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SPONSOR	

AN ACT concerning medical marijuana and amending and supplementing P.L.2009, c.307.

Expands qualifying conditions for medical marijuana; requires issuance of additional dispensary permits; revises requirements for physicians to authorize qualifying patients; and revises application, ownership, and operational requirements for alternative treatment centers.

PRIME Sponsor \_\_\_\_\_ / \_\_\_\_\_

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Same as \_\_\_\_\_ 16/17      Same as \_\_\_\_\_ 18/19

AN ACT concerning medical marijuana and amending and supplementing P.L.2009, c.307.

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

1. Section 3 of P.L.2009, c.307 (C.24:6I-3) is amended to read as follows:

3. As used in **[this act]** P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22), and P.L. , c. (C. ) (pending before the Legislature as this bill):

“ATC identification card” means a document issued by the department that identifies a person as an owner, director, board member, principal officer, or employee of an ATC.

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

“Central region” means the counties of Hunterdon, Middlesex, Mercer, Monmouth, Ocean, Somerset, and Union.

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

"Commissioner" means the Commissioner of Health.

“Common ownership or control” means:

(1) between two for-profit entities, the same individuals or entities own and control more than 50 percent of both entities;

(2) between a nonprofit entity and a for-profit entity, a majority of the directors, trustees, or members of the governing body of the nonprofit entity directly or indirectly own and control more than 50 percent of the for-profit entity; and

(3) between two nonprofit entities, the same directors, trustees, or governing body members comprise a majority of the voting directors, trustees, or governing body members of both nonprofits.

“Cultivate” means possessing, planting, propagating, cultivating, growing, harvesting, processing, labeling, manufacturing, compounding, and storing medical marijuana consistent with P.L.2009, c.307 (C.24:6I-1 et al.).

"Debilitating medical condition" means:

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

(2) one of the following conditions, if severe or chronic pain, severe nausea or vomiting, cachexia, or wasting syndrome results from the condition or treatment thereof: positive status for human

**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.

immunodeficiency virus; acquired immune deficiency syndrome; or cancer;

(3) amyotrophic lateral sclerosis, multiple sclerosis, terminal cancer, muscular dystrophy, or inflammatory bowel disease, including Crohn's disease;

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

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

"Department" means the Department of Health.

"Immediate family" means the spouse, child, sibling, or parent of an individual, and shall include the siblings and parents of the individual's spouse and the spouse of the individual's child.

"Interest holder" means a direct or indirect owner, part owner, investor, lender, stockholder, officer, director, partner, or member of any corporation, partnership, limited liability company, limited liability partnership, employee cooperative, association, nonprofit corporation, business entity, or any other person with a direct ownership interest or indirect interest through intermediary business entities or other structures in an alternative treatment center.

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

"Medical marijuana alternative treatment center" or "alternative treatment center" or "ATC" means an organization **[approved]** issued a permit by the department to **[perform activities necessary to provide registered qualifying patients with usable marijuana and related paraphernalia in accordance with the provisions of this act]** operate as a medical marijuana cultivator-processor or as a medical marijuana dispensary. This term shall include the organization's officers, directors, board members, and employees.

"Medical marijuana cultivator-processor" means an organization holding a permit issued by the department that authorizes the organization to: possess and cultivate marijuana; produce, manufacture, or otherwise create marijuana-infused and marijuana-derived products; and deliver, transfer, transport, distribute, supply, and sell medical marijuana, marijuana-infused products, marijuana-derived products, and related supplies to medical marijuana dispensaries. A medical marijuana cultivator-processor permit shall not authorize the permit holder to deliver, transfer, transport, distribute, supply, sell, or dispense medical marijuana, marijuana-infused products, marijuana-derived products, or related supplies to qualifying patients or their primary caregivers.

"Medical marijuana dispensary" means an organization issued a permit by the department that authorizes the organization to obtain medical marijuana, marijuana-infused products, and marijuana derived products from a medical marijuana cultivator-processor, and to possess, display, deliver, transfer, transport, distribute, supply, sell, and dispense medical marijuana, marijuana-infused

products, marijuana-derived products, and related supplies to qualifying patients and their primary caregivers. A medical marijuana dispensary permit shall not authorize the permit holder to cultivate marijuana or to manufacture or process marijuana-infused or marijuana-derived products.

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

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

"Northern region" means the counties of Bergen, Essex, Hudson, Morris, Passaic, Sussex, and Warren.

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

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

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

- a. is at least 18 years old;
- b. has agreed to assist with a registered qualifying patient's medical use of marijuana, is not currently serving as primary caregiver for another qualifying patient, and is not the qualifying patient's physician;
- c. subject to the provisions of paragraph (2) of section 4 of P.L.2009, c.307 (C.24:6I-4), has never been convicted of possession or sale of a controlled dangerous substance, unless such conviction occurred after the effective date of **[this act]** P.L.2009, c.307 (C.24:6I-1 et al.) and was for a violation of federal law related to possession or sale of marijuana that is authorized under **[this act]** P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22), and P.L. , c. (C. ) (pending before the Legislature as this bill);
- d. has registered with the department pursuant to section 4 of **[this act]** P.L.2009, c.307 (C.24:6I-4), and has satisfied the criminal history record background check requirement of section 4 of **[this act]** P.L.2009, c.307 (C.24:6I-4); and
- e. has been designated as primary caregiver on the qualifying patient's application or renewal for a registry identification card or in other written notification to the department.

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

"Region" means the northern region, the central region, or the southern region, as defined in this section.

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

"Southern region" means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem.

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

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

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

4. a. The department shall establish a registry of qualifying patients and their primary caregivers, and shall issue a registry identification card, which shall be valid for two years, to a qualifying patient and primary caregiver, if applicable, who submits the following, in accordance with regulations adopted by the department:

(1) a certification that meets the requirements of section 5 of **[this act]** P.L.2009, c.307 (C.24:6I-5);

(2) an application or renewal fee, which may be based on a sliding scale as determined by the commissioner and which, for a period commencing on the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) and ending on June 30, 2020, shall not exceed \$10 for patients who are indigent and \$50 for all other cardholders. Thereafter, the commissioner may revise the maximum application and renewal fees by regulation;

(3) the name, address, and date of birth of the patient and caregiver, as applicable; and

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

b. Before issuing a registry identification card, the department shall verify the information contained in the application or renewal form submitted pursuant to this section. In the case of a primary caregiver, the department shall provisionally approve an application pending the results of a criminal history record background check, if the caregiver otherwise meets the requirements of **[this act]** P.L.2009, c.307 (C.24:6I-1 et al.). The department shall approve or deny an application or renewal within 30 days of receipt of the completed application or renewal, and shall issue a registry identification card within five days of approving the application or renewal. The department may deny an application or renewal only if the applicant fails to provide the information required pursuant to this section, or if the department determines that the information

was incorrect or falsified or does not meet the requirements of **[this act]** P.L.2009, c.307 (C.24:6I-1 et al.). Denial of an application shall be a final agency decision, subject to review by the Superior Court, Appellate Division.

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

An applicant seeking to serve as a primary caregiver shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished **[his]** the applicant's written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for inclusion in the registry as a primary caregiver or issuance of an identification card. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

(2) The commissioner shall not approve an applicant seeking to serve as a primary caregiver if the criminal history record background information of the applicant reveals a disqualifying conviction. For the purposes of this section, a disqualifying conviction shall mean a conviction of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except **[paragraph]** : subparagraph (b) of paragraph (10) of subsection b. of N.J.S.2C:35-5, paragraphs (11) or (12) of subsection b. of N.J.S.2C:35-5, or paragraphs (3) or (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or of any other state.

(3) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the commissioner shall provide written notification to the applicant of **[his]** the applicant's qualification or disqualification for serving as a primary caregiver.

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

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

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

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

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

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

(d) the date of the crime or offense;

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

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

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

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

d. A registry identification card shall contain the following information:

(1) the name, address, and date of birth of the patient and primary caregiver, if applicable;

(2) the expiration date of the registry identification card;

(3) photo identification of the cardholder; and

(4) such other information that the department may specify by regulation.

e. (1) A patient who has been issued a registry identification card shall notify the department of any change in the patient's name, address, or physician or change in status of the patient's debilitating medical condition, within 10 days of such change, or the registry identification card shall be deemed null and void.

(2) A primary caregiver who has been issued a registry identification card shall notify the department of any change in the caregiver's name or address within 10 days of such change, or the registry identification card shall be deemed null and void.

f. The department shall maintain a confidential list of the persons to whom it has issued registry identification cards. Individual names and other identifying information on the list, and information contained in any application form, or accompanying or supporting document shall be confidential, and shall not be considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.), and shall not be disclosed except to:

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

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

g. Applying for or receiving a registry card does not constitute a waiver of the qualifying patient's patient-physician privilege.

(cf: P.L.2009, c.307, s.4)

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

5. a. Medical use of marijuana by a qualifying patient may be authorized pursuant to a certification which meets the requirements of **[this act]** P.L.2009, c.307 (C.24:6I-1 et al.) and subsection c. of this section. In order to provide such certification, a physician shall be licensed and in good standing to practice in the State, shall possess active registrations to prescribe controlled dangerous substances issued by the United States Drug Enforcement Administration and the Division of Consumer Affairs in the Department of Law and Public Safety, and shall have a bona fide physician-patient relationship with the patient. A physician shall not be required to enroll in any medical marijuana physician registry or undergo any additional registration process as a condition for authorizing patients for the medical use of marijuana; however, the department may create a voluntary physician registry, that physicians may choose to enroll in and may be used as a reference source by individuals seeking treatment for a debilitating medical condition.

The certification shall attest that the above criteria have been met.

b. (1) The provisions of subsection a. of this section shall not apply to a qualifying patient who is a minor unless the custodial parent, guardian, or person who has legal custody of the minor receives from the physician an explanation of the potential risks and



benefits of the medical use of marijuana and consents in writing that the minor patient has that person's permission for the medical use of marijuana and that the person will control the acquisition and possession of the medical marijuana and any related paraphernalia from the **【alternative treatment center】** medical marijuana dispensary. The physician shall document the explanation of the potential risks and benefits in the minor patient's medical record.

(2) When issuing a certification pursuant to subsection a. of this section for a qualifying patient who is a minor, if the treating physician is not trained in the care of pediatric patients, the treating physician shall, prior to issuing the certification, obtain written confirmation from a physician trained in the care of pediatric patients establishing, in the physician's professional opinion, and following an examination of the minor patient or review of the minor patient's medical record, that the minor patient is likely to receive therapeutic or palliative benefits from the medical use of marijuana to treat or alleviate symptoms associated with the patient's debilitating medical condition. If the treating physician is trained in the care of pediatric patients, no additional written confirmation from any other physician shall be required as a condition of issuing a certification for a qualifying patient who is a minor pursuant to this paragraph.

c. A certification issued pursuant to subsection a. of this section shall include:

- (1) the physician's name, address, and telephone number;
- (2) the physician's license number issued by the New Jersey Board of Medical Examiners;
- (3) a statement that the physician is licensed and in good standing to practice medicine in this State and possesses active registrations to prescribe controlled dangerous substances issued by the Division of Consumer Affairs in the Department of Law and Public Safety and the United States Drug Enforcement Administration;
- (4) a statement that the physician has an ongoing responsibility for the assessment, care, and treatment of the patient's debilitating medical condition;
- (5) the patient's name, address, and telephone number;
- (6) the patient's diagnosis;
- (7) a statement that the patient's diagnosis qualifies as a debilitating medical condition that authorizes the patient to use medical marijuana consistent with P.L.2009, c.307 (C.24:6I-1 et al.);
- (8) written instructions for medical marijuana that meet the requirements of section 10 of P.L.2009, c.307 (C.24:6I-10);
- (9) the physician's certification that the physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and has documented the explanation in the patient's medical record; and
- (10) a statement, which shall read as follows:

(a) in the case of a qualifying patient who is an adult:

“I have completed a comprehensive history and physical on this patient and have documented an assessment and treatment plan. I have provided education to the patient on the lack of scientific consensus for the use of medical marijuana, its sedative properties, and the risk of addiction. The patient has provided informed consent. I will continue to follow this patient at a minimum of every 12 months and reassess the patient’s debilitating medical condition and responses to treatment options.”; or

(b) in the case of a qualifying patient who is a minor:

“I have completed a comprehensive history and physical on this patient and have documented an assessment and treatment plan. I have provided education to the patient and to the patient’s parent or guardian on the lack of scientific consensus for the use of medical marijuana, its sedative properties, and the risk of addiction. The patient and the patient’s parent or guardian have provided informed consent. I will continue to follow this patient at a minimum of every three months and reassess the patient’s debilitating medical condition and responses to treatment options.”

(cf: P.L.2013, c.160, s.1)

4. (New section) a. Except as provided in subsection b. of this section, no physician who has issued a certification pursuant to section 5 of P.L.2009, c.307 (C.24:6I-5) within the past 12 months, and no member of such physician’s immediate family, shall be an interest holder in, or receive any form of direct or indirect compensation from, any alternative treatment center.

b. Nothing in subsection a. of this section shall be construed to prevent a physician from serving on the medical advisory board of an alternative treatment center established pursuant to section 8 of P.L. , c. (C. ) (pending before the Legislature as this bill) and receiving a reasonable stipend for such service, provided that:

(1) the stipend does not exceed the stipend paid to any other member of the medical advisory board for serving on the board; and

(2) the amount of the stipend is not based on patient volumes at the alternative treatment center or on the number of certifications issued by the physician pursuant to section 5 of P.L.2009, c.307 (C.24:6I-5).

c. A physician, or an immediate family member of a physician, who applies for an ATC identification card shall certify that the physician has not issued a certification pursuant to section 5 of P.L.2009, c.307 (C.24:6I-5) within the 12 months immediately preceding the date of the application.

d. A person who violates subsection a. of this section shall be guilty of a crime of the fourth degree.

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

7. a. The department shall accept applications from entities for permits to operate as alternative treatment centers **],** and may charge a reasonable fee for the issuance of a permit under this section**].** **[**The department shall seek to ensure the availability of a sufficient number of**]** To ensure adequate access to alternative treatment centers throughout the State, [pursuant to need, including at least two] the department shall grant permits to two medical marijuana cultivator-processors and at least six medical marijuana dispensaries in each [in] of the northern, central, and southern regions of the State, for a total of six medical marijuana cultivator-processor permits and 18 medical marijuana dispensary permits; this total number of permits shall include the six alternative treatment center permits issued prior to the effective date of P.L. , c. (pending before the Legislature as this bill), which shall constitute the six medical marijuana cultivator-processor permits and six of the medical marijuana dispensary permits, plus the 12 medical marijuana dispensary permits issued pursuant to section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill). The department shall not issue any additional alternative treatment center permits until such time as the active patient registry has reached 270,000 qualified patients, at which time the department shall evaluate whether the number of existing alternative treatment centers is sufficient to meet the needs of qualified patients in the State, and, if it determines additional alternative treatment centers are needed to meet the needs of qualifying patients, make a request for applications and issue up to three additional medical marijuana cultivator-processor permits and up to nine additional medical marijuana dispensary permits, which shall be equally distributed among the northern, central, and southern regions of the State.

An initial application for a medical marijuana dispensary permit shall meet the application requirements set forth in subsection b. of section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill). An initial application for a medical marijuana cultivator-processor permit, if requested by the department, shall meet such requirements as the department specifies by rule or regulation.

An alternative treatment center holding a permit that was issued prior to the effective date of P.L. , c. (pending before the Legislature as this bill) shall be deemed to hold both a medical marijuana cultivator-processor permit and a medical marijuana dispensary permit, and shall be authorized to hold both permits concurrently. **[**The first two centers issued a permit in each region shall be nonprofit entities, and centers subsequently issued permits may be nonprofit or for-profit entities**]**

No interest holder, or natural person with a direct or indirect interest through intermediary business entities or other structures, in any medical marijuana cultivator-processor, shall own, either in whole or in part, or be directly or indirectly interested in, a medical marijuana dispensary. The foregoing shall not apply to interest

holders of a medical marijuana alternative treatment center issued a permit by the department prior to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill).

No interest holder, or natural person with a direct or indirect interest through intermediary business entities or other structures, in any medical marijuana dispensary, shall own, either in whole or in part, or be directly or indirectly interested in, a medical marijuana cultivator-processor. The foregoing shall not apply to interest holders of a medical marijuana alternative treatment center issued a permit by the department prior to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill).

No natural person or entity shall hold an interest in more than one medical marijuana cultivator-processor or more than one medical marijuana dispensary at any time, except that, an interest holder in a medical marijuana alternative treatment center may concurrently hold up to a 10 percent ownership interest in up to one additional medical marijuana alternative treatment center.

None of the ownership restrictions set forth in this subsection shall be construed to be implicated solely by any person's ownership of less than one percent of the total capitalization of a publicly traded company, provided that the stockholder is not also an employee, officer, or director of the publicly traded company.

**【An alternative treatment center】** A medical marijuana cultivator-processor shall be authorized to acquire a reasonable initial and ongoing inventory, as determined by the department, of marijuana seeds or seedlings and paraphernalia, possess, cultivate, plant, grow, harvest, process, 【display,】 and manufacture medical marijuana and marijuana-infused and marijuana-derived products, and deliver, transfer, transport, distribute, supply, sell, or dispense medical marijuana, 【or】 marijuana-infused products, marijuana-derived products, and related supplies to any medical marijuana dispensary in the State. Medical marijuana dispensaries may purchase or acquire medical marijuana, marijuana-infused and marijuana-derived products, paraphernalia, and related supplies from any medical marijuana cultivator-processor in the State, and distribute, supply, sell, or dispense marijuana, marijuana-infused products, marijuana-derived products, and related supplies to qualifying patients or their primary caregivers who are registered with the department pursuant to section 4 of 【this act】 P.L.2009, c.307 (C.24:6I-4). **【An alternative treatment center】** A medical marijuana cultivator-producer shall not be limited in the number of strains of medical marijuana cultivated 【, and】 or the number of products manufactured. A medical marijuana cultivator-producer may package, and a medical marijuana dispensary may directly dispense 【marijuana】 to qualifying patients and their primary caregivers, medical marijuana in dried form, oral lozenges, topical formulations, transdermal form, sublingual form, tincture form, or edible form, or any other form as authorized by the commissioner.

Edible form shall include tablets, capsules, drops or syrups and any other form as authorized by the commissioner. **【Edible forms shall be available only to qualifying patients who are minors.】**

Applicants that choose to apply for authorization as **【nonprofit】** alternative treatment centers with nonprofit status shall be subject to all applicable State laws governing nonprofit entities, but need not be recognized as a 501(c)(3) organization by the federal Internal Revenue Service.

b. The department shall require that an applicant provide such information as the department determines to be necessary pursuant to regulations adopted pursuant to **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) and may, in its discretion, require any applicant to submit a personal history disclosure and conduct financial due diligence on any person or entity providing \$100,000 or more in financial backing to an applicant.

c. A person who has been convicted of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except **【paragraph】** : subparagraph (b) of paragraph (10) of subsection b. of N.J.S.2C:35-5, paragraphs (11) or (12) of subsection b. of N.J.S.2C:35-5, or paragraphs (3) or (4) of subsection a. of N.J.S.2C:35-10, or any similar law of the United States or any other state shall not be issued a permit to operate as an alternative treatment center or be **【a director, officer, or employee of an alternative treatment center】** issued an ATC identification card, unless such conviction occurred after the effective date of **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) and was for a violation of federal law relating to possession or sale of marijuana for conduct that is authorized under **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22), and P.L. , c. (C. ) (pending before the Legislature as this bill).

d. (1) The commissioner shall require each applicant seeking a permit to operate as an alternative treatment center to undergo a criminal history record background check. For purposes of this section, the term "applicant" shall include any applicant for an ATC identification card authorizing the individual to be an owner, director, board member, principal officer, or employee of an alternative treatment center. The commissioner is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable federal and State laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the commissioner in a timely manner when requested pursuant to the provisions of this section.

An applicant shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be

performed pursuant to this section unless the applicant has furnished **【his】** written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for **【a permit to operate, or authorization to be employed at, an alternative treatment center】** issuance of an ATC identification card. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

(2) The commissioner shall not approve an applicant for **【a permit to operate, or authorization to be employed at, an alternative treatment center】** issuance of an ATC identification card if the criminal history record background information of the applicant reveals a disqualifying conviction as set forth in subsection c. of this section.

(3) Upon receipt of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the commissioner shall provide written notification to the applicant of **【his】** the applicant's qualification for or disqualification for **【a permit to operate or】** issuance of an ATC identification card authorizing the individual to be 【a】 an owner, director, board member, principal officer, or employee of an alternative treatment center, as appropriate.

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

(4) The Division of State Police shall promptly notify the commissioner in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the commissioner shall make a determination regarding the continued eligibility to operate or be **【a】** an owner, director, board member, principal officer, or employee of an alternative treatment center.

(5) Notwithstanding the provisions of subsection b. of this section to the contrary, the commissioner may offer **【provisional authority for】** an applicant to be an employee of an alternative treatment center a provisional ATC identification card, which shall be valid for a period not to exceed three months, if the applicant submits to the commissioner a sworn statement attesting that the **【person】** applicant has not been convicted of any disqualifying conviction pursuant to this section.

(6) Notwithstanding the provisions of subsection b. of this section to the contrary, no employee of an alternative treatment center shall be disqualified from issuance of an ATC identification card on the basis of any conviction disclosed by a criminal history

record background check conducted pursuant to this section if the individual has affirmatively demonstrated to the commissioner clear and convincing evidence of rehabilitation. In determining whether clear and convincing evidence of rehabilitation has been demonstrated, the following factors shall be considered:

- (a) the nature and responsibility of the position which the convicted individual would hold, has held, or currently holds;
- (b) the nature and seriousness of the crime or offense;
- (c) the circumstances under which the crime or offense occurred;
- (d) the date of the crime or offense;
- (e) the age of the individual when the crime or offense was committed;
- (f) whether the crime or offense was an isolated or repeated incident;
- (g) any social conditions which may have contributed to the commission of the crime or offense; and
- (h) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

e. The department shall issue **【a permit to a person to operate as】** an alternative treatment center permit to an applicant if the department finds that issuing such a permit would be consistent with the purposes of **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) and the requirements of this section are met and the department has verified the information contained in the application. An initial permit to operate an alternative treatment center issued pursuant to this subsection shall be valid for three years, and thereafter shall be renewable biennially. The department shall approve or deny an application within 60 days after receipt of a completed application. The denial of an application shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. The department may suspend or revoke a permit to operate as an alternative treatment center for cause, which shall be subject to review by the Appellate Division of the Superior Court.

f. A person **【who has been】** or entity issued a medical marijuana cultivator-processor permit pursuant to this section shall display the permit at the premises of the **【alternative treatment center】** medical marijuana cultivator-processor facility at all times when marijuana is being produced, **【or】** , cultivated, processed, or manufactured, and a person who or entity issued a medical marijuana dispensary permit pursuant to this section shall display the permit on the premises of the medical marijuana dispensary at all times when medical marijuana is being dispensed to a registered qualifying patient or the patient's primary caregiver. An individual

who has been issued an ATC identification card shall have the card on the cardholder's person at all times that the individual is on the premises of an alternative treatment center.

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

h. **[An alternative treatment center]** A medical marijuana cultivator-processor may charge a medical marijuana dispensary for the reasonable costs associated with the production, cultivation, processing, and manufacture of medical marijuana and marijuana-infused and marijuana-derived products, and a medical marijuana dispensary may charge a registered qualifying patient or primary caregiver for the reasonable costs associated with the [production and] distribution of medical marijuana [for] to the cardholder.

i. The commissioner shall adopt regulations to:

(1) require such written documentation of each delivery of marijuana to, and pickup of marijuana for, a registered qualifying patient, including the date and amount dispensed, to be maintained in the records of the **[alternative treatment center]** medical marijuana dispensary, as the commissioner determines necessary to ensure effective documentation of the operations of each **[alternative treatment center]** medical marijuana dispensary;

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

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

j. A medical marijuana cultivator-processor facility may apply to the department for approval to relocate to another location within the same region, and a medical marijuana dispensary may apply to the department for approval to relocate to another location within the same county. The department may approve an application for relocation if the department finds the relocation would be consistent with the purposes of P.L.2009, c.307 (C.24:6I-1 et al.). The denial of an application to relocate a medical marijuana cultivator-processor facility or medical marijuana dispensary shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court.

k. (1) An alternative treatment center may apply to the department for approval to sell or transfer its permit to another entity. The department shall not approve the sale or transfer of an alternative treatment center permit until each applicant at the entity applying to purchase or receive the transfer of the permit undergoes a criminal history record background check pursuant to subsection d. of this section, the department finds that the sale or transfer of the permit would be consistent with the purposes of P.L.2009, c.307 (C.24:6I-1 et al.), the requirements of this section are met, and the department has verified the information contained in the



application. The department shall approve or deny an application within 90 days after receipt of a completed application. The denial of an application to sell or transfer an alternative treatment center permit shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. The sale or transfer of a permit pursuant to this subsection shall not constitute authorization to relocate the permitted facility unless the entity purchasing or receiving transfer of the permit additionally receives approval for the relocation from the department pursuant to subsection j. of this section.

(2) If a nonprofit alternative treatment center proposes to sell or transfer its permit to a for-profit entity, its board of directors may proceed with the sale or transfer upon receiving approval for the sale or transfer from the department pursuant to paragraph (1) of this subsection, and, except as provided in paragraph (3) of this subsection, after obtaining an independent appraisal for the fair market value of the permit. The sale or transfer of the permit shall be consistent with the requirements of the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq. The proceeds of the sale or transfer, following satisfaction of the alternative treatment center’s obligations, shall be retained or expended in a manner consistent with the requirements of the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq., or until the organization is lawfully wound down or dissolved. If a nonprofit alternative treatment center seeks to sell or transfer its permit to a for-profit entity with which it shares common ownership or control, the sale or transfer shall not proceed unless at least one disinterested director or trustee approves the sale or transfer in accordance with the requirements of the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq.

(3) If the debts and liabilities of a nonprofit alternative treatment center exceed the value of all assets of the alternative center, other than its alternative treatment center permit, the alternative treatment center may, in lieu of obtaining an independent appraisal of the fair market value of the permit as required under paragraph (2) of this subsection, and upon receiving approval for the sale from the department pursuant to paragraph (1) of this subsection, elect to pay the department a fee of \$300,000 and sell its alternative treatment center permit for a sum that satisfies its outstanding obligations.

1. The maximum fees that may be charged in connection with an alternative treatment center permit shall be as follows:

(1) for issuance of an initial three-year permit or biennial renewal of an existing permit, \$40,000;

(2) for authorization to relocate a medical marijuana cultivator-processor facility to a new location within the same region, or for authorization to relocate a medical marijuana dispensary to another location within the same county, \$20,000;

(3) except as otherwise provided in paragraph (3) of subsection k. of this section, to sell or transfer an alternative treatment center permit, \$150,000;

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

6. (New section) The department shall begin accepting and processing applications for 12 additional medical marijuana dispensaries, with four each to be located in the northern, central, and southern regions of the State, no later than 120 days after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill).

The department shall make a determination as to a permit application within 90 days after receiving the application, and shall issue an initial permit to an approved applicant immediately upon collection of the permit fee, unless the department finds the applicant is not implementing the plans, procedures, protocols, actions, or other measures set forth in the applicant's permit application submitted pursuant to section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill), or is otherwise not in compliance with the requirements of P.L.2009, c.307 (C.24:6I-1 et al.), in which case the department shall issue the permit to the next highest scoring applicant for that region that is in compliance with the applicant's permit application and the requirements of P.L.2009, c.307 (C.24:6I-1 et al.).

7. (New section) a. Each application for an initial three year permit to operate an alternative treatment center, and for biennial renewal of such permit, shall be submitted to the department. A separate application shall be required for each location at which an alternative treatment center seeks to operate. Renewal applications shall be submitted to the department no later than 90 days before the date the current permit will expire.

b. An initial medical marijuana dispensary permit application shall be evaluated and scored on a 100 point scale, consistent with the requirements of this subsection:

(1) Up to 21 points may be awarded for the summary of the applicant's operating plan, excluding safety and security criteria. The operating plan summary shall include a written description, of up 1,000 words per topic, concerning the applicant's qualifications for, experience in, and knowledge of each of the following topics:

(a) State-licensed dispensation of medical marijuana to qualified patients;

(b) healthcare, medicine, and treatment of patients with debilitating medical conditions;

(c) marijuana product evaluation procedures;

(d) recall plans;

(e) packaging and labeling;

(f) inventory control and point-of-sale software or systems for the sale of medical marijuana;

(g) patient counseling procedures;

(h) the routes of administration, strains, varieties, and cannabinoid profiles of medical marijuana products;

- (i) odor mitigation practices;
  - (j) onsite and offsite recordkeeping;
  - (k) the composition of the applicant's medical advisory board, if any;
  - (l) compliance with State and federal patient privacy rules;
  - (m) waste disposal plans; and
  - (n) compliance with applicable laws and regulations.
- (2) Up to four points may be awarded for the applicant's environmental impact plan, which shall not exceed five pages.
- (3) Up to 7.5 points may be awarded for the summary of the applicant's safety and security plans and procedures, which shall include descriptions of the following:
- (a) plans for the use of security personnel;
  - (b) the experience or qualifications of existing security personnel;
  - (c) security and surveillance features, including descriptions of any alarm systems, video surveillance systems, and access and visitor management systems, along with drawings identifying the proposed locations for surveillance cameras and other security features;
  - (d) plans for the storage of medical marijuana and medical marijuana products, including any safes, vaults, and climate control systems that will be utilized for this purpose;
  - (e) a diversion prevention plan;
  - (f) an emergency management plan;
  - (g) procedures for screening, monitoring, and performing criminal history record background checks of employees;
  - (h) cybersecurity procedures, procedures for collecting, processing, and storing patient data, and the applicant's familiarity with State and federal privacy laws;
  - (i) workplace safety plans and the applicant's familiarity with federal Occupational Safety and Health Administration regulations;
  - (j) the applicant's history of workers' compensation claims and safety assessments;
  - (k) procedures for reporting adverse events; and
  - (l) a sanitation practices plan.
- (4) Up to 15 total points may be awarded for the summary of the applicant's business experience, subject to the following requirements:
- (a) up to six points may be awarded for the description of the applicant's experience operating businesses in highly-regulated industries;
  - (b) up to six points may be awarded for a description of the applicant's experience in operating alternative treatment centers and related medical marijuana production and dispensation entities under the laws of New Jersey or any other state;
  - (c) up to three points may be awarded for the applicant's plan, which shall not exceed three pages, to comply with and mitigate the effects of 26 U.S.C. s.280E on marijuana businesses, and for

evidence that the applicant is not in arrears with respect to any tax obligation to the State.

In evaluating the experience described under subparagraphs (a) and (b) of this paragraph, the department shall afford the greatest weight to the experience of the applicant itself, controlling owners, and entities with common ownership or control with the applicant; followed by the experience of those with a 20 percent or greater ownership interest in the applicant's organization; followed by interest holders in the applicant's organization; followed by other officers, directors, and bona fide full-time employees of the applicant as of the submission date of the application.

(5) Up to 15 points may be awarded based on a description of the proposed location for the applicant's alternative treatment center site, which shall be awarded as follows:

(a) up to seven points may be awarded for a description of the proposed location, the surrounding area, and the suitability or advantages of the proposed location, along with a floor plan and optional renderings or architectural or engineering plans;

(b) four points may be awarded for submitting zoning approvals for the proposed location, which shall consist of a letter or affidavit from appropriate municipal officials that the location will conform to municipal zoning requirements allowing for the dispensing of medical marijuana, marijuana-infused and marijuana-derived products, and related supplies; and

(c) four points may be awarded for submitting proof of local support for the suitability of the location, which may be demonstrated by a letter from the municipality's highest-ranking official or by a resolution adopted by the municipality's governing body indicating that the intended location is appropriately located or otherwise suitable for the dispensing of medical marijuana, marijuana-infused and marijuana-derived products, and related supplies.

Notwithstanding any other provision of this subsection, an application shall be disqualified from consideration unless it includes documentation demonstrating that the applicant will have final control of the premises upon approval of the application, including, but not limited to, a lease agreement, contract for sale, title, deed, or similar documentation. In addition, if the applicant will lease the premises, the application will be disqualified from consideration unless it includes certification from the landlord that the landlord is aware that the tenant's use of the premises will involve dispensing of medical marijuana and medical marijuana products. An application shall not be disqualified from consideration if the application does not include the materials described in subparagraphs (b) or (c) of this paragraph.

(6) Up to 15 total points may be awarded in the community impact and social responsibility section of the application, subject to the following requirements:

(a) up to four points may be awarded for a community impact plan, not to exceed five pages, summarizing how the applicant intends to have a positive impact on the community in which the proposed medical marijuana dispensary is to be located, which shall include an economic impact plan, a description of outreach activities, and any financial assistance or discount plans the applicant will provide to qualifying patients and primary caregivers;

(b) up to three points may be awarded for a written description of the applicant's record of social responsibility, philanthropy, and ties to the proposed host community, which shall not exceed five pages; and

(c) up to four points may be awarded for a written description of any research the applicant has conducted on the medical efficacy or adverse effects of marijuana use and the applicant's participation in or support of marijuana-related research and educational activities, which shall not exceed three pages; and

(d) up to four points may be awarded for a written plan, which shall not exceed three pages, describing any research and development regarding the medical efficacy or adverse effects of marijuana, and any marijuana-related educational and outreach activities, the applicant intends to conduct if issued a permit by the department.

In evaluating the information submitted pursuant to subparagraphs (b) and (c) of this paragraph, the department shall afford the greatest weight to the experience of the applicant itself, controlling owners, and entities with common ownership or control with the applicant; followed by the experience of those with a 20 percent or greater ownership interest in the applicant's organization; followed by interest holders in the applicant's organization; followed by other officers, directors, and bona fide full-time employees of the applicant as of the submission date of the application.

(7) Up to 7.5 total points may be awarded for the applicant's workforce development and job creation plan, which may be awarded based on the following criteria:

(a) up to four points may be awarded for a description of the applicant's workforce development and job creation plan, which may include information on the applicant or its owners' history of job creation and planned job creation at its proposed medical marijuana dispensary; education, training, and resources to be made available for employees; any relevant certifications; and an optional diversity plan; and

(b) 3.5 points shall be awarded to any applicant that has executed a labor peace agreement or card check and neutrality agreement with a collective bargaining unit for the proposed medical marijuana dispensary. An applicant that does not submit the information described in this subparagraph shall not be disqualified from consideration.

(8) Up to 15 total points may be awarded for the description of applicant's business and financial plan:

(a) up to five points may be awarded for an executive summary of the applicant's business plan, which shall not exceed 1,500 words;

(b) up to five points may be awarded for a demonstration of the applicant's financial ability to implement its business plan, which shall not exceed 10 pages including attachments, and which may include, but shall not be limited to, bank statements, business and individual financial statements, net worth statements, and debt and equity financing statements. An applicant who demonstrates the availability of at least \$500,000 in a bank account in the applicant's name at the time the application is submitted shall be awarded full points under this subparagraph;

(c) up to five points may be awarded for a description of the applicant's experience complying with guidance pertaining to marijuana issued by the Financial Crimes Enforcement Network under 31 U.S.C. s.5311 et seq., the federal Bank Secrecy Act, which may be demonstrated by submitting letters regarding its banking history from banks or credit unions that certify they are aware of the business activities of the applicant, or entities with common ownership or control of the applicant's organization, in any state where the applicant has operated a business related to medical marijuana. For the purposes of this subparagraph, the department shall consider only bank references involving accounts in the name of the applicant or of an entity with common ownership or control of the applicant's organization. An applicant who does not submit the information described in this subparagraph shall not be disqualified from consideration.

(9) Up to a total of 30 bonus points may be added to the applicant's total score based on the following:

(a) If any of the applicant's majority or controlling owners were previously approved by the department to serve as an officer, director, principal, or key employee of an alternative treatment center, and the individual served in such capacity at the alternative treatment center for two or more years, the department shall award five bonus points, which shall be added to the applicant's total score. No points shall be deducted from the applicant's total score if none of the majority or controlling owners meet the requirements of this subparagraph.

(b) If an applicant can demonstrate that its governance structure includes the involvement of a licensed and accredited school of medicine or osteopathic medicine, or a licensed general acute care hospital, ambulatory care facility, nursing home, long term care facility, adult day care services program, or pharmacy, the department shall award 15 bonus points, which shall be added to the applicant's total score, provided the following conditions are met:

(i) the school, facility, or program has conducted or participated in institutional review board-approved research related to marijuana involving the use of human subjects;

(ii) the school, facility, or program holds a profit share or ownership interest in the applicant's organization of 10 percent or more; and

(iii) the school, facility, or program participates in major decision-making activities within the applicant's organization, which may be demonstrated by representation on the board of directors of the applicant's organization.

No points shall be deducted from the applicant's total score if the applicant's governance structure does not include a school, facility, or program that meets the requirements of this subparagraph.

(c) If the applicant submits evidence that the applicant, or an entity with common ownership or control with the applicant, has executed a collective bargaining agreement in the cannabis industry that has been in effect for at least six months as of the submission date of the application, the department shall award 10 bonus points, which shall be added to the applicant's total score. No points shall be deducted from the applicant's total score if the applicant has not executed a collective bargaining agreement in the cannabis industry that meets the requirements of this subparagraph.

c. In reviewing a medical marijuana dispensary initial permit application, unless the information is otherwise solicited by the department in a specific application question, the department's evaluation of the application shall be limited to the experience and qualifications of the applicant's organization, including any entities with common ownership or control of the applicant's organization, controlling owners or interest holders in the applicant's organization, and the officers, directors, and actual full-time existing employees of the applicant's organization. Responses pertaining to consultants, independent contractors, and prospective or part-time employees of the entity shall not be considered or scored. Each applicant shall certify as to the status of the individuals and entities included in the application.

d. To the extent possible, the department shall seek to ensure that at least 15 percent of the total number of new medical marijuana dispensary permits issued on or after the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) are issued to a qualified applicant that:

(1) has been certified as a minority business or as a women's business by the Division of Development for Small Businesses and Women's and Minority Businesses in the New Jersey Commerce and Economic Growth Commission pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.);

(2) has been certified as a veteran-owned business by the Department of the Treasury pursuant to P.L.2011, c.147 (C.52:32-49 et seq.); or

(3) is a disabled-veteran business, as defined in section 2 of P.L.2015, c.116 (C.52:32-31.2).

In selecting among applicants who meet these criteria, the Department of Health shall grant a higher preference to applicants with up to two groups in its ownership composition that meet the criteria described in this subsection.

e. No employee of the department shall have any direct or indirect financial interest in the cultivation, processing, or dispensing of medical marijuana or related paraphernalia, or otherwise receive anything of value from a medical marijuana dispensary permit applicant in exchange for reviewing, processing, or making any recommendations with respect to a permit application.

f. Application materials submitted to the department pursuant to this section not be considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to public records.

g. If the department notifies an applicant that it has scored sufficiently high on multiple applications to be awarded more than one medical marijuana dispensary permit by the department, the applicant shall notify the department, within seven business days after receiving such notice, as to which permit it will accept. For any permit award declined by an applicant pursuant to this subsection, the department shall, upon receiving notice from the applicant of the declination, award the permit to the applicant with the next highest score on an application for that permit in the same region. If an applicant fails to notify the department as to which permit it will accept, the department shall have the discretion to determine which permit it will award to the applicant, based on the department's determination of Statewide need and the scores awarded to other applications in the affected regions.

8. (New section) a. An alternative treatment center may appoint a medical advisory board to provide advice to the alternative treatment center on all aspects of its business.

b. A medical advisory board appointed pursuant to this section shall comprise five members: three health care professionals licensed to practice in New Jersey, at least one of whom shall be a physician; one qualifying patient; and one individual who owns a business in the same region in which the alternative treatment center is located. If the alternative treatment center is a medical marijuana dispensary, the qualifying patient member shall be registered with the dispensary; if the alternative treatment center is a medical marijuana cultivator-processor, the qualifying patient shall be registered with a medical marijuana dispensary located in the same region as the medical marijuana cultivator-processor. No ATC identification card holder may serve on a medical advisory board.



c. A medical advisory board appointed pursuant to this section shall meet at least two times per calendar year.

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

10. a. A physician shall provide written instructions for a registered qualifying patient or **【his】** the patient's primary caregiver to present to **【an alternative treatment center】** a medical marijuana dispensary concerning the total amount of usable marijuana that a patient may be dispensed, in weight, in a 30-day period, which amount shall not exceed **【two】** four ounces. If no amount is noted, the maximum amount that may be dispensed at one time is **【two】** four ounces.

b. A physician may issue multiple written instructions at one time authorizing **【the】** a qualifying patient who is an adult to receive a total of up to a one-year supply, or authorizing a qualifying patient who is a minor to receive a total of up to a 90-day supply, provided that the following conditions are met:

(1) Each separate set of instructions shall be issued for a legitimate medical purpose by the physician, as provided in **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.);

(2) Each separate set of instructions shall indicate the earliest date on which a **【center】** dispensary may dispense the marijuana, except for the first dispensation if it is to be filled immediately; and

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

c. A registered qualifying patient or **【his】** the patient's primary caregiver shall present the patient's or caregiver's registry identification card, as applicable, and these written instructions to the **【alternative treatment center】** medical marijuana dispensary, which shall verify and log the documentation presented. A physician may provide a copy of a written instruction by electronic or other means, as determined by the commissioner, directly to **【an alternative treatment center】** a medical marijuana dispensary on behalf of a registered qualifying patient. The dispensation of marijuana pursuant to any written instructions shall occur within one month of the date that the instructions were written or the instructions are void.

d. A patient may be registered at only one **【alternative treatment center】** medical marijuana dispensary at any time.

(cf: P.L.2009, c.307, s.10)

10. Section 15 of P.L.2009, c.307 (C.24:6I-13) is amended to read as follows:

15. a. The Department of Health is authorized to exchange fingerprint data with, and receive information from, the Division of State Police in the Department of Law and Public Safety and the

Federal Bureau of Investigation for use in reviewing applications for individuals seeking to serve as primary caregivers pursuant to section 4 of P.L.2009, c.307 (C.24:6I-4), applications for an ATC identification card pursuant to section 7 of P.L.2009, c.307 (C.24:6I-7), and applications for permits to operate as **█**, or to be a director, officer, or employee of, **█** alternative treatment centers pursuant to section 7 of P.L.2009, c.307 (C.24:6I-7).

b. The Division of State Police shall promptly notify the Department of Health in the event an applicant seeking to serve as a primary caregiver, an applicant for an ATC identification card, or an applicant for a permit to operate as **█**, or to be a director, officer, or employee of, **█** an alternative treatment center, who was the subject of a criminal history record background check conducted pursuant to subsection a. of this section, is convicted of a crime involving possession or sale of a controlled dangerous substance. (cf: P.L.2012, c.17, s.91)

11. Section 11 of P.L.2009, c.307 (C.45:1-45.1) is amended to read as follows:

11. a. A physician who provides a certification or written instruction for the medical use of marijuana to a qualifying patient pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) and any **█**alternative treatment center**█** medical marijuana dispensary shall furnish to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety such information, in such a format and at such intervals, as the director shall prescribe by regulation, for inclusion in a system established to monitor the dispensation of marijuana in this State for medical use as authorized by the provisions of P.L.2009, c.307 (C.24:6I-1 et al.), which system shall serve the same purpose as, and be cross-referenced with, the electronic system for monitoring controlled dangerous substances established pursuant to section 25 of P.L.2007, c.244 (C.45:1-45).

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

c. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Director of the Division of Consumer Affairs shall adopt, immediately upon filing with the Office of Administrative Law and no later than the 90th day after the effective date of P.L.2009, c.307 (C.24:6I-1 et al.), such regulations as the director deems necessary to implement the provisions of subsection a. of this section. Regulations adopted pursuant to this subsection shall be effective until the adoption of rules and regulations pursuant to subsection b. of this section and may be amended, adopted, or readopted by the director in

accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

(cf: P.L.2009, c.307, s.11)

12. The Commissioner of Health shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq., such rules and regulations as may be necessary to effectuate the purposes of this act.

13. This act shall take effect 180 days after the date of enactment, except that the Commissioner of Health may take any advance administrative action as may be necessary to implement the requirements of this act.

#### STATEMENT

This bill makes various revisions to the requirements of the “Compassionate Use Medical Marijuana Act,” P.L.2009, c.307 (C.24:6I-1 et al.), including the application, ownership, and operational requirements for alternative treatment centers (ATCs), the requirements for physicians to authorize patients for the medical use of marijuana, and certain requirements concerning registration for, and access to, medical marijuana for qualifying patients.

#### Patient Registration and Certification and Dispensing Requirements

The bill provides that, commencing on the effective date of the bill and ending on June 30, 2020, the maximum fee for initial application for, or renewal of, a registry identification card for a qualifying patient or primary caregiver will be \$10 for an individual who is indigent and \$50 for all other cardholders. Thereafter, the Commissioner of Health will be authorized to revise the maximum application and renewal fees by regulation. The current application fee is \$200, with a reduced fee of \$20 for low-income applicants.

The bill revises the list of disqualifying offenses for applicants seeking to serve as a primary caregiver to provide that a conviction for possession of any amount of marijuana or hashish, and a conviction for manufacture, dispensing, or distributing less than 50 pounds of marijuana, fewer than 50 marijuana plants, or less than five pounds of hashish, will not constitute a disqualifying condition.

The bill provides that physicians will not be required to enroll in a physician registry as a condition of authorizing qualifying patients for the medical use of marijuana; however, the Department of Health (DOH) will be authorized to establish a voluntary physician registry that individuals seeking treatment for a debilitating medical condition may use as a reference source.

The bill codifies the current regulatory requirements for physician certifications to specify the information that is to be

included in the certification, including the physician's personal and professional information, the patient's personal and medical information, including a statement of the patient's qualification for medical marijuana, written instructions for medical marijuana, and a statement certifying that the physician has discussed the risks, benefits, and alternatives to medical marijuana with the patient. The bill sets forth certain requirements to authorize a qualifying patient who is a minor for medical marijuana. Specifically, the certifying physician will be required to either: (1) be trained in the care of pediatric patients; or (2) obtain written confirmation from a physician trained in the care of pediatric patients establishing that, following examination of the patient or a review of the patient's record, the minor patient is likely to receive therapeutic or palliative benefits from the medical use of marijuana to treat or alleviate symptoms associated with the patient's debilitating medical condition.

The bill increases the maximum amount of medical marijuana that may be dispensed to a patient for a 30-day period from two ounces to four ounces. Under current law, a physician may issue multiple written instructions authorizing a patient to receive a total of up to a 90-day supply of medical marijuana, provided the instructions are for a legitimate medical purpose, include the earliest date on which medical marijuana may be dispensed pursuant to the instruction, and do not create an undue risk of diversion or abuse. The bill revises this provision to provide that, while qualifying patients who are minors will remain subject to the 90-day supply provision, qualifying patients who are adults may receive multiple written instructions authorizing the patient to receive up to a one-year supply of medical marijuana.

The bill removes a provision that limited distribution of edible forms of medical marijuana to qualifying patients who are minors, and specifies that medical marijuana may be distributed in transdermal, sublingual, and tincture forms, as well as in the forms authorized under current law.

The bill provides that a physician or an immediate family member of a physician who certifies patients for medical marijuana may not hold any profit or ownership interest in an ATC. A physician or the immediate family member of a physician who applies for an ATC identification card is to certify that the physician has not issued any patient certifications in the preceding 12 months. A violation of this prohibition will constitute a crime of the fourth degree, which is punishable by imprisonment for up to 18 months, up to a \$10,000 fine, or both. The bill specifies that nothing in the prohibition will prohibit any physician from serving on the medical advisory board of an ATC, provided the physician receives no special compensation or remuneration from the ATC, including payments based on patient volumes or the number of certifications issued by the physician.

### ATC Application and Operational Requirements

With regard to ATCs, the bill differentiates between two different types of ATC: medical marijuana cultivator-processors and medical marijuana dispensaries. Medical marijuana cultivator-processors are facilities that will be authorized to cultivate and process marijuana and marijuana-infused and marijuana-derived products, which it may supply to medical marijuana dispensaries. Medical marijuana dispensaries will be authorized to dispense marijuana and marijuana products to qualifying patients. An ATC holding a permit as of the effective date of the bill will be deemed to hold both a cultivator-processor permit and a dispensary permit. The bill limits the ability of a person or entity holding a direct or indirect interest in an ATC that is issued a new permit under the bill.

Specifically, a person or entity holding an interest in any ATC may simultaneously hold up to a 10 percent interest in up to one other ATC; no person or entity will be permitted to simultaneously hold any other interest in any other ATC. These ownership restrictions do not apply in the case of a person or entity holding an ownership interest of less than one percent of the total capitalization of a publicly traded company, provided the stockholder is not an employee, officer, or director of the publicly traded company. ATCs may, but are not required to be, nonprofit entities.

To ensure adequate access to ATCs throughout the State, the bill requires the DOH to issue a request for applications for 12 additional medical marijuana dispensary permits within 120 days after the effective date of the bill; these 12 new medical marijuana dispensaries, along with the six ATCs currently operating in the State, will result in a total of six medical marijuana cultivator-processors and 18 total medical marijuana dispensaries. No additional permits may be issued until the active patient registry reaches 270,000 qualified patients, at which time DOH will be authorized, as may be necessary based on patient need throughout the State, to issue up to three additional medical marijuana cultivator-processor permits and up to nine additional medical marijuana dispensary permits, to be distributed evenly throughout the northern, central, and southern regions of the State.

The bill adds specific requirements for DOH to review and score initial permit applications for new medical marijuana dispensaries based on a 100-point scale, which includes evaluations of the applicant's operational plan, environmental impact plan, safety and security plan, business experience, proposed location, record of social responsibility, philanthropy, involvement in research concerning the medical efficacy and adverse effects of medical marijuana, workforce development and job creation plan, and business and financial plan. In evaluating an application, DOH is to limit its review to the controlling owners, officers, directors, and employees, and is not to consider responses pertaining to

consultants, independent contractors, or prospective or part-time employees. To the extent possible, DOH is to seek to ensure that at least 15 percent of the new medical marijuana dispensary permits issued under the bill are awarded to entities certified as a minority business, a women's business, a veteran-owned business, or a disabled-veteran business, with higher preference going to entities that are certified in up to two such categories. Application materials submitted to DOH will not constitute a public record subject to the statutory or common laws concerning access to public records.

Applicants are to submit a separate application for each proposed medical marijuana dispensary location. If an applicant scores sufficiently high on multiple applications to be awarded more than one permit, the applicant is to notify DOH within seven business days as to which permit it will accept; for any permit declined by an applicant, DOH will award the permit to the next highest-scoring applicant. If an applicant fails to provide notice as to which permit it will accept within seven business days, DOH will have the discretion to determine which permit to award the applicant, based on its determination of Statewide need and the scores awarded to other applicants in the relevant locations.

The bill prohibits DOH employees from holding any financial interest in an ATC or receiving anything of value from an ATC in connection with reviewing, processing, or making recommendations with respect to an ATC permit application.

The bill provides that an initial ATC permit will be valid for three years, and will thereafter be renewable on a biennial basis.

The bill provides that DOH may require ATC permit applicants to submit a personal history disclosure and may conduct financial due diligence on any person or entity providing \$100,000 or more in financial backing to an applicant. The bill revises the list of disqualifying offenses for ATC permit applicants to provide that a conviction for possession of any amount of marijuana or hashish, and a conviction for manufacture, dispensing, or distributing less than 50 pounds of marijuana, fewer than 50 marijuana plants, or less than five pounds of hashish, will not constitute a disqualifying condition.

The bill clarifies that the officers, directors, board members, owners, and employees of an ATC will be issued "ATC identification cards" upon approval of the ATC's permit application.

The bill sets forth certain requirements for the sale or transfer of an ATC permit, which include completing a criminal history record background check of the entity purchasing or receiving the permit, as well as certain requirements specific to nonprofit ATCs, which will be required to comply with the requirements of the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq. If the debts and liabilities of a nonprofit ATC exceed the value of all assets of the ATC other than the permit, the ATC may pay \$300,000

to DOH and sell its permit for a sum that satisfies all outstanding obligations. The bill provides that, with DOH approval, medical marijuana cultivator-processors may relocate within the same region and medical marijuana dispensaries may relocate within the same county.

The bill provides that the maximum fee for initial issuance or renewal of an ATC permit will be \$40,000; the maximum fee for relocation of an ATC will be \$20,000; and the maximum fee to sell or transfer an ATC permit will be \$150,000.

The bill provides that ATCs will be permitted to establish a medical advisory board to advise the ATC on all aspects of its business. A medical advisory board is to comprise five members: three healthcare professionals, including at least one physician; one qualifying patient; and one business owner from the same region as the ATC. If the ATC is a medical marijuana dispensary, the qualifying patient member is to be registered with the dispensary; if the ATC is a medical marijuana cultivator-processor, the qualifying patient member is to be registered at a medical marijuana dispensary located in the same region as the medical marijuana cultivator-processor. No ATC identification card holder may serve on an ATC medical advisory board. Medical advisory boards are to meet at least two times per year.

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Expands qualifying conditions for medical marijuana; requires issuance of additional dispensary permits; revises requirements for physicians to authorize qualifying patients; and revises application, ownership, and operational requirements for alternative treatment centers.