State officer, engaged in the
10 enforcement of any law or municipal ordinance relating to
11 controlled dangerous substances or controlled substance analogs.²
12 (cf: P.L.1988, c.44, s.8)

13
14 ²13. (New section) a. The commissioner may accept from any
15 governmental department or agency, public or private body or any
16 other source grants or contributions to be used in carrying out the
17 purposes of this act.

18 b. All fees collected pursuant to this act, including those from
19 qualifying patients and alternative treatment centers' initial,
20 modification and renewal applications, shall be used to offset the
21 cost of the department's administration of the provisions of this
22 act.²

23
24 ²14. (New section) a. The commissioner shall report to the
25 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
26 c.164 (C.52:14-19.1):

27 (1) no later than one year after the effective date of this act, on
28 the actions taken to implement the provisions of this act; and

29 (2) annually thereafter on the number of applications for registry
30 identification cards, the number of qualifying patients registered,
31 ³the number of primary caregivers registered,³ the nature of the
32 debilitating medical conditions of the patients, the number of
33 registry identification cards revoked, ³the number of alternative
34 treatment center permits issued and revoked,³ and the number of
35 physicians providing ³[written]³ certifications for patients.

36 b. The reports shall not contain any identifying information of
37 patients³, caregivers,³ or physicians.²

38 ³c. Within two years after the effective date of this act and
39 every two years thereafter, the commissioner shall: evaluate
40 whether there are sufficient numbers of alternative treatment centers
41 to meet the needs of registered qualifying patients throughout the
42 State; evaluate whether the maximum amount of medical marijuana
43 allowed pursuant to this act is sufficient to meet the medical needs
44 of qualifying patients; and determine whether any alternative
45 treatment center has charged excessive prices for marijuana that the
46 center dispensed.

1 The commissioner shall report his findings no later than two
 2 years after the effective date of this act, and every two years
 3 thereafter, to the Governor, and to the Legislature pursuant to
 4 section 2 of P.L.1991, c.164 (C.52:14-19.1).³
 5

6 ²15. (New section) a. The Department of Health and Senior
 7 Services is authorized to exchange fingerprint data with, and
 8 receive information from, the Division of State Police in the
 9 Department of Law and Public Safety and the Federal Bureau of
 10 Investigation for use in reviewing applications ³for individuals
 11 seeking to serve as primary caregivers pursuant to section 4 of
 12 P.L. , c. (C.)(pending before the Legislature as this bill), and³
 13 for ³[a permit] permits³ to operate as, or to be a director, officer^{3,3}
 14 or employee of, ³[an]³ alternative treatment ³[center] centers³
 15 pursuant to section 7 of P.L. , c. (C.)(pending before the
 16 Legislature as this bill).

17 b. The Division of State Police shall promptly notify the
 18 Department of Health and Senior Services in the event an applicant
 19 ³seeking to serve as a primary caregiver or an applicant³ for a
 20 permit to operate as, or to be a director, officer^{3,3} or employee of,
 21 an alternative treatment center^{3,3} who was the subject of a criminal
 22 history record background check conducted pursuant to subsection
 23 a. of this section, is convicted of a crime involving possession or
 24 sale of a controlled dangerous substance.²
 25

26 ¹[10.] ²[12.¹] 16. (New section)² Nothing in this act shall be
 27 construed to require a government medical assistance program or
 28 private health insurer to reimburse a person for costs associated
 29 with the medical use of marijuana, or an employer to accommodate
 30 the medical use of marijuana in any workplace.
 31

32 ¹[11.] ²[13.¹] The State shall not be held liable for any
 33 deleterious outcomes from the medical use of marijuana by any
 34 qualifying patient.]²
 35

36 ¹[12.] ²[14. a.¹] Pursuant to the “Administrative Procedure Act,”
 37 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall
 38 promulgate rules and regulations to effectuate the purposes of this
 39 act. The regulations shall establish: the application and renewal
 40 form, process and fee schedule; and the manner in which the
 41 department will consider petitions from the public to add
 42 debilitating medical conditions to those included in this act.

43 ¹b. Notwithstanding any provision of P.L.1968, c.410 to the
 44 contrary, the commissioner shall adopt, immediately upon filing
 45 with the Office of Administrative Law and no later than the 90th
 46 day after the effective date of this act, such regulations as the

1 commissioner deems necessary to implement the provisions of
2 section 9 of this act. Regulations adopted pursuant to this
3 subsection shall be effective until the adoption of rules and
4 regulations pursuant to subsection a. of this section and may be
5 amended, adopted, or readopted by the commissioner in accordance
6 with the requirements of P.L.1968, c.410. ¹]²

7
8 ¹[13.] ²[15. ¹ This act shall take effect 90 days after
9 enactment.]²

10
11 ²17. (New section) In addition to any immunity or defense
12 provided by law, the State and any employee or agent of the State
13 shall not be held liable for any actions taken in accordance with this
14 act or for any deleterious outcomes from the medical use of
15 marijuana by any registered qualifying patient. ²

16
17 ²18. (New section) a. Pursuant to the “Administrative Procedure
18 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall
19 promulgate rules and regulations to effectuate the purposes of this
20 act, in consultation with the Department of Law and Public Safety.

21 ³[The regulations shall establish: the form, process and fee
22 schedule for initial, modification and renewal applications for
23 qualifying patients and alternative treatment centers that are
24 complete and accurate; the considerations to be used to determine
25 whether to approve an application for an alternative treatment
26 center, including its operational procedures; the form and manner in
27 which the department will function, including the consideration and
28 approval of petitions to add new debilitating medical conditions to
29 those included in this act; validating written certifications and other
30 information contained in applications received from prospective and
31 current qualifying patients and alternative treatment centers;
32 protections for ensuring the confidentiality of the information
33 submitted by prospective and current qualifying patients and
34 alternative treatment centers, and that contained in the registry;
35 monitoring, oversight and investigation of physicians who issue
36 written certifications, with authority to refer physicians in violation
37 of provisions of this act to the State Board of Medical Examiners;
38 procedures for the revocation or suspension of a qualifying patient’s
39 registry identification card; monitoring, oversight and investigation
40 of all activities performed by an alternative treatment center; the
41 methods for testing, authenticating and guaranteeing the quality,
42 safety and quantity of marijuana sold to registered qualifying
43 patients; which strains of marijuana shall be sold by an alternative
44 treatment center; procedures to guarantee the quality and safety of
45 paraphernalia sold to registered qualifying patients; standards to
46 ensure adequate security of all facilities, including production and
47 retail locations, and security of all delivery methods to registered

1 qualifying patients; and the authority and process for the
2 department to assume control of an alternative treatment center's
3 facilities, equipment, inventory and other items necessary for the
4 department to serve as an alternative treatment center in the event
5 an alternative treatment center is no longer able to operate or meet
6 its requirements]³.

7 b. Notwithstanding any provision of P.L.1968, c.410 to the
8 contrary, the commissioner shall adopt, immediately upon filing
9 with the Office of Administrative Law and no later than the 90th
10 day after the effective date of this act, such regulations as the
11 commissioner deems necessary to implement the provisions of this
12 act. Regulations adopted pursuant to this subsection shall be
13 effective until the adoption of rules and regulations pursuant to
14 subsection a. of this section and may be amended, adopted, or
15 readopted by the commissioner in accordance with the requirements
16 of P.L.1968, c.410.²

17
18 ²19. This act shall take effect on the first day of the ³[12th]
19 sixth³ month after enactment, but the commissioner ³and the
20 Director of the Division of Consumer Affairs³ may take such
21 anticipatory administrative action in advance thereof as may be
22 necessary to effectuate the provisions of this act.²