

[Third Reprint]

**SENATE, No. 119**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

**Sponsored by:**

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**Senator JIM WHELAN**

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**Assemblywoman Vainieri Huttie, Assemblyman Giblin, Assemblywomen**  
**Wagner, Oliver, Assemblyman Prieto, Assemblywoman Tucker,**  
**Assemblyman Johnson, Assemblywomen Jasey and Stender**

**SYNOPSIS**

"New Jersey Compassionate Use Medical Marijuana Act."

**CURRENT VERSION OF TEXT**

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

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

1 AN ACT concerning the medical use of marijuana <sup>2</sup>[and  
2 supplementing Title 24 of the Revised Statutes] <sup>3</sup>and<sup>3</sup> revising  
3 parts of statutory law<sup>2</sup>.

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

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

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

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

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

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

30 d. States are not required to enforce federal law or prosecute  
31 people for engaging in activities prohibited by federal law;  
32 therefore, compliance with this act does not put the State of New  
33 Jersey in violation of federal law<sup>2</sup>[.]; and<sup>2</sup>

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SHH committee amendments adopted December 15, 2008.

<sup>2</sup>Assembly AHE committee amendments adopted June 4, 2009.

<sup>3</sup>Assembly floor amendments adopted January 7, 2010.

1       <sup>2</sup>[3. As used in this act:

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

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

8       “Debilitating medical condition” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

22

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

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

37 (3) A qualifying patient may assert the medical use of marijuana  
38 as an affirmative defense to any prosecution involving marijuana  
39 unless the patient was in violation of section <sup>1</sup>[5] 7<sup>1</sup> of this act  
40 when the events giving rise to the prosecution occurred. The  
41 defense shall be presumed valid where the evidence shows that:

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

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

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

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

11 (5) The provisions of section 2 of P.L.1939, c.248 (C.26:2-82),  
12 relating to destruction of marijuana determined to exist by the  
13 department, shall not apply if a qualifying patient has in his  
14 possession a registry identification card and no more than six  
15 marijuana plants and one ounce of usable marijuana<sup>1</sup>, or if an  
16 alternative treatment center permit holder has in his possession no  
17 more than six marijuana plants and one ounce of usable marijuana  
18 per registry identification card holder<sup>1</sup>.

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

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

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

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

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

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

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

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

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

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

19 (5) The provisions of section 2 of P.L.1939, c.248 (C.26:2-82),  
20 relating to destruction of marijuana determined to exist by the  
21 department, shall not apply if a primary caregiver has in his  
22 possession a registry identification card and no more than six  
23 marijuana plants and one ounce of usable marijuana<sup>1</sup>, or if an  
24 alternative treatment center permit holder has in his possession no  
25 more than six marijuana plants and one ounce of usable marijuana  
26 per registry identification card holder<sup>1</sup>.

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

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

36

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

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

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

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

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

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

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

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

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

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

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

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

31       h. A registered patient or the designated primary caregiver of the  
32 patient may reimburse the alternative treatment center for  
33 reasonable costs associated with the production of marijuana for the  
34 cardholder.<sup>1</sup><sup>2</sup>

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

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

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

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

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

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

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

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



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

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

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

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

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

11 (4) photo identification of the cardholder; and

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

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

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

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

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

31

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

36

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

1       <sup>2</sup>3. (New section) As used in this act:

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

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

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

12       “Debilitating medical condition” means:

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

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

23       (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal  
24 cancer<sup>3</sup>, muscular dystrophy, or inflammatory bowel disease,  
25 including Crohn’s disease;

26       (4) terminal illness, if the physician has determined a prognosis  
27 of less than 12 months of life<sup>3</sup>; or

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

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

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

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

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

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

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

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

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

16 a. is at least 18 years old;

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

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

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

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

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

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

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

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

1        24. (New section) a. The department shall establish a registry of  
2 qualifying patients<sup>3</sup> and their primary caregivers,<sup>3</sup> and shall issue a  
3 registry identification card<sup>3</sup> [that], which<sup>3</sup> shall be valid for<sup>3</sup> [one  
4 year] two years,<sup>3</sup> to a qualifying patient<sup>3</sup> and primary caregiver, if  
5 applicable,<sup>3</sup> who submits the following, in accordance with  
6 regulations adopted by the department:

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

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

12        (3) the name, address and date of birth of the patient<sup>3</sup> and  
13 caregiver, as applicable<sup>3</sup>;<sup>3</sup> and<sup>3</sup>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4  
5 <sup>2</sup>5. (New section) a. Medical use of marijuana by a qualifying  
6 patient may be authorized pursuant to a <sup>3</sup>[written]<sup>3</sup> certification  
7 which meets the requirements of this act. In order to provide such  
8 <sup>3</sup>[a written]<sup>3</sup> certification, a physician shall be licensed and in good  
9 standing to practice in the State <sup>3</sup>[and be board-certified, if  
10 available, in the specialty appropriate for the assessment, care, and  
11 ongoing primary treatment of the debilitating medical condition for  
12 which the medical use of marijuana is being considered]<sup>3</sup>.

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

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

22  
23 <sup>2</sup>6. (New section) a. The provisions of N.J.S.2C:35-18 shall  
24 apply to any qualifying patient, <sup>3</sup>primary caregiver,<sup>3</sup> alternative  
25 treatment center, physician, or any other person acting in  
26 accordance with the provisions of this act.

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

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

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

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

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

10  
11 <sup>2</sup>7. (New section) a. The department shall accept applications  
12 from <sup>3</sup>[nonprofit]<sup>3</sup> entities <sup>3</sup>for permits<sup>3</sup> to operate as alternative  
13 treatment centers, and may charge a reasonable fee for the issuance  
14 of a permit under this section. The department shall seek to ensure  
15 the availability of <sup>3</sup>a sufficient number of<sup>3</sup> alternative treatment  
16 centers throughout the State, <sup>3</sup>pursuant to need,<sup>3</sup> including<sup>3</sup>[, to the  
17 maximum extent practicable,]<sup>3</sup> at least two each in the northern,  
18 central, and southern regions of the State. <sup>3</sup>The first two centers  
19 issued a permit in each region shall be nonprofit entities, and  
20 centers subsequently issued permits may be nonprofit or for-profit  
21 entities.<sup>3</sup>

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

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

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

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



1 conviction<sup>3</sup> occurred after the effective date of this act and<sup>3</sup> was for  
2 a violation of federal law relating to possession or sale of marijuana  
3 for conduct that is authorized under this act.

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

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

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

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

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

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

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

4 (5) Notwithstanding the provisions of subsection b. of this  
5 section to the contrary, the commissioner may offer provisional  
6 authority for an applicant to be an employee of an alternative  
7 treatment center for a period not to exceed three months if the  
8 applicant submits to the commissioner a sworn statement attesting  
9 that the person has not been convicted of any disqualifying  
10 conviction pursuant to this section.

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

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

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

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

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

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

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

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

32 (h) any evidence of rehabilitation, including good conduct in  
33 prison or in the community, counseling or psychiatric treatment  
34 received, acquisition of additional academic or vocational  
35 schooling, successful participation in correctional work-release  
36 programs, or the recommendation of those who have had the  
37 individual under their supervision.<sup>3</sup>

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

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

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

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

11 h. An alternative treatment center may charge a registered  
12 qualifying patient<sup>3</sup> or primary caregiver<sup>3</sup> for the reasonable costs  
13 associated with the production and distribution of marijuana for the  
14 cardholder.

15 i. The commissioner shall adopt regulations to:

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

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

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

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

32  
33 <sup>2</sup>8. (New section) The provisions of this act shall not be  
34 construed to permit a person to:

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

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

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

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

13  
14       <sup>2</sup>10. (New section) a. A physician shall provide written  
15 instructions for a registered <sup>3</sup>qualifying<sup>3</sup> patient <sup>3</sup>or his caregiver<sup>3</sup>  
16 to present to an alternative treatment center <sup>3</sup>[, at the time of pickup  
17 or delivery,]<sup>3</sup> concerning the total amount of usable marijuana that  
18 a patient may be dispensed, in weight, in a 30-day period, which  
19 amount shall not exceed <sup>3</sup>[one ounce] two ounces<sup>3</sup>. If no amount  
20 is noted, the maximum amount that may be dispensed at one time is  
21 <sup>3</sup>[one ounce] two ounces<sup>3</sup>.

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

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

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

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

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

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

3  
 4 <sup>2</sup>11. (New section) a. A physician who provides <sup>3</sup>[written] a<sup>3</sup>  
 5 certification or written instruction for the medical use of marijuana  
 6 to a qualifying patient pursuant to P.L. , c. (C. )(pending before the  
 7 Legislature as this bill) and any alternative treatment center shall  
 8 furnish to the Director of the Division of Consumer Affairs in the  
 9 Department of Law and Public Safety such information, in such a  
 10 format and at such intervals, as the director shall prescribe by  
 11 regulation, for inclusion in a system established to monitor the  
 12 dispensation of marijuana in this State for medical use as authorized  
 13 by the provisions of P.L. , c. ( C. )(pending before the  
 14 Legislature as this bill), which system shall serve the same purpose  
 15 as<sup>3</sup>, and be cross-referenced with,<sup>3</sup> the electronic system for  
 16 monitoring controlled dangerous substances established pursuant to  
 17 section 25 of P.L.2007, c.244 (C.45:1-45).

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

23 c. Notwithstanding any provision of P.L.1968, c.410 to the  
 24 contrary, the Director of the Division of Consumer Affairs shall  
 25 adopt, immediately upon filing with the Office of Administrative  
 26 Law and no later than the 90th day after the effective date of <sup>3</sup>[this  
 27 act] P.L. , c. (C. )(pending before the Legislature as this  
 28 bill)<sup>3</sup>, such regulations as the director deems necessary to  
 29 implement the provisions of subsection a. of this section.  
 30 Regulations adopted pursuant to this subsection shall be effective  
 31 until the adoption of rules and regulations pursuant to subsection b.  
 32 of this section and may be amended, adopted, or readopted by the  
 33 director in accordance with the requirements of P.L.1968, c.410.<sup>2</sup>

34  
 35 <sup>2</sup>12. N.J.S.2C:35-18 is amended to read as follows:

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

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

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

13  
14 <sup>2</sup>13. (New section) a. The commissioner may accept from any  
15 governmental department or agency, public or private body or any  
16 other source grants or contributions to be used in carrying out the  
17 purposes of this act.

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

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

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

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

36 b. The reports shall not contain any identifying information of  
37 patients<sup>3</sup>, caregivers,<sup>3</sup> or physicians.<sup>2</sup>

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

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

6     <sup>2</sup>15. (New section) a. The Department of Health and Senior  
 7 Services is authorized to exchange fingerprint data with, and  
 8 receive information from, the Division of State Police in the  
 9 Department of Law and Public Safety and the Federal Bureau of  
 10 Investigation for use in reviewing applications <sup>3</sup>for individuals  
 11 seeking to serve as primary caregivers pursuant to section 4 of  
 12 P.L. , c. (C. )(pending before the Legislature as this bill), and<sup>3</sup>  
 13 for <sup>3</sup>[a permit] permits<sup>3</sup> to operate as, or to be a director, officer<sup>3,3</sup>  
 14 or employee of, <sup>3</sup>[an]<sup>3</sup> alternative treatment <sup>3</sup>[center] centers<sup>3</sup>  
 15 pursuant to section 7 of P.L. , c. (C. )(pending before the  
 16 Legislature as this bill).

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

26     <sup>1</sup>[10.] <sup>2</sup>[12.<sup>1</sup>] 16. (New section)<sup>2</sup> Nothing in this act shall be  
 27 construed to require a government medical assistance program or  
 28 private health insurer to reimburse a person for costs associated  
 29 with the medical use of marijuana, or an employer to accommodate  
 30 the medical use of marijuana in any workplace.  
 31

32     <sup>1</sup>[11.] <sup>2</sup>[13.<sup>1</sup>] The State shall not be held liable for any  
 33 deleterious outcomes from the medical use of marijuana by any  
 34 qualifying patient.]<sup>2</sup>  
 35

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

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

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

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

10  
11 <sup>2</sup>17. (New section) In addition to any immunity or defense  
12 provided by law, the State and any employee or agent of the State  
13 shall not be held liable for any actions taken in accordance with this  
14 act or for any deleterious outcomes from the medical use of  
15 marijuana by any registered qualifying patient. <sup>2</sup>

16  
17 <sup>2</sup>18. (New section) a. Pursuant to the “Administrative Procedure  
18 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall  
19 promulgate rules and regulations to effectuate the purposes of this  
20 act, in consultation with the Department of Law and Public Safety.

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



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

7 b. Notwithstanding any provision of P.L.1968, c.410 to the  
8 contrary, the commissioner shall adopt, immediately upon filing  
9 with the Office of Administrative Law and no later than the 90th  
10 day after the effective date of this act, such regulations as the  
11 commissioner deems necessary to implement the provisions of this  
12 act. Regulations adopted pursuant to this subsection shall be  
13 effective until the adoption of rules and regulations pursuant to  
14 subsection a. of this section and may be amended, adopted, or  
15 readopted by the commissioner in accordance with the requirements  
16 of P.L.1968, c.410.<sup>2</sup>

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