

**SENATE, No. 2842**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

INTRODUCED MAY 30, 2013

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**SYNOPSIS**

Provides for similar requirements for minor and adult patients in medical marijuana program.

**CURRENT VERSION OF TEXT**

As introduced.



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

3

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

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

9 5. a. Medical use of marijuana by a qualifying patient may be  
10 authorized pursuant to a certification which meets the requirements  
11 of this act. In order to provide such certification, a physician shall  
12 be licensed and in good standing to practice in the State.

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

15 b. (1) 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 receives from the physician an explanation of the potential risks and  
19 benefits of the medical use of marijuana and consents in writing  
20 that the minor patient has that person's permission for the medical  
21 use of marijuana and that the person will control the acquisition and  
22 possession of the medical marijuana and any related paraphernalia  
23 from the alternative treatment center. The physician shall document  
24 the explanation of the potential risks and benefits in the minor  
25 patient's medical record.

26 (2) Except as provided by paragraph (1) of this subsection, a  
27 patient who is a minor, or a physician seeking to authorize the  
28 medical use of marijuana by a patient who is a minor, shall not be  
29 subject to any requirements for the medical use of marijuana  
30 beyond those that would apply to a patient who is an adult, or to a  
31 physician seeking to authorize the medical use of marijuana by a  
32 patient who is an adult, as appropriate.

33 (cf: P.L.2009, c.307, s.5)

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

37 7. a. The department shall accept applications from entities for  
38 permits to operate as alternative treatment centers, and may charge  
39 a reasonable fee for the issuance of a permit under this section. The  
40 department shall seek to ensure the availability of a sufficient  
41 number of alternative treatment centers throughout the State,  
42 pursuant to need, including at least two each in the northern,  
43 central, and southern regions of the State. The first two centers  
44 issued a permit in each region shall be nonprofit entities, and

**EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 centers subsequently issued permits may be nonprofit or for-profit  
2 entities.

3 An alternative treatment center shall be authorized to acquire a  
4 reasonable initial and ongoing inventory, as determined by the  
5 department, of marijuana seeds or seedlings and paraphernalia,  
6 possess, cultivate, plant, grow, harvest, process, display,  
7 manufacture, deliver, transfer, transport, distribute, supply, sell, or  
8 dispense marijuana, or related supplies to qualifying patients or  
9 their primary caregivers who are registered with the department  
10 pursuant to section 4 of this act. An alternative treatment center  
11 may package and directly dispense marijuana to qualifying patients  
12 in dried form, oral lozenges, topical formulations, or edible form, or  
13 another form permitted by the commissioner.

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

18 b. The department shall require that an applicant provide such  
19 information as the department determines to be necessary pursuant  
20 to regulations adopted pursuant to this act.

21 c. A person who has been convicted of a crime involving any  
22 controlled dangerous substance or controlled substance analog as  
23 set forth in chapter 35 of Title 2C of the New Jersey Statutes except  
24 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law  
25 of the United States or any other state shall not be issued a permit to  
26 operate as an alternative treatment center or be a director, officer, or  
27 employee of an alternative treatment center, unless such conviction  
28 occurred after the effective date of this act and was for a violation  
29 of federal law relating to possession or sale of marijuana for  
30 conduct that is authorized under this act.

31 d. (1) The commissioner shall require each applicant seeking a  
32 permit to operate as an alternative treatment center to undergo a  
33 criminal history record background check. For purposes of this  
34 section, the term "applicant" shall include any owner, director,  
35 officer, or employee of an alternative treatment center. The  
36 commissioner is authorized to exchange fingerprint data with and  
37 receive criminal history record background information from the  
38 Division of State Police and the Federal Bureau of Investigation  
39 consistent with the provisions of applicable federal and State laws,  
40 rules, and regulations. The Division of State Police shall forward  
41 criminal history record background information to the  
42 commissioner in a timely manner when requested pursuant to the  
43 provisions of this section.

44 An applicant shall submit to being fingerprinted in accordance  
45 with applicable State and federal laws, rules, and regulations. No  
46 check of criminal history record background information shall be  
47 performed pursuant to this section unless the applicant has  
48 furnished his written consent to that check. An applicant who

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1 refuses to consent to, or cooperate in, the securing of a check of  
2 criminal history record background information shall not be  
3 considered for a permit to operate, or authorization to be employed  
4 at, an alternative treatment center. An applicant shall bear the cost  
5 for the criminal history record background check, including all  
6 costs of administering and processing the check.

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

12 (3) Upon receipt of the criminal history record background  
13 information from the Division of State Police and the Federal  
14 Bureau of Investigation, the commissioner shall provide written  
15 notification to the applicant of his qualification for or  
16 disqualification for a permit to operate or be a director, officer, or  
17 employee of an alternative treatment center.

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

22 (4) The Division of State Police shall promptly notify the  
23 commissioner in the event that an individual who was the subject of  
24 a criminal history record background check conducted pursuant to  
25 this section is convicted of a crime or offense in this State after the  
26 date the background check was performed. Upon receipt of that  
27 notification, the commissioner shall make a determination regarding  
28 the continued eligibility to operate or be a director, officer, or  
29 employee of an alternative treatment center.

30 (5) Notwithstanding the provisions of subsection b. of this  
31 section to the contrary, the commissioner may offer provisional  
32 authority for an applicant to be an employee of an alternative  
33 treatment center for a period not to exceed three months if the  
34 applicant submits to the commissioner a sworn statement attesting  
35 that the person has not been convicted of any disqualifying  
36 conviction pursuant to this section.

37 (6) Notwithstanding the provisions of subsection b. of this  
38 section to the contrary, no employee of an alternative treatment  
39 center shall be disqualified on the basis of any conviction disclosed  
40 by a criminal history record background check conducted pursuant  
41 to this section if the individual has affirmatively demonstrated to  
42 the commissioner clear and convincing evidence of rehabilitation.  
43 In determining whether clear and convincing evidence of  
44 rehabilitation has been demonstrated, the following factors shall be  
45 considered:

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

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

- 1 (c) the circumstances under which the crime or offense  
2 occurred;
- 3 (d) the date of the crime or offense;
- 4 (e) the age of the individual when the crime or offense was  
5 committed;
- 6 (f) whether the crime or offense was an isolated or repeated  
7 incident;
- 8 (g) any social conditions which may have contributed to the  
9 commission of the crime or offense; and
- 10 (h) any evidence of rehabilitation, including good conduct in  
11 prison or in the community, counseling or psychiatric treatment  
12 received, acquisition of additional academic or vocational  
13 schooling, successful participation in correctional work-release  
14 programs, or the recommendation of those who have had the  
15 individual under their supervision.
- 16 e. The department shall issue a permit to a person to operate as  
17 an alternative treatment center if the department finds that issuing  
18 such a permit would be consistent with the purposes of this act and  
19 the requirements of this section are met and the department has  
20 verified the information contained in the application. The  
21 department shall approve or deny an application within 60 days  
22 after receipt of a completed application. The denial of an  
23 application shall be considered a final agency decision, subject to  
24 review by the Appellate Division of the Superior Court. The  
25 department may suspend or revoke a permit to operate as an  
26 alternative treatment center for cause, which shall be subject to  
27 review by the Appellate Division of the Superior Court.
- 28 f. A person who has been issued a permit pursuant to this  
29 section shall display the permit at the premises of the alternative  
30 treatment center at all times when marijuana is being produced, or  
31 dispensed to a registered qualifying patient or the patient's primary  
32 caregiver.
- 33 g. An alternative treatment center shall report any change in  
34 information to the department not later than 10 days after such  
35 change, or the permit shall be deemed null and void.
- 36 h. An alternative treatment center may charge a registered  
37 qualifying patient or primary caregiver for the reasonable costs  
38 associated with the production and distribution of marijuana for the  
39 cardholder.
- 40 i. The commissioner shall adopt regulations to:
- 41 (1) require such written documentation of each delivery of  
42 marijuana to, and pickup of marijuana for, a registered qualifying  
43 patient, including the date and amount dispensed, to be maintained  
44 in the records of the alternative treatment center, as the  
45 commissioner determines necessary to ensure effective  
46 documentation of the operations of each alternative treatment  
47 center;

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

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

6 (cf: P.L.2009, c.307, s.7)

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8 3. This act shall take effect immediately.

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STATEMENT

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13 This bill amends the “New Jersey Compassionate Use Medical  
14 Marijuana Act” to promote access to medical marijuana by severely  
15 ill children.

16 Specifically, the bill requires that minors be subject to the same  
17 requirements as adults when seeking to participate in the State’s  
18 medical marijuana program, except that a parent or guardian must  
19 receive an explanation of the potential risks and benefits of the  
20 medical use of marijuana, and must grant permission for the child’s  
21 medical use of marijuana. In effect, this would preempt  
22 N.J.A.C.8:64-2.5(b)(1), which requires that a physician seeking to  
23 authorize the medical use of marijuana by a minor obtain written  
24 confirmation from a pediatrician and a psychiatrist establishing, in  
25 their professional opinions, following the review of the patient’s  
26 medical record or examination of the patient, that the patient is  
27 likely to receive therapeutic or palliative benefits from the medical  
28 use of marijuana.

29 The bill would also permit the distribution of medical marijuana  
30 in dried form, oral lozenges, topical formulations, or edible form, or  
31 another form permitted by the Commissioner of Health. Pursuant to  
32 N.J.A.C.8:64-10.8(e), medical marijuana may not currently be  
33 dispensed in edible form, which in some cases may be the most  
34 appropriate form for a young child to receive the treatment.

35 To date, no minors have received medical marijuana through the  
36 program, in part because of a lack of formal recommendations by  
37 pediatricians and psychiatrists for the medical use of marijuana by  
38 minors. Recommendations by medical specialists are not required  
39 for adults to participate in the program. Recent news reports have  
40 described the efforts of Brian and Meghan Wilson, parents of a two-  
41 year-old child with Dravet Syndrome, a rare and severe form of  
42 epilepsy, to obtain for their daughter a treatment that has been  
43 reported to be helpful in preventing seizures in children with Dravet  
44 Syndrome in Colorado and California. This bill would facilitate  
45 access to potentially beneficial treatment for children in New Jersey  
46 with Dravet Syndrome and other debilitating conditions.