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RWH/JA

CHAPTER 252

AN ACT concerning medical cannabis and amending P.L.2009, c.307 and P.L.2019, c.153.

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

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

C.24:6I-7 Applications for permits.

7. a. (1) The commission shall accept applications from entities for permits to operate as medical cannabis cultivators, medical cannabis manufacturers, and medical cannabis dispensaries. For the purposes of this section, the term "permit" shall be deemed to include a conditional permit issued pursuant to subsection d. of section 11 of P.L.2019, c.153 (C.24:6I-7.1) and any permit issued to a microbusiness pursuant to subsection e. of section 11 of P.L.2019, c.153 (C.24:6I-7.1).

(2) (a) For a period of 18 months after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.):

(i) no applicant may concurrently hold more than one permit issued by the commission pursuant to this section, regardless of type; and

(ii) there shall be no more than 28 active medical cannabis cultivator permits, including medical cannabis cultivator permits deemed to be held by alternative treatment centers issued a permit prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) and medical cannabis cultivator permits deemed to be held by alternative treatment centers issued a permit subsequent to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.); provided that medical cannabis cultivator permits issued to microbusinesses pursuant to subsection e. of section 11 of P.L.2019, c.153 (C.24:6I-7.1) shall not count toward this limit.

(b) Commencing 18 months after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), a permit holder shall be authorized to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit, provided that no permit holder shall be authorized to concurrently hold more than one permit of each type. The permit holder may submit an application for a permit of any type that the permit holder does not currently hold prior to the expiration of the 18-month period described in subparagraph (a) of this paragraph, provided that no additional permit shall be awarded to the permit holder during the 18-month period.

(c) (i) The provisions of subparagraph (a) of this paragraph shall not apply to any alternative treatment center that was issued a permit prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), to any alternative treatment center that was issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), to one of the four alternative treatment centers issued a permit pursuant to an application submitted after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to a request for applications published in the New Jersey Register prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) that are expressly exempt from the provisions of subparagraph (i) of subparagraph (a) of this paragraph, or to one of the three alternative treatment centers issued a permit pursuant to section 11 of P.L.2019, c.153 (C.24:6I-7.1) that are expressly exempt from the provisions of subparagraph (i) of subparagraph (a) of this paragraph, which alternative treatment centers shall be deemed to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit, and shall be authorized to

engage in any conduct authorized pursuant to those permits in relation to the cultivation, manufacturing, and dispensing of medical cannabis.

(ii) In addition, each of the alternative treatment centers described in subparagraph (i) of this subparagraph, to which the provisions of subparagraph (a) of this paragraph shall not apply, shall, upon the adoption of the initial rules and regulations by the commission pursuant to subparagraph (a) of paragraph (1) of subsection d. of section 6 of P.L.2021, c.16 (C.24:6I-34), be deemed to either concurrently hold a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer License, a Class 5 Cannabis Retailer license, plus an additional Class 5 Cannabis Retailer license for each satellite dispensary authorized and established by the alternative treatment center pursuant to subparagraph (d) of this paragraph, and a Class 6 Cannabis Delivery license, or hold a Class 3 Cannabis Wholesaler license, and may also be deemed to hold a Class 4 Cannabis Distributor license. Any alternative treatment center deemed to hold one or more licenses as described in this subparagraph may begin to operate as any authorized class of cannabis establishment, or establishment and delivery service, or as a cannabis wholesaler and distributor, upon receipt of written approval from the municipality in which the proposed establishment or delivery service, or distributor is to be located and obtaining an initial license or licenses, as applicable, issued by the commission pursuant to paragraph (3) of subsection a. of section 33 of P.L.2021, c.16 (C.24:6I-46).

(d) (i) No entity may be issued or concurrently hold more than one medical cannabis cultivator permit, one medical cannabis manufacturer permit, or one medical cannabis dispensary permit at one time, and no medical cannabis dispensary shall be authorized to establish a satellite location on or after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), except that an alternative treatment center that was issued a permit prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) or that was issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) shall be authorized to maintain up to two satellite dispensaries, including any satellite dispensary that was approved pursuant to an application submitted prior to or within 18 months after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.). The three alternative treatment centers issued permits pursuant to section 11 of P.L.2019, c.153 (C.24:6I-7.1) that are expressly exempt from the provisions of subparagraph (i) of subparagraph (a) of this paragraph shall be authorized to establish and maintain up to one satellite dispensary location, provided that the satellite dispensary was approved pursuant to an application submitted within 18 months after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.).

(ii) Notwithstanding the provisions of subparagraph (i) of this subparagraph, an investor, investor group, or fund that provides significant financial or technical assistance or the significant use of intellectual property, or a combination thereof, to an applicant for a medical cannabis dispensary permit, which applicant has been certified as a minority business pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.), a women's business pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.), or is a disabled-veterans' business, as defined in section 2 of P.L.2015, c.116 (C.52:32-31.2), may own up to a 35 percent interest in up to seven entities that have been issued a medical cannabis dispensary permit, provided that each such medical cannabis dispensary is a certified minority or women's business or a disabled-veterans' business, and the terms of the agreement to provide significant financial or technical assistance or the significant use of intellectual property, or a combination thereof, whether provided in the form of equity, a loan, or otherwise, including interest rates, returns, and fees, are commercially reasonable based on the terms generally provided to comparable businesses. The terms of the agreement for the provision of significant financial or technical assistance or

the significant use of intellectual property, or a combination thereof, may include performance, quality, and other requirements as a condition of providing the financial or technical assistance or use of intellectual property. An applicant for a medical cannabis dispensary permit that has or will receive significant financial or technical assistance or the significant use of intellectual property under this subparagraph shall include with the permit application materials submitted to the commission a copy of the agreement to provide significant financial or technical assistance or significant use of intellectual property, or a combination thereof, which agreement shall be subject to review by the commission as provided in subsection f. of section 11 of P.L.2019, c.153 (C.24:6I-7.1).

An applicant for a medical cannabis dispensary permit that receives significant financial or technical assistance or the significant use of intellectual property under this subparagraph shall pay back to the investor, investor group, or fund the full value of the financial or technical assistance or intellectual property provided under the agreement, plus any applicable interest and fees, in a period not less than five years after the date of the agreement if the full value of the assistance or property is less than \$100,000, in a period not less than seven years after the date of the agreement if the full value of the assistance or property is between \$100,001 and \$250,000, in a period not less than 10 years after the date of agreement if the full value of the assistance or property is between \$250,001 and \$500,000, and, subject to any terms and conditions imposed by a lender, in a period not less than 10 years after the date of the agreement if the full value of the assistance or property is greater than \$500,000. An investor, investor group, or fund that has acquired an ownership interest in one or more entities that have been issued a medical cannabis dispensary permit as authorized under this subparagraph may maintain the ownership interest after the date the full value of the financial or technical assistance or use of intellectual property provided under the agreement, plus interest and fees, has been repaid by the applicant that received the assistance or use of intellectual property.

In no case may the controlling interest in the entity that holds a medical cannabis dispensary permit in which an investor, investor group, or fund owns an interest as authorized under this subparagraph revert to the investor, investor group, or fund in the event of a default or failure by the certified minority or women's business or disabled-veterans' business, as applicable, and any such controlling interest may only be transferred to a certified minority or women's business or a disabled-veterans' business.

An entity issued a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit, or an individual associated with the ownership or management of the entity, may participate in an investor group or a fund that meets the requirements of this subparagraph.

(e) No entity issued a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit may concurrently hold a clinical registrant permit issued pursuant to section 13 of P.L.2019, c.153 (C.24:6I-7.3), and no entity issued a clinical registrant permit pursuant to section 13 of P.L.2019, c.153 (C.24:6I-7.3) may concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, or a medical cannabis dispensary permit.

(f) Any medical cannabis dispensary permit holder may be approved by the commission to operate a cannabis consumption area, provided that the permit holder otherwise meets the requirements of section 28 of P.L.2019, c.153 (C.24:6I-21).

(g) An alternative treatment center that was issued a permit prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), that was issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted pursuant to a request

for applications published in the New Jersey Register prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), or that was issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), shall be required to submit an attestation signed by a bona fide labor organization stating that the alternative treatment center has entered into a labor peace agreement with such bona fide labor organization no later than 100 days after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) or no later than 100 days after the date the alternative treatment center first opens, whichever date is later. The maintenance of a labor peace agreement with a bona fide labor organization shall be an ongoing material condition of maintaining the alternative treatment center's permit. The failure to submit an attestation as required pursuant to this subparagraph within 100 days after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) or within 100 days after the alternative treatment center first opens, as applicable, shall result in the suspension or revocation of the alternative treatment center's permit, provided that the commission may grant an extension to this deadline to the alternative treatment center based upon extenuating circumstances or for good cause shown.

As used in this subparagraph, "bona fide labor organization" means a labor organization of any kind or employee representation committee, group, or association, in which employees participate and which exists and is constituted for the purpose, in whole or in part, of collective bargaining or otherwise dealing with medical or personal use cannabis employers concerning grievances, labor disputes, terms or conditions of employment, including wages and rates of pay, or other mutual aid or protection in connection with employment, and may be characterized by: it being a party to one or more executed collective bargaining agreements with medical or personal use cannabis employers, in this State or another state; it having a written constitution or bylaws in the three immediately preceding years; it filing the annual financial report required of labor organizations pursuant to subsection (b) of 29 U.S.C. s.431, or it having at least one audited financial report in the three immediately preceding years; it being affiliated with any regional or national association of unions, including but not limited to state and federal labor councils; or it being a member of a national labor organization that has at least 500 general members in a majority of the 50 states of the United States.

(h) An alternative treatment center that was issued a permit prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), that was issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted pursuant to a request for applications published in the New Jersey Register prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), or that was issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), shall be permitted to cultivate from up to two physical locations, provided that the alternative treatment center's combined mature cannabis plant grow canopy between both locations shall not exceed 150,000 square feet of bloom space or the square footage of canopy permitted under the largest tier in the tiered system adopted by the commission pursuant to paragraph (2) of subsection b. of section 21 of P.L.2021, c.16 (C.24:6I-38).

(3) The commission shall seek to ensure the availability of a sufficient number of medical cannabis cultivators, medical cannabis manufacturers, and medical cannabis dispensaries throughout the State, pursuant to need, including at least two each in the northern, central, and southern regions of the State. Medical cannabis cultivators, medical cannabis manufacturers, and medical cannabis dispensaries issued permits pursuant to this section may be nonprofit or for-profit entities.

(4) The commission shall periodically evaluate whether the number of medical cannabis cultivator, medical cannabis manufacturer, and medical cannabis dispensary permits issued are sufficient to meet the needs of qualifying patients in the State, and shall accept new applications and issue such additional permits as shall be necessary to meet those needs. The types of permits requested and issued, and the locations of any additional permits that are authorized, shall be in the discretion of the commission based on the needs of qualifying patients in the State.

(5) (a) A medical cannabis cultivator shall be authorized to: acquire a reasonable initial and ongoing inventory, as determined by the commission, of cannabis seeds or seedlings and paraphernalia; possess, cultivate, plant, grow, harvest, and package medical cannabis, including prerolled forms, for any authorized purpose, including, but not limited to, research purposes; and deliver, transfer, transport, distribute, supply, or sell medical cannabis and related supplies to any medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant in the State. In no case shall a medical cannabis cultivator operate or be located on land that is valued, assessed or taxed as an agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

(b) A medical cannabis manufacturer shall be authorized to: purchase or acquire medical cannabis from any medical cannabis cultivator, medical cannabis manufacturer, or clinical registrant in the State; possess and utilize medical cannabis in the manufacture and creation of medical cannabis products; and deliver, transfer, transport, supply, or sell medical cannabis products and related supplies to any medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant in the State.

(c) A medical cannabis dispensary shall be authorized to: purchase or acquire medical cannabis from any medical cannabis cultivator, medical cannabis dispensary, or clinical registrant in the State and medical cannabis products and related supplies from any medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant in the State; purchase or acquire paraphernalia from any legal source; and distribute, supply, sell, or dispense medical cannabis, medical cannabis products, paraphernalia, and related supplies to qualifying patients or their designated or institutional caregivers who are registered with the commission pursuant to section 4 of P.L.2009, c.307 (C.24:6I-4). A medical cannabis dispensary may furnish medical cannabis, medical cannabis products, paraphernalia, and related supplies to a medical cannabis handler for delivery to a registered qualifying patient, designated caregiver, or institutional caregiver consistent with the requirements of subsection i. of section 27 of P.L.2019, c.153 (C.24:6I-20).

(6) A medical cannabis cultivator shall not be limited in the number of strains of medical cannabis cultivated, and a medical cannabis manufacturer shall not be limited in the number or type of medical cannabis products manufactured or created. A medical cannabis manufacturer may package, and a medical cannabis dispensary may directly dispense medical cannabis and medical cannabis products to qualifying patients and their designated and institutional caregivers in any authorized form. Authorized forms shall include dried form, oral lozenges, topical formulations, transdermal form, sublingual form, tincture form, or edible form, or any other form as authorized by the commission. Edible form shall include pills, tablets, capsules, drops or syrups, oils, chewable forms, and any other form as authorized by the commission, except that the edible forms made available to minor patients shall be limited to forms that are medically appropriate for children, including pills, tablets, capsules, chewable forms, and drops, oils, syrups, and other liquids.

(7) Nonprofit medical cannabis cultivators, medical cannabis manufacturers, and medical cannabis dispensaries need not be recognized as a 501(c)(3) organization by the federal Internal Revenue Service.

b. The commission shall require that an applicant provide such information as the commission determines to be necessary pursuant to regulations adopted pursuant to P.L.2009, c.307 (C.24:6I-1 et al.).

c. A person who has been convicted of a crime of the first, second, or third degree under New Jersey law or 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 (11) or (12) of subsection b. of N.J.S.2C:35-5, or paragraph (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 a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant or be a director, officer, or employee of a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant, unless such conviction occurred after the effective date of 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 cannabis for conduct that is authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.).

d. (1) The commission shall require each applicant seeking a permit to operate as, to be a director, officer, or employee of, or to be a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant to undergo a criminal history record background check.

Any individual seeking to become a director, officer, or employee of a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant, after issuance of an initial permit shall notify the commission and shall complete a criminal history record background check and provide all information as may be required by the commission as a condition of assuming a position as director, officer, or employee of the permitted entity. An individual who secures an investment interest or gains the authority to make controlling decisions in a permitted entity that makes the individual a significantly involved person shall notify the commission, complete a criminal history record background check, and provide all information as may be required by the commission no later than 30 days after the date the individual becomes a significantly involved person, or any permit issued to the individual or group of which the significantly involved person is a member shall be revoked and the individual or group shall be deemed ineligible to hold any ownership or investment interest in a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant for a period of at least two years, commencing from the date of revocation, and for such additional period of time as the commission deems appropriate, based on the duration of the nondisclosure, the size of the individual's or group's investment interest in the permitted entity, the amount of profits, revenue, or income realized by the individual or group from the permitted entity during the period of nondisclosure, and whether the individual had a disqualifying conviction or would otherwise have been deemed ineligible to be a significantly involved person in a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant.

For purposes of this section, the term "applicant" shall include any owner, director, officer, or employee of, and any significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant. The commission 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 State and federal laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the commission in a timely manner when requested pursuant to the provisions of this section.

An applicant who is required to undergo a criminal history record background check pursuant to this section 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 the applicant's written consent to that check. An applicant who is required to undergo a criminal history record background check pursuant to this section 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 or to be a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

(2) The commission shall not approve an applicant for a permit to operate, or authorization to be employed at or to be a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant 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 commission shall provide written notification to the applicant of the applicant's qualification or disqualification for a permit to operate or be a director, officer, or employee of, or a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant.

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 commission 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 commission shall make a determination regarding the continued eligibility to operate or be a director, officer, or employee of, or a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant.

(5) Notwithstanding the provisions of subsection c. of this section to the contrary, the commission may offer provisional authority for an applicant to be an owner, director, officer, or employee of, or a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant for a period not to exceed three months if the applicant submits to the commission a sworn statement attesting that the person has not been convicted of any disqualifying conviction pursuant to this section.

(6) Notwithstanding the provisions of subsection c. of this section to the contrary, no applicant to be an owner, director, officer, or employee of, or a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant shall be disqualified 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 commission 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 commission shall issue a permit to operate or be an owner, director, officer, or employee of, or a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary if the commission finds that issuing such a permit would be consistent with the purposes of P.L.2009, c.307 (C.24:6I-1 et al.) and the requirements of this section and section 11 of P.L.2019, c.153 (C.24:6I-7.1) are met. The denial of an application shall be considered a final agency decision, subject to review by the Appellate Division of the Superior Court. A permit to operate a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary issued on or after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) shall be valid for one year and shall be renewable annually.

f. A person who has been issued a permit pursuant to this section or a clinical registrant permit pursuant to section 13 of P.L.2019, c.153 (C.24:6I-7.3) shall display the permit at the front entrance to the premises of the permitted facility at all times when the facility is engaged in conduct authorized pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) involving medical cannabis, including, but not limited to, the cultivating, manufacturing, or dispensing of medical cannabis.

g. A medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant shall report any change in information to the commission not later than 10 days after such change, or the permit shall be deemed null and void.

h. Each medical cannabis dispensary and clinical registrant shall maintain and make available on its Internet website, if any, a standard price list that shall apply to all medical cannabis, medical cannabis products, and related supplies and paraphernalia sold or dispensed by the medical cannabis dispensary or clinical registrant, which prices shall be reasonable and consistent with the actual costs incurred by the medical cannabis dispensary or clinical registrant in connection with acquiring and selling, transferring, or dispensing the medical cannabis or medical cannabis product and related supplies and paraphernalia. The prices charged by the medical cannabis dispensary or clinical registrant shall not deviate from the prices indicated on the entity's current price list, provided that a price list maintained by a medical cannabis dispensary or clinical registrant may allow for medical cannabis to be made available at a reduced price or without charge to qualifying patients who have a demonstrated financial hardship, as that term shall be defined by the commission by regulation. A price list required pursuant to this subsection may be revised no more than once per month, and each

medical cannabis dispensary and clinical registrant shall be responsible for ensuring that the commission has a copy of the facility's current price list. A medical cannabis dispensary or clinical registrant shall be liable to a civil penalty of \$1,000 for each sale that occurs at a price that deviates from the entity's current price list, and to a civil penalty of \$10,000 for each week during which the entity's current price list is not on file with the commission. Any civil penalties collected by the commission pursuant to this section shall be deposited in the "Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund" established under section 41 of P.L.2021, c.16 (C.24:6I-50), and used by the commission for the purposes of administering the State medical cannabis program.

i. The commission shall adopt regulations to:

(1) require such written documentation of each delivery or dispensation of cannabis to, and pickup of cannabis for, a registered qualifying patient, including the date and amount dispensed, and, in the case of delivery, the date and times the delivery commenced and was completed, the address where the medical cannabis was delivered, the name of the patient or caregiver to whom the medical cannabis was delivered, and the name, handler certification number, and delivery certification number of the medical cannabis handler who performed the delivery, to be maintained in the records of the medical cannabis dispensary or clinical registrant, as the commission determines necessary to ensure effective documentation of the operations of each medical cannabis dispensary or clinical registrant;

(2) monitor, oversee, and investigate all activities performed by medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries, and clinical registrants;

(3) ensure adequate security of all facilities 24 hours per day and security of all delivery methods to registered qualifying patients; and

(4) establish thresholds for administrative action to be taken against a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant and its employees, officers, investors, directors, or governing board pursuant to subsection m. of this section, including, but not limited to, specific penalties or disciplinary actions that may be imposed in a summary proceeding.

j. (1) Each medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, and clinical registrant shall require the owners, directors, officers, and employees at the permitted facility to complete at least eight hours of ongoing training each calendar year. The training shall be tailored to the roles and responsibilities of the individual's job function, and shall include training on confidentiality and such other topics as shall be required by the commission.

(2) Each medical cannabis dispensary and clinical registrant shall consider whether to make interpreter services available to the population served, including for individuals with a visual or hearing impairment. The commission shall provide assistance to any medical cannabis dispensary or clinical registrant that seeks to provide such services in locating appropriate interpreter resources. A medical cannabis dispensary or clinical registrant shall assume the cost of providing interpreter services pursuant to this subsection.

k. (1) The first six alternative treatment centers issued permits following the effective date of P.L.2009, c.307 (C.24:6I-1 et al.) shall be authorized to sell or transfer such permit and other assets to a for-profit entity, provided that: the sale or transfer is approved by the commission; each owner, director, officer, and employee of, and significantly involved person in, the entity seeking to purchase or receive the transfer of the permit, undergoes a criminal history record background check pursuant to subsection d. of this section, provided that nothing in this subsection shall be construed to require any individual to undergo a criminal

history record background check if the individual would otherwise be exempt from undergoing a criminal history record background check pursuant to subsection d. of this section; the commission 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.); and no such sale or transfer shall be authorized more than one year after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.). The sale or transfer of a permit pursuant to this subsection shall not be subject to the requirements of the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq., provided that, prior to or at the time of the sale or transfer, all debts and obligations of the nonprofit entity are either paid in full or assumed by the for-profit entity purchasing or acquiring the permit, or a reserve fund is established for the purpose of paying in full the debts and obligations of the nonprofit entity, and the for-profit entity pays the full value of all assets held by the nonprofit entity, as reflected on the nonprofit entity's balance sheet, in addition to the agreed-upon price for the sale or transfer of the entity's alternative treatment center permit. Until such time as the members of the Cannabis Regulatory Commission are appointed and the commission first organizes, the Department of Health shall have full authority to approve a sale or transfer pursuant to this paragraph.

(2) The sale or transfer of any interest of five percent or more in a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant permit shall be subject to approval by the commission and conditioned on the entity that is purchasing or receiving transfer of the interest in the medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant permit completing a criminal history record background check pursuant to the requirements of subsection d. of this section.

1. No employee of any department, division, agency, board, or other State, county, or local government entity involved in the process of reviewing, processing, or making determinations with regard to medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant permit applications shall have any direct or indirect financial interest in the cultivating, manufacturing, or dispensing of medical cannabis or related paraphernalia, or otherwise receive anything of value from an applicant for a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant permit in exchange for reviewing, processing, or making any recommendations with respect to a permit application.

m. In the event that a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant fails to comply with any requirements set forth in P.L.2009, c.307 (C.24:6I-1 et al.) or any related law or regulation, the commission may invoke penalties or take administrative action against the medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant and its employees, officers, investors, directors, or governing board, including, but not limited to, assessing fines, referring matters to another State agency, and suspending or terminating any permit held by the medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant. Any penalties imposed or administrative actions taken by the commission pursuant to this subsection may be imposed in a summary proceeding.

2. Section 11 of P.L.2019, c.153 (C.24:6I-7.1) is amended to read as follows:

C.24:6I-7.1 Acceptance, processing of applications.

11. a. The commission shall, no later than 90 days after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) or upon adoption of rules and regulations as provided in subsection

c. of section 18 of P.L.2009, c.307 (C.24:6I-16), whichever occurs later, begin accepting and processing applications for new medical cannabis cultivator, medical cannabis manufacturer, and medical cannabis dispensary permits. Notwithstanding the provisions of subparagraph (i) of subparagraph (a) of paragraph (2) of subsection a. of section 7 of P.L.2009, c.307 (C.24:6I-7), the first three alternative treatment center permits issued by the commission pursuant to an application submitted on or after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) and up to four alternative treatment centers permits issued by the commission after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an application submitted pursuant to a request for applications published in the New Jersey Register prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) shall be deemed to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit; of these permits, one permit shall be issued to an applicant located in the northern region of the State, one permit shall be issued to an applicant located in the central region of the State, and one permit shall be issued to an applicant located in the southern region of the State. Any permits issued by the commission thereafter shall be subject to the provisions of subparagraph (i) of subparagraph (a) of paragraph (2) of subsection a. of section 7 of P.L.2009, c.307 (C.24:6I-7), and the requirements of subsection d. of this section concerning conditional permits.

b. The commission may establish nonrefundable application fees for permit applications and conditional permit applications, and permit and conditional permit fees for successful applicants.

c. (1) The commission shall make a determination as to any permit application, other than an application for a conditional permit submitted pursuant to subsection d. of this section, no later than 90 days after receiving the application, which may include a determination that the commission reasonably requires more time to adequately review the application.

(2) The commission shall issue a permit, other than a conditional permit, to an approved applicant at such time as the commission completes the application review process and any mandatory inspections, and determines that the applicant is in compliance with and is implementing the plans, procedures, protocols, actions, or other measures set forth in the applicant's permit application submitted pursuant to section 12 of P.L.2019, c.153 (C.24:6I-7.2), did maintain compliance with the terms, conditions, or restrictions of a conditional permit issued to the applicant, if applicable, and is otherwise in compliance with the requirements of P.L.2009, c.307 (C.24:6I-1 et al.).

d. (1) The commission shall ensure that at least one third of the total permits issued for each type of medical cannabis permit are conditional permits, which one-third figure shall include any conditional permit issued to an applicant which is subsequently converted by the commission into a full permit pursuant to paragraph (4) of this subsection and any conditional permit, including a converted permit, issued to a microbusiness pursuant to subsection e. of this section. The requirements of this subsection shall not apply to permits issued to clinical registrants or to permits issued to the three alternative treatment centers issued a permit pursuant to subsection a. of this section that are expressly exempt from the provisions of subparagraph (i) of subparagraph (a) of paragraph (2) of subsection a. of section 7 of P.L.2009, c.307 (C.24:6I-7).

(2) An application for a conditional permit shall include:

(a) documentation that the applicant entity includes at least one significantly involved person who has resided in this State for at least two years as of the date of the application;

(b) a list of all owners, officers, directors, and employees of, and significantly involved persons in, the proposed medical cannabis entity, including their names, addresses, dates of

birth, resumes, and a photocopy of their driver's licenses or other government-issued form of identification;

(c) a criminal history record background check completed pursuant to subsection d. of section 7 of P.L.2009, c.307 (C.24:6I-7) for each owner, officer, director, and employee of, and each significantly involved person in, the proposed medical cannabis entity, provided that a conditional permit may be issued pending the results of a criminal history record background check;

(d) documentation that each significantly involved person in the proposed medical cannabis entity has, for the immediately preceding taxable year, an adjusted gross income of no more than \$200,000 or no more than \$400,000 if filing jointly with another;

(e) a certification that each significantly involved person in the proposed medical cannabis entity does not have any financial interest in an entity applying for any other medical cannabis permit, or in an entity that currently holds a permit issued pursuant to section 7 of P.L.2009, c.307 (C.24:6I-7);

(f) the federal and State tax identification numbers for the proposed medical cannabis entity, and proof of business registration with the Division of Revenue in the Department of the Treasury;

(g) information about the proposed medical cannabis entity, including its legal name, any registered alternate name under which it may conduct business, and a copy of its articles of organization and bylaws;

(h) the business plan and management operation profile for the proposed medical cannabis entity;

(i) the plan by which the applicant intends to obtain appropriate liability insurance coverage for the proposed medical cannabis entity; and

(j) any other requirements established by the commission pursuant to regulation.

(3) The commission shall make a determination on an application for a conditional permit within 30 days after the date the application is received. A determination made pursuant to this paragraph may include a determination that the commission requires more time to adequately review the application. The commission shall approve a permit application that meets the requirements of this subsection unless the commission finds by clear and convincing evidence that the applicant would be manifestly unsuitable to perform the activities authorized for the permit sought by the applicant. The commission shall deny a conditional permit to any applicant who fails to provide information, documentation, and assurances as required by this subsection; who fails to reveal any fact material to qualification; or who supplies information that is untrue or misleading as to a material fact pertaining to the qualification criteria for issuance of a conditional permit. If the application is denied, the commission shall notify the applicant in writing of the specific reason for its denial and provide the applicant with the opportunity for a hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(4) The commission shall furnish to each entity issued a conditional permit a list of the requirements that the entity will be required to comply with within 120 days after issuance of the conditional permit. If the commission subsequently determines that, during the 120-day period, the conditional permit holder is in compliance with all applicable conditions and is implementing the plans, procedures, protocols, actions, or other measures set forth in its application, the commission shall convert the conditional permit into a full permit, which will expire one year from its date of issuance and be subject to annual renewal; if the commission determines that the conditional permit holder is not in compliance with all applicable conditions or not implementing the plans, procedures, protocols, actions, or other measures set

forth in its application, the conditional permit shall automatically expire at the end of the 120-day period, or, at the discretion of the commission, may be revoked prior to the end of the 120-day period.

(5) A conditional permit issued pursuant this subsection may not be sold or transferred.

e. (1) The commission shall ensure that at least 10 percent of the total permits issued for each medical cannabis permit type, other than a clinical registrant permit, are designated for and only issued to microbusinesses, and that at least 25 percent of the total permits issued be issued to microbusinesses. A microbusiness may be issued a full annual permit pursuant to section 7 of P.L.2009, c.307 (C.24:6I-7) or a conditional permit pursuant to subsection d. of this section. The maximum fee assessed by the commission for issuance or renewal of a permit issued to a microbusiness shall be no more than half the fee applicable to a permit of the same type issued to a person or entity that is not a microbusiness. A permit issued to a microbusiness shall be valid for one year and may be renewed annually.

(2) A microbusiness shall meet the following requirements:

(a) 100 percent of the ownership interest in the microbusiness shall be held by current New Jersey residents who have resided in the State for at least the past two consecutive years;

(b) at least 51 percent of the owners, directors, officers, and employees of the microbusiness shall be residents of the municipality in which the microbusiness is or will be located, or a municipality bordering the municipality in which the microbusiness is or will be located;

(c) the microbusiness shall employ no more than 10 employees at one time, inclusive of any owners, officers, and directors of the microbusiness;

(d) the microbusiness shall not exceed the following size and capacity restrictions:

(i) the entire microbusiness facility shall occupy an area of no more than 2,500 square feet;

(ii) in the case of a microbusiness that is a medical cannabis cultivator, the total medical cannabis grow area shall not exceed 2,500 square feet, measured on a horizontal plane, shall grow no higher than 24 feet above that plane, and shall possess a total of no more than 1,000 plants, including mature and immature medical cannabis plants, but not including seedlings;

(iii) in the case of a microbusiness that is a medical cannabis manufacturer, the manufacturer shall acquire and process no more than 1,000 pounds of medical cannabis in dried form each month; and

(iv) in the case of a microbusiness that is a medical cannabis dispensary, the dispensary shall acquire no more than 1,000 pounds of medical cannabis in dried form, or the equivalent amount in any other form, or any combination thereof, for dispensing to or on behalf of registered qualifying patients each month; and

(e) the microbusiness shall comply with such other requirements as may be established by the commission by regulation.

(3) The requirements of this subsection shall not apply to permits issued pursuant to an application submitted pursuant to a request for applications published in the New Jersey Register prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.).

f. The commission shall have the authority to review any services agreement submitted pursuant to subsection l. of section 12 of P.L.2019, c.153 (C.24:6I-7.2), and any agreement established under subparagraph (ii) of subparagraph (d) of paragraph (2) of subsection a. of section 7 of P.L.2009, c.307 (C.24:6I-7) to provide significant financial or technical assistance or the significant use of intellectual property to an applicant, to determine whether the terms of the agreement, including interest rates, returns, and fees, are commercially reasonable and consistent with the fair market value for the terms generally applicable to agreements of a comparable nature. In the event the commission determines the terms of an

agreement are not commercially reasonable or consistent with the fair market value generally applicable to the services to be provided under the agreement, the commission shall have the authority to withhold approval of the permit application until the parties renegotiate a new agreement that, as determined by the commission, is commercially reasonable and consistent with the fair market value for the terms generally applicable to agreements of a comparable nature. The parties to the agreement may request that the commission provide guidance as to what terms it would find to be commercially reasonable and consistent with the fair market value generally applicable to agreements of a comparable nature. Nothing in this subsection shall be construed to require the commission to award a permit to an applicant if the commission determines the applicant does not otherwise meet the requirements for issuance of the permit.

3. Section 12 of P.L.2019, c.153 (C.24:6I-7.2) is amended to read as follows:

C.24:6I-7.2 Submission of applications to commission.

12. a. Each application for a medical cannabis cultivator permit, medical cannabis manufacturer permit, and medical cannabis dispensary permit, and each application for annual renewal of such permit, including permit and renewal applications for microbusinesses that meet the requirements of subsection e. of section 11 of P.L.2019, c.153 (C.24:6I-7.1), shall be submitted to the commission. A full, separate application shall be required for each initial permit requested by the applicant and for each location at which an applicant seeks to operate, regardless of whether the applicant was previously issued a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant permit, and regardless of whether the applicant currently holds a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit. Renewal applications shall be submitted to the commission on a form and in a manner as shall be specified by the commission no later than 90 days before the date the current permit will expire.

b. An initial permit application shall be evaluated according to criteria to be developed by the commission. The commission shall determine the point values to be assigned to each criterion, which shall include bonus points for applicants who are residents of New Jersey.

c. The criteria to be developed by the commission pursuant to subsection b. of this section shall include, in addition to the criteria set forth in subsections d. and e. of this section and any other criteria developed by the commission, an analysis of the applicant's operating plan, excluding safety and security criteria, which shall include the following:

(1) In the case of an applicant for a medical cannabis cultivator permit, the operating plan summary shall include a written description concerning the applicant's qualifications for, experience in, and knowledge of each of the following topics:

- (a) State-authorized cultivation of medical cannabis;
- (b) conventional horticulture or agriculture, familiarity with good agricultural practices, and any relevant certifications or degrees;
- (c) quality control and quality assurance;
- (d) recall plans;
- (e) packaging and labeling;
- (f) inventory control and tracking software or systems for the production of medical cannabis;
- (g) analytical chemistry and testing of medical cannabis;
- (h) water management practices;
- (i) odor mitigation practices;

- (j) onsite and offsite recordkeeping;
 - (k) strain variety and plant genetics;
 - (l) pest control and disease management practices, including plans for the use of pesticides, nutrients, and additives;
 - (m) waste disposal plans; and
 - (n) compliance with applicable laws and regulations.
- (2) In the case of an applicant for a medical cannabis manufacturer permit, the operating plan summary shall include a written description concerning the applicant's qualifications for, experience in, and knowledge of each of the following topics:
- (a) State-authorized manufacture and creation of cannabis products using appropriate extraction methods, including intended use and sourcing of extraction equipment and associated solvents or intended methods and equipment for non-solvent extraction;
 - (b) pharmaceutical manufacturing, good manufacturing practices, and good laboratory practices;
 - (c) quality control and quality assurance;
 - (d) recall plans;
 - (e) packaging and labeling;
 - (f) inventory control and tracking software or systems for the production of medical cannabis;
 - (g) analytical chemistry and testing of medical cannabis and medical cannabis products and formulations;
 - (h) water management practices;
 - (i) odor mitigation practices;
 - (j) onsite and offsite recordkeeping;
 - (k) a list of product formulations or products proposed to be manufactured with estimated cannabinoid profiles, if known, including varieties with high cannabidiol content;
 - (l) intended use and sourcing of all non-cannabis ingredients used in the manufacture and creation of cannabis products, including methods to verify or ensure the safety and integrity of those ingredients and their potential to be or contain allergens;
 - (m) waste disposal plans; and
 - (n) compliance with applicable laws and regulations.
- (3) In the case of an applicant for a medical cannabis dispensary permit, the operating plan summary shall include a written description concerning the applicant's qualifications for, experience in, and knowledge of each of the following topics:
- (a) State-authorized dispensation of medical cannabis to qualifying patients;
 - (b) healthcare, medicine, and treatment of patients with qualifying medical conditions;
 - (c) medical cannabis 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 cannabis;
 - (g) patient counseling procedures;
 - (h) the routes of administration, strains, varieties, and cannabinoid profiles of medical cannabis and medical cannabis products;
 - (i) odor mitigation practices;
 - (j) onsite and offsite recordkeeping;
 - (k) compliance with State and federal patient privacy rules;
 - (l) waste disposal plans; and

(m) compliance with applicable laws and regulations.

d. The criteria to be developed by the commission pursuant to subsection b. of this section shall include, in addition to the criteria set forth in subsections c. and e. of this section and any other criteria developed by the commission, an analysis of the following factors, if applicable:

(1) The applicant's environmental impact plan.

(2) A 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, including contractors;

(b) the experience or qualifications of security personnel and proposed contractors;

(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 cannabis and medical cannabis 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, including, in the case of an applicant for a medical cannabis dispensary permit, 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.

(3) A summary of the applicant's business experience, including the following, if applicable:

(a) the applicant's experience operating businesses in highly-regulated industries;

(b) the applicant's experience in operating alternative treatment centers and related medical cannabis production and dispensation entities under the laws of New Jersey or any other state or jurisdiction within the United States; and

(c) the applicant's plan to comply with and mitigate the effects of 26 U.S.C. s.280E on cannabis 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), (b), and (c) of this paragraph, the commission 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 15 percent or greater ownership interest in the applicant's organization; followed by significantly involved persons in the applicant's organization; followed by other officers, directors, and current and prospective employees of the applicant who have a bona fide relationship with the applicant's organization as of the date of the application.

(4) A description of the proposed location for the applicant's site, including the following, if applicable:

(a) 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) the submission of 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 such activities related to the cultivation, manufacturing, or dispensing of medical cannabis, cannabis products, and related supplies as will be conducted at the proposed facility; and

(c) the submission of proof of local support for the suitability of the location, which may be demonstrated by a resolution adopted by the municipality's governing body indicating that the intended location is appropriately located or otherwise suitable for such activities related to the cultivation, manufacturing, or dispensing of medical cannabis, cannabis products, and related supplies as will be conducted at the proposed facility.

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 activities related to the cultivation, manufacturing, or dispensing of medical cannabis and medical cannabis products. An application shall not be disqualified from consideration if the application does not include the materials described in subparagraph (b) or (c) of this paragraph.

(5) A community impact, social responsibility, and research statement, which shall include, but shall not be limited to, the following:

(a) a community impact plan summarizing how the applicant intends to have a positive impact on the community in which the proposed entity 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 designated caregivers;

(b) a written description of the applicant's record of social responsibility, philanthropy, and ties to the proposed host community;

(c) a written description of any research the applicant has conducted on the medical efficacy or adverse effects of cannabis use and the applicant's participation in or support of cannabis-related research and educational activities; and

(d) a written plan describing any research and development regarding the medical efficacy or adverse effects of cannabis, and any cannabis-related educational and outreach activities, which the applicant intends to conduct if issued a permit by the commission.

In evaluating the information submitted pursuant to subparagraphs (b) and (c) of this paragraph, the commission shall afford the greatest weight to responses pertaining to the applicant itself, controlling owners, and entities with common ownership or control with the applicant; followed by responses pertaining to those with a 15 percent or greater ownership interest in the applicant's organization; followed by significantly involved persons in the applicant's organization; followed by other officers, directors, and current and prospective employees of the applicant who have a bona fide relationship with the applicant's organization as of the date of the application.

(6) A workforce development and job creation plan, which may include information on the applicant's history of job creation and planned job creation at the proposed facility; education, training, and resources to be made available for employees; any relevant certifications; and a diversity plan.

(7) A business and financial plan, which may include, but shall not be limited to, the following:

(a) an executive summary of the applicant's business plan;

(b) a demonstration of the applicant's financial ability to implement its business plan, 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; and

(c) a description of the applicant's plan to comply with guidance pertaining to cannabis 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 the applicant's 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 with the applicant, in any state where the applicant has operated a business related to medical cannabis. For the purposes of this subparagraph, the commission shall consider only bank references involving accounts in the name of the applicant or of an entity with common ownership or control with the applicant. An applicant who does not submit the information described in this subparagraph shall not be disqualified from consideration.

(8) Whether any of the applicant's majority or controlling owners were previously approved by the commission to serve as an officer, director, principal, or key employee of an alternative treatment center, or personal use cannabis establishment, distributor, or delivery service, provided any such individual served in that capacity at the alternative treatment center for six or more months.

(9) Whether the applicant can demonstrate that its governance structure includes the involvement of a school of medicine or osteopathic medicine licensed and accredited in the United States, or a general acute care hospital, ambulatory care facility, adult day care services program, or pharmacy licensed in New Jersey, provided that:

(a) the school, hospital, facility, or pharmacy has conducted or participated in research approved by an institutional review board related to cannabis involving the use of human subjects, except in the case of an accredited school of medicine or osteopathic medicine that is located and licensed in New Jersey;

(b) the school, hospital, facility, or pharmacy holds a profit share or ownership interest in the applicant's organization of 10 percent or more, except in the case of an accredited school of medicine or osteopathic medicine that is located and licensed in New Jersey; and

(c) the school, hospital, facility, or pharmacy 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.

(10) The proposed composition of the applicant's medical advisory board established pursuant to section 15 of P.L.2019, c.153 (C.24:6I-7.5), if any.

(11) Whether the applicant intends to or has entered into a partnership with a prisoner re-entry program for the purpose of identifying and promoting employment opportunities at the applicant's organization for former inmates and current inmates leaving the corrections system. If so, the applicant shall provide details concerning the name of the re-entry program, the employment opportunities at the applicant's organization that will be made available to the re-entry population, and any other initiatives the applicant's organization will undertake to provide support and assistance to the re-entry population.

(12) Any other information the commission deems relevant in determining whether to grant a permit to the applicant.

e. In addition to the information to be submitted pursuant to subsections c. and d. of this section, the commission shall require all permit applicants, other than applicants for a conditional permit, or for an entity that is a microbusiness pursuant to subsection e. of section 11 of P.L.2019, c.153 (C.24:6I-7.1), to submit an attestation signed by a bona fide labor

organization stating that the applicant has entered into a labor peace agreement with such bona fide labor organization. Except in the case of an entity holding an unconverted conditional permit, the maintenance of a labor peace agreement with a bona fide labor organization shall be an ongoing material condition of maintaining a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit. The submission of an attestation and maintenance of a labor peace agreement with a bona fide labor organization by an applicant issued a conditional permit pursuant to subsection d. of section 11 of P.L.2019, c.153 (C.24:6I-7.1.) shall be a requirement for conversion of a conditional permit into a full permit. The failure to enter into a collective bargaining agreement within 200 days after the date that a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary first opens shall result in the suspension or revocation of such permit or conditional permit.

In reviewing initial permit applications, the commission shall give priority to the following, regardless of whether there is any competition among applicants for a particular type of permit:

(1) Applicants that are party to a collective bargaining agreement with a bona fide labor organization that currently represents, or is actively seeking to represent, cannabis workers in New Jersey.

(2) Applicants that are party to a collective bargaining agreement with a bona fide labor organization that currently represents cannabis workers in another state.

(3) Applicants that include a significantly involved person or persons lawfully residing in New Jersey for at least two years as of the date of the application.

(4) Applicants that submit a signed project labor agreement with a bona fide building trades labor organization, which is a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project, including labor issues and worker grievances associated with that project, for the construction or retrofit of the facilities associated with the permitted entity.

(5) Applicants that submit a signed project labor agreement with a bona fide labor organization for any other applicable project associated with the permitted entity.

As used in this subsection, “bona fide labor organization” means a labor organization of any kind or employee representation committee, group, or association, in which employees participate and which exists and is constituted for the purpose, in whole or in part, of collective bargaining or otherwise dealing with medical or personal use cannabis employers concerning grievances, labor disputes, terms or conditions of employment, including wages and rates of pay, or other mutual aid or protection in connection with employment, and may be characterized by: it being a party to one or more executed collective bargaining agreements with medical or personal use cannabis employers, in this State or another state; it having a written constitution or bylaws in the three immediately preceding years; it filing the annual financial report required of labor organizations pursuant to subsection (b) of 29 U.S.C. s.431, or it having at least one audited financial report in the three immediately preceding years; it being affiliated with any regional or national association of unions, including but not limited to state and federal labor councils; or it being a member of a national labor organization that has at least 500 general members in a majority of the 50 states of the United States. A bona fide labor organization includes a bona fide building trades labor organization.

f. In reviewing an initial permit application, unless the information is otherwise solicited by the commission in a specific application question, the commission's evaluation of the application shall be limited to the experience and qualifications of the applicant's organization, including controlling owners, any entities with common ownership or control with the

applicant, those with a 15 percent or greater interest in the applicant's organization, significantly involved persons in the applicant's organization, the other officers, directors, and current or prospective employees of the applicant's organization who have a bona fide relationship with the applicant's organization as of the date of the application, and consultants and independent contractors who have a bona fide relationship with the applicant as of the date of the application. Responses pertaining to applicants who are exempt from the criminal history record background check requirements of section 7 of P.L.2009, c.307 (C.24:6I-7) shall not be considered. Each applicant shall certify as to the status of the individuals and entities included in the application.

g. The commission shall conduct a disparity study to determine whether race-based measures should be considered when issuing permits pursuant to this section, and shall incorporate the policies, practices, protocols, standards, and criteria developed by the Office of Minority, Disabled Veterans, and Women Cannabis Business Development pursuant to section 32 of P.L.2019, c.153 (C.24:6I-25) to promote participation in the medical cannabis industry by persons from socially and economically disadvantaged communities, including promoting applications for, and the issuance of, medical cannabis cultivator, medical cannabis manufacturer, and medical cannabis dispensary permits to certified minority, women's, and disabled veterans' businesses. To this end, the commission shall seek to issue at least 30 percent of the total number of new medical cannabis cultivator permits, medical cannabis manufacturer permits, and medical cannabis dispensary permits issued on or after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) as follows:

(1) at least 15 percent of the total number of new medical cannabis cultivator permits, medical cannabis manufacturer permits, and medical cannabis dispensary permits are issued to a qualified applicant that has been certified as a minority business pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.); and

(2) at least 15 percent of the total number of new medical cannabis cultivator permits, medical cannabis manufacturer permits, and medical cannabis dispensary permits are issued to a qualified applicant that has been certified as a women's business pursuant to P.L.1986, c.195 (C.52:27H-21.18 et seq.) or as a disabled-veterans' 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 commission shall grant a higher preference to applicants with up to two of the certifications described in this subsection.

h. The commission shall give special consideration to any applicant that has entered into an agreement with an institution of higher education to create an integrated curriculum involving the cultivation, manufacturing, dispensing or delivery of medical cannabis, provided that the curriculum is approved by both the commission and the Office of the Secretary of Higher Education and the applicant agrees to maintain the integrated curriculum in perpetuity. An integrated curriculum permit shall be subject to revocation if the IC permit holder fails to maintain or continue the integrated curriculum. In the event that, because of circumstances outside an IC permit holder's control, the IC permit holder will no longer be able to continue an integrated curriculum, the IC permit holder shall notify the commission and shall make reasonable efforts to establish a new integrated curriculum with an institution of higher education, subject to approval by the commission and the Office of the Secretary of Higher Education. If the IC permit holder is unable to establish a new integrated curriculum within six months after the date the current integrated curriculum arrangement ends, the commission shall revoke the entity's IC permit, unless the commission finds there are extraordinary circumstances that justify allowing the permit holder to retain the permit without an integrated curriculum and the commission finds that allowing the permit holder to retain the permit would

be consistent with the purposes of P.L.2009, c.307 (C.24:6I-1 et al.), in which case the IC permit shall convert to a regular permit of the same type. The commission may revise the application and permit fees or other conditions for an IC permit as may be necessary to encourage applications for IC permits.

i. Application materials submitted to the commission pursuant to this section shall 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 government records.

j. If the commission notifies an applicant that it has performed sufficiently well on multiple applications to be awarded more than one permit, the applicant shall notify the commission, within seven business days after receiving such notice, as to which permit type it will accept. For any permit award declined by an applicant pursuant to this subsection, the commission shall, upon receiving notice from the applicant of the declination, award the permit to the applicant for that permit type who, in the determination of the commission, best satisfies the commission's criteria while meeting the commission's determination of Statewide need. If an applicant fails to notify the commission as to which permit it will accept, the commission shall have the discretion to determine which permit it will award to the applicant, based on the commission's determination of Statewide need and other applications submitted for facilities to be located in the affected regions.

k. (1) Subject to the provisions of paragraph (2) of this subsection, the provisions of this section shall not apply to any permit applications submitted pursuant to a request for applications published in the New Jersey Register prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.).

(2) The provisions of subsection l. of this section shall not apply to any permit applications submitted pursuant to a request for applications published in the New Jersey Register prior to the effective date of P.L.2021, c.252.

l. In addition to the information to be submitted pursuant to subsections c., d., and e. of this section, the commission shall require all permit applicants to submit a copy of any services agreement entered into by the applicant with third party entity, which agreement shall be subject to review as provided in subsection f. of section 11 of P.L.2019, c.153 (C.24:6I-7.1).

4. This act shall take effect immediately.

Approved October 18, 2021.

SENATE, No. 2875

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED SEPTEMBER 14, 2020

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Revises certain restrictions on ownership of medical cannabis alternative treatment centers.

CURRENT VERSION OF TEXT

As introduced.



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

3

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

6

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

9 7. a. (1) The commission shall accept applications from
10 entities for permits to operate as medical cannabis cultivators,
11 medical cannabis manufacturers, and medical cannabis dispensaries.
12 For the purposes of this section, the term "permit" shall be deemed
13 to include a conditional permit issued pursuant to subsection d. of
14 section 11 of P.L.2019, c.153 (C.24:6I-7.1) and any permit issued to
15 a microbusiness pursuant to subsection e. of section 11 of P.L.2019,
16 c.153 (C.24:6I-7.1).

17 (2) (a) For a period of 18 months after the effective date of
18 P.L.2019, c.153 (C.24:6I-5.1 et al.):

19 (i) no applicant may concurrently hold more than one permit
20 issued by the commission pursuant to this section, regardless of
21 type; and

22 (ii) there shall be no more than 28 active medical cannabis
23 cultivator permits, including medical cannabis cultivator permits
24 deemed to be held by alternative treatment centers issued a permit
25 prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) and
26 medical cannabis cultivator permits deemed to be held by
27 alternative treatment centers issued a permit subsequent to the
28 effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an
29 application submitted prior to the effective date of P.L.2019, c.153
30 (C.24:6I-5.1 et al.); provided that medical cannabis cultivator
31 permits issued to microbusinesses pursuant to subsection e. of
32 section 11 of P.L.2019, c.153 (C.24:6I-7.1) shall not count toward
33 this limit.

34 (b) Commencing 18 months after the effective date of P.L.2019,
35 c.153 (C.24:6I-5.1 et al.), a permit holder shall be authorized to
36 concurrently hold a medical cannabis cultivator permit, a medical
37 cannabis manufacturer permit, and a medical cannabis dispensary
38 permit, provided that no permit holder shall be authorized to
39 concurrently hold more than one permit of each type. The permit
40 holder may submit an application for a permit of any type that the
41 permit holder does not currently hold prior to the expiration of the
42 18-month period described in subparagraph (a) of this paragraph,
43 provided that no additional permit shall be awarded to the permit
44 holder during the 18 month period.

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 (c) The provisions of subparagraph (a) of this paragraph shall
2 not apply to any alternative treatment center that was issued a
3 permit prior to the effective date of P.L.2019, c.153 (C.24:6I-
4 5.1 et al.), to any alternative treatment center that was issued a
5 permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.)
6 pursuant to an application submitted prior to the effective date of
7 P.L.2019, c.153 (C.24:6I-5.1 et al.), to one of the four alternative
8 treatment centers issued a permit pursuant to an application
9 submitted after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et
10 al.) pursuant to a request for applications published in the New
11 Jersey Register prior to the effective date of P.L.2019, c.153
12 (C.24:6I-5.1 et al.) that are expressly exempt from the provisions of
13 subparagraph (i) of subparagraph (a) of this paragraph, or to one
14 of the three alternative treatment centers issued a permit pursuant to
15 section 11 of P.L.2019, c.153 (C.24:6I-7.1) that are expressly
16 exempt from the provisions of subparagraph (i) of subparagraph
17 (a) of this paragraph, which alternative treatment centers shall be
18 deemed to concurrently hold a medical cannabis cultivator permit, a
19 medical cannabis manufacturer permit, and a medical cannabis
20 dispensary permit, and shall be authorized to engage in any conduct
21 authorized pursuant to those permits in relation to the cultivation,
22 manufacturing, and dispensing of medical cannabis.

23 (d) (i) No entity may be issued or concurrently hold more than
24 one medical cannabis cultivator permit, one medical cannabis
25 manufacturer permit, or one medical cannabis dispensary permit at
26 one time, and no medical cannabis dispensary shall be authorized to
27 establish a satellite location on or after the effective date of
28 P.L.2019, c.153 (C.24:6I-5.1 et al.), except that an alternative
29 treatment center that was issued a permit prior to the effective date
30 of P.L.2019, c.153 (C.24:6I-5.1 et al.) or that was issued a permit
31 after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.)
32 pursuant to an application submitted prior to the effective date of
33 P.L.2019, c.153 (C.24:6I-5.1 et al.) shall be authorized to maintain
34 up to two satellite dispensaries, including any satellite dispensary
35 that was approved pursuant to an application submitted prior to or
36 within 18 months after the effective date of P.L.2019, c.153
37 (C.24:6I-5.1 et al.). The three alternative treatment centers issued
38 permits pursuant to section 11 of P.L.2019, c.153 (C.24:6I-7.1) that
39 are expressly exempt from the provisions of subparagraph (i) of
40 subparagraph (a) of this paragraph shall be authorized to establish
41 and maintain up to one satellite dispensary location, provided that
42 the satellite dispensary was approved pursuant to an application
43 submitted within 18 months after the effective date of P.L.2019,
44 c.153 (C.24:6I-5.1 et al.).

45 (ii) Notwithstanding the provisions of subparagraph (i) of
46 this subparagraph, an investor group or a fund formed for the sole
47 and express purpose of providing financial and technical assistance
48 or the use of intellectual property to an applicant for a medical

1 cannabis dispensary permit, which applicant that has been certified
2 as a minority business pursuant to P.L.1986, c.195 (C.52:27H-
3 21.18 et seq.), a women's business pursuant to P.L.1986, c.195
4 (C.52:27H-21.18 et seq.) or that is a disabled-veterans' business, as
5 defined in section 2 of P.L.2015, c.116 (C.52:32-31.2), may own up
6 to a 40 percent interest in up to 10 entities that have been issued a
7 medical cannabis dispensary permit, provided that the terms of the
8 agreement to financial or technical assistance or the use of
9 intellectual property, whether provided in the form of equity, a loan,
10 or otherwise, including interest rates, returns, and fees, are
11 commercially reasonable based on the terms generally provided to
12 comparable businesses. The terms of the agreement for the
13 provision of financial or technical assistance or the use of
14 intellectual property may include performance, quality, and other
15 requirements as a condition of providing the financial or technical
16 assistance or use of intellectual property. In no case may the
17 controlling interest in the entity that holds the medical cannabis
18 dispensary permit revert to the investor group or fund in the event
19 of a default or failure by the certified minority or women's business
20 or disabled-veterans' business, as applicable, and any such
21 controlling interest may only be transferred to a certified minority
22 or women's business or a disabled-veterans' business. An entity
23 issued a medical cannabis cultivator, manufacturer, or dispensary
24 permit, or an individual associated with the ownership or
25 management of the entity, may participate in an investor group or a
26 fund that meets the requirements of this subsubparagraph, provided
27 that the entity's or individual's interest in the investor group or the
28 fund does not exceed 10 percent.

29 (e) No entity issued a medical cannabis cultivator, medical
30 cannabis manufacturer, or medical cannabis dispensary permit may
31 concurrently hold a clinical registrant permit issued pursuant to
32 section 13 of P.L.2019, c.153 (C.24:6I-7.3), and no entity issued a
33 clinical registrant permit pursuant to section 13 of P.L.2019, c.153
34 (C.24:6I-7.3) may concurrently hold a medical cannabis cultivator
35 permit, a medical cannabis manufacturer permit, or a medical
36 cannabis dispensary permit.

37 (f) Any medical cannabis dispensary permit holder may be
38 approved by the commission to operate a medical cannabis
39 consumption area, provided that the permit holder otherwise meets
40 the requirements of section 28 of P.L.2019, c.153 (C.24:6I-21).

41 (g) An alternative treatment center that was issued a permit prior
42 to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), that was
43 issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-
44 5.1 et al.) pursuant to an application submitted pursuant to a request
45 for applications published in the New Jersey Register prior to the
46 effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), or that was
47 issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-
48 5.1 et al.) pursuant to an application submitted prior to the effective

1 date of P.L.2019, c.153 (C.24:6I-5.1 et al.), shall be required to
2 submit an attestation signed by a bona fide labor organization
3 stating that the alternative treatment center has entered into a labor
4 peace agreement with such bona fide labor organization no later
5 than 100 days after the effective date of P.L.2019, c.153 (C.24:6I-
6 5.1 et al.) or no later than 100 days after the date the alternative
7 treatment center first opens, whichever date is later. The
8 maintenance of a labor peace agreement with a bona fide labor
9 organization shall be an ongoing material condition of maintaining
10 the alternative treatment center's permit. The failure to submit an
11 attestation as required pursuant to this subparagraph within 100
12 days after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.)
13 or within 100 days after the alternative treatment center first opens,
14 as applicable, shall result in the suspension or revocation of the
15 alternative treatment center's permit, provided that the commission
16 may grant an extension to this deadline to the alternative treatment
17 center based upon extenuating circumstances or for good cause
18 shown.

19 (3) The commission shall seek to ensure the availability of a
20 sufficient number of medical cannabis cultivators, medical cannabis
21 manufacturers, and medical cannabis dispensaries throughout the
22 State, pursuant to need, including at least two each in the northern,
23 central, and southern regions of the State. Medical cannabis
24 cultivators, medical cannabis manufacturers, and medical cannabis
25 dispensaries issued permits pursuant to this section may be
26 nonprofit or for-profit entities.

27 (4) The commission shall periodically evaluate whether the
28 number of medical cannabis cultivator, medical cannabis
29 manufacturer, and medical cannabis dispensary permits issued are
30 sufficient to meet the needs of qualifying patients in the State, and
31 shall make requests for applications and issue such additional
32 permits as shall be necessary to meet those needs. The types of
33 permits requested and issued, and the locations of any additional
34 permits that are authorized, shall be in the discretion of the
35 commission based on the needs of qualifying patients in the State.

36 (5) (a) A medical cannabis cultivator shall be authorized to:
37 acquire a reasonable initial and ongoing inventory, as determined
38 by the commission, of cannabis seeds or seedlings and
39 paraphernalia; possess, cultivate, plant, grow, harvest, and package
40 medical cannabis, including prerolled forms, for any authorized
41 purpose, including, but not limited to, research purposes; and
42 deliver, transfer, transport, distribute, supply, or sell medical
43 cannabis and related supplies to any medical cannabis cultivator,
44 medical cannabis manufacturer, medical cannabis dispensary, or
45 clinical registrant in the State. In no case shall a medical cannabis
46 cultivator operate or be located on land that is valued, assessed or
47 taxed as an agricultural or horticultural use pursuant to the

1 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-
2 23.1 et seq.).

3 (b) A medical cannabis manufacturer shall be authorized to:
4 purchase or acquire medical cannabis from any medical cannabis
5 cultivator, medical cannabis manufacturer, or clinical registrant in
6 the State; possess and utilize medical cannabis in the manufacture,
7 production, and creation of medical cannabis products; and deliver,
8 transfer, transport, supply, or sell medical cannabis products and
9 related supplies to any medical cannabis manufacturer, medical
10 cannabis dispensary, or clinical registrant in the State.

11 (c) A medical cannabis dispensary shall be authorized to:
12 purchase or acquire medical cannabis from any medical cannabis
13 cultivator, medical cannabis dispensary, or clinical registrant in the
14 State and medical cannabis products and related supplies from any
15 medical cannabis manufacturer, medical cannabis dispensary, or
16 clinical registrant in the State; purchase or acquire paraphernalia
17 from any legal source; and distribute, supply, sell, or dispense
18 medical cannabis, medical cannabis products, paraphernalia, and
19 related supplies to qualifying patients or their designated or
20 institutional caregivers who are registered with the commission
21 pursuant to section 4 of P.L.2009, c.307 (C.24:6I-4). A medical
22 cannabis dispensary may furnish medical cannabis, medical
23 cannabis products, paraphernalia, and related supplies to a medical
24 cannabis handler for delivery to a registered qualifying patient,
25 designated caregiver, or institutional caregiver consistent with the
26 requirements of subsection i. of section 27 of P.L.2019, c.153
27 (C.24:6I-20).

28 (6) A medical cannabis cultivator shall not be limited in the
29 number of strains of medical cannabis cultivated, and a medical
30 cannabis manufacturer shall not be limited in the number or type of
31 medical cannabis products manufactured, produced, or created. A
32 medical cannabis manufacturer may package, and a medical
33 cannabis dispensary may directly dispense medical cannabis and
34 medical cannabis products to qualifying patients and their
35 designated and institutional caregivers in any authorized form.
36 Authorized forms shall include dried form, oral lozenges, topical
37 formulations, transdermal form, sublingual form, tincture form, or
38 edible form, or any other form as authorized by the commission.
39 Edible form shall include pills, tablets, capsules, drops or syrups,
40 oils, chewable forms, and any other form as authorized by the
41 commission, except that the edible forms made available to minor
42 patients shall be limited to forms that are medically appropriate for
43 children, including pills, tablets, capsules, chewable forms, and
44 drops, oils, syrups, and other liquids.

45 (7) Nonprofit medical cannabis cultivators, medical cannabis
46 manufacturers, and medical cannabis dispensaries need not be
47 recognized as a 501(c)(3) organization by the federal Internal
48 Revenue Service.

1 b. The commission shall require that an applicant provide such
2 information as the commission determines to be necessary pursuant
3 to regulations adopted pursuant to P.L.2009, c.307 (C.24:6I-
4 1 et al.).

5 c. A person who has been convicted of a crime of the first,
6 second, or third degree under New Jersey law or of a crime
7 involving any controlled dangerous substance or controlled
8 substance analog as set forth in chapter 35 of Title 2C of the New
9 Jersey Statutes except paragraph (11) or (12) of subsection b. of
10 N.J.S.2C:35-5, or paragraph (3) or (4) of subsection a. of
11 N.J.S.2C:35-10, or any similar law of the United States or any other
12 state shall not be issued a permit to operate as a medical cannabis
13 cultivator, medical cannabis manufacturer, medical cannabis
14 dispensary, or clinical registrant or be a director, officer, or
15 employee of a medical cannabis cultivator, medical cannabis
16 manufacturer, medical cannabis dispensary, or clinical registrant,
17 unless such conviction occurred after the effective date of P.L.2009,
18 c.307 (C.24:6I-1 et al.) and was for a violation of federal law
19 relating to possession or sale of cannabis for conduct that is
20 authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015,
21 c.158 (C.18A:40-12.22 et al.).

22 d. (1) The commission shall require each applicant seeking a
23 permit to operate as, to be a director, officer, or employee of, or to
24 be a significantly involved person in, a medical cannabis cultivator,
25 medical cannabis manufacturer, medical cannabis dispensary, or
26 clinical registrant to undergo a criminal history record background
27 check.

28 Any individual seeking to become a director, officer, or
29 employee of a medical cannabis cultivator, medical cannabis
30 manufacturer, medical cannabis dispensary, or clinical registrant,
31 after issuance of an initial permit shall notify the commission and
32 shall complete a criminal history record background check and
33 provide all information as may be required by the commission as a
34 condition of assuming a position as director, officer, or employee of
35 the permitted entity. An individual who incurs an investment
36 interest or gains the authority to make controlling decisions in a
37 permitted entity that makes the individual a significantly involved
38 person shall notify the commission, complete a criminal history
39 record background check, and provide all information as may be
40 required by the commission no later than 30 days after the date the
41 individual becomes a significantly involved person, or any permit
42 issued to the individual or group of which the significantly involved
43 person is a member shall be revoked and the individual or group
44 shall be deemed ineligible to hold any ownership or investment
45 interest in a medical cannabis cultivator, medical cannabis
46 manufacturer, medical cannabis dispensary, or clinical registrant for
47 a period of at least two years, commencing from the date of
48 revocation, and for such additional period of time as the

1 commission deems appropriate, based on the duration of the
2 nondisclosure, the size of the individual's or group's investment
3 interest in the permitted entity, the amount of profits, revenue, or
4 income realized by the individual or group from the permitted entity
5 during the period of nondisclosure, and whether the individual had a
6 disqualifying conviction or would otherwise have been deemed
7 ineligible to be a significantly involved person in a medical
8 cannabis cultivator, medical cannabis manufacturer, medical
9 cannabis dispensary, or clinical registrant.

10 For purposes of this section, the term "applicant" shall include
11 any owner, director, officer, or employee of, and any significantly
12 involved person in, a medical cannabis cultivator, medical cannabis
13 manufacturer, medical cannabis dispensary, or clinical registrant.
14 The commission is authorized to exchange fingerprint data with and
15 receive criminal history record background information from the
16 Division of State Police and the Federal Bureau of Investigation
17 consistent with the provisions of applicable federal and State laws,
18 rules, and regulations. The Division of State Police shall forward
19 criminal history record background information to the commission
20 in a timely manner when requested pursuant to the provisions of
21 this section.

22 An applicant who is required to undergo a criminal history
23 record background check pursuant to this section shall submit to
24 being fingerprinted in accordance with applicable State and federal
25 laws, rules, and regulations. No check of criminal history record
26 background information shall be performed pursuant to this section
27 unless the applicant has furnished the applicant's written consent to
28 that check. An applicant who is required to undergo a criminal
29 history record background check pursuant to this section who
30 refuses to consent to, or cooperate in, the securing of a check of
31 criminal history record background information shall not be
32 considered for a permit to operate, or authorization to be employed
33 at or to be a significantly involved person in, a medical cannabis
34 cultivator, medical cannabis manufacturer, medical cannabis
35 dispensary, or clinical registrant. An applicant shall bear the cost
36 for the criminal history record background check, including all
37 costs of administering and processing the check.

38 (2) The commission shall not approve an applicant for a permit
39 to operate, or authorization to be employed at or to be a
40 significantly involved person in, a medical cannabis cultivator,
41 medical cannabis manufacturer, medical cannabis dispensary, or
42 clinical registrant if the criminal history record background
43 information of the applicant reveals a disqualifying conviction as
44 set forth in subsection c. of this section.

45 (3) Upon receipt of the criminal history record background
46 information from the Division of State Police and the Federal
47 Bureau of Investigation, the commission shall provide written
48 notification to the applicant of the applicant's qualification for or

1 disqualification for a permit to operate or be a director, officer, or
2 employee of, or a significantly involved person in, a medical
3 cannabis cultivator, medical cannabis manufacturer, medical
4 cannabis dispensary, or clinical registrant.

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

9 (4) The Division of State Police shall promptly notify the
10 commission in the event that an individual who was the subject of a
11 criminal history record background check conducted pursuant to
12 this section is convicted of a crime or offense in this State after the
13 date the background check was performed. Upon receipt of that
14 notification, the commission shall make a determination regarding
15 the continued eligibility to operate or be a director, officer, or
16 employee of, or a significantly involved person in, a medical
17 cannabis cultivator, medical cannabis manufacturer, medical
18 cannabis dispensary, or clinical registrant.

19 (5) Notwithstanding the provisions of subsection c. of this
20 section to the contrary, the commission may offer provisional
21 authority for an applicant to be an owner, director, officer, or
22 employee of, or a significantly involved person in, a medical
23 cannabis cultivator, medical cannabis manufacturer, medical
24 cannabis dispensary, or clinical registrant for a period not to exceed
25 three months if the applicant submits to the commission a sworn
26 statement attesting that the person has not been convicted of any
27 disqualifying conviction pursuant to this section.

28 (6) Notwithstanding the provisions of subsection c. of this
29 section to the contrary, no applicant to be an owner, director,
30 officer, or employee of, or a significantly involved person in, a
31 medical cannabis cultivator, medical cannabis manufacturer,
32 medical cannabis dispensary, or clinical registrant shall be
33 disqualified on the basis of any conviction disclosed by a criminal
34 history record background check conducted pursuant to this section
35 if the individual has affirmatively demonstrated to the commission
36 clear and convincing evidence of rehabilitation. In determining
37 whether clear and convincing evidence of rehabilitation has been
38 demonstrated, the following factors shall be considered:

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

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

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

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

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

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

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

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

9 e. The commission shall issue a permit to operate or be an
10 owner, director, officer, or employee of, or a significantly involved
11 person in, a medical cannabis cultivator, medical cannabis
12 manufacturer, or medical cannabis dispensary if the commission
13 finds that issuing such a permit would be consistent with the
14 purposes of P.L.2009, c.307 (C.24:6I-1 et al.) and the requirements
15 of this section and section 11 of P.L.2019, c.153 (C.24:6I-7.1) are
16 met. 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. A permit to operate a medical cannabis cultivator,
19 medical cannabis manufacturer, or medical cannabis dispensary
20 issued on or after the effective date of P.L.2019, c.153 (C.24:6I-
21 5.1 et al.) shall be valid for one year and shall be renewable
22 annually.

23 f. A person who has been issued a permit pursuant to this
24 section or a clinical registrant permit pursuant to section 13 of
25 P.L.2019, c.153 (C.24:6I-7.3) shall display the permit at the front
26 entrance to the premises of the permitted facility at all times when
27 the facility is engaged in conduct authorized pursuant to P.L.2009,
28 c.307 (C.24:6I-1 et al.) involving medical cannabis, including, but
29 not limited to, the cultivating, manufacturing, or dispensing of
30 medical cannabis.

31 g. A medical cannabis cultivator, medical cannabis
32 manufacturer, medical cannabis dispensary, or clinical registrant
33 shall report any change in information to the commission not later
34 than 10 days after such change, or the permit shall be deemed null
35 and void.

36 h. Each medical cannabis dispensary and clinical registrant
37 shall maintain and make available on its Internet website, if any, a
38 standard price list that shall apply to all medical cannabis, medical
39 cannabis products, and related supplies and paraphernalia sold or
40 dispensed by the medical cannabis dispensary or clinical registrant,
41 which prices shall be reasonable and consistent with the actual costs
42 incurred by the medical cannabis dispensary or clinical registrant in
43 connection with acquiring and selling, transferring, or dispensing
44 the medical cannabis or medical cannabis product and related
45 supplies and paraphernalia. The prices charged by the medical
46 cannabis dispensary or clinical registrant shall not deviate from the
47 prices indicated on the entity's current price list, provided that a
48 price list maintained by a medical cannabis dispensary or clinical

1 registrant may allow for medical cannabis to be made available at a
2 reduced price or without charge to qualifying patients who have a
3 demonstrated financial hardship, as that term shall be defined by the
4 commission by regulation. A price list required pursuant to this
5 subsection may be revised no more than once per month, and each
6 medical cannabis dispensary and clinical registrant shall be
7 responsible for ensuring that the commission has a copy of the
8 facility's current price list. A medical cannabis dispensary or
9 clinical registrant shall be liable to a civil penalty of \$1,000 for
10 each sale that occurs at a price that deviates from the entity's current
11 price list, and to a civil penalty of \$10,000 for each week during
12 which the entity's current price list is not on file with the
13 commission. Any civil penalties collected by the commission
14 pursuant to this section shall be used by the commission for the
15 purposes of administering the State medical cannabis program.

16 i. The commission shall adopt regulations to:

17 (1) require such written documentation of each delivery or
18 dispensation of cannabis to, and pickup of cannabis for, a registered
19 qualifying patient, including the date and amount dispensed, and, in
20 the case of delivery, the date and times the delivery commenced and
21 was completed, the address where the medical cannabis was
22 delivered, the name of the patient or caregiver to whom the medical
23 cannabis was delivered, and the name, handler certification number,
24 and delivery certification number of the medical cannabis handler
25 who performed the delivery, to be maintained in the records of the
26 medical cannabis dispensary or clinical registrant, as the
27 commission determines necessary to ensure effective
28 documentation of the operations of each medical cannabis
29 dispensary or clinical registrant;

30 (2) monitor, oversee, and investigate all activities performed by
31 medical cannabis cultivators, medical cannabis manufacturers,
32 medical cannabis dispensaries, and clinical registrants;

33 (3) ensure adequate security of all facilities 24 hours per day
34 and security of all delivery methods to registered qualifying
35 patients; and

36 (4) establish thresholds for administrative action to be taken
37 against a medical cannabis cultivator, medical cannabis
38 manufacturer, medical cannabis dispensary, or clinical registrant
39 and its employees, officers, investors, directors, or governing board
40 pursuant to subsection m. of this section, including, but not limited
41 to, specific penalties or disciplinary actions that may be imposed in
42 a summary proceeding.

43 j. (1) Each medical cannabis cultivator, medical cannabis
44 manufacturer, medical cannabis dispensary, and clinical registrant
45 shall require the owners, directors, officers, and employees at the
46 permitted facility to complete at least eight hours of ongoing
47 training each calendar year. The training shall be tailored to the
48 roles and responsibilities of the individual's job function, and shall

1 include training on confidentiality and such other topics as shall be
2 required by the commission.

3 (2) Each medical cannabis dispensary and clinical registrant
4 shall consider whether to make interpreter services available to the
5 population served, including for individuals with a visual or hearing
6 impairment. The commission shall provide assistance to any
7 medical cannabis dispensary or clinical registrant that seeks to
8 provide such services in locating appropriate interpreter resources.
9 A medical cannabis dispensary or clinical registrant shall assume
10 the cost of providing interpreter services pursuant to this
11 subsection.

12 k. (1) The first six alternative treatment centers issued permits
13 following the effective date of P.L.2009, c.307 (C.24:6I-1 et al.)
14 shall be authorized to sell or transfer such permit and other assets to
15 a for-profit entity, provided that: the sale or transfer is approved by
16 the commission; each owner, director, officer, and employee of, and
17 significantly involved person in, the entity seeking to purchase or
18 receive the transfer of the permit, undergoes a criminal history
19 record background check pursuant to subsection d. of this section,
20 provided that nothing in this subsection shall be construed to
21 require any individual to undergo a criminal history record
22 background check if the individual would otherwise be exempt from
23 undergoing a criminal history record background check pursuant to
24 subsection d. of this section; the commission finds that the sale or
25 transfer of the permit would be consistent with the purposes of
26 P.L.2009, c.307 (C.24:6I-1 et al.); and no such sale or transfer shall
27 be authorized more than one year after the effective date of
28 P.L.2019, c.153 (C.24:6I-5.1 et al.). The sale or transfer of a permit
29 pursuant to this subsection shall not be subject to the requirements
30 of the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-
31 1 et seq., provided that, prior to or at the time of the sale or transfer,
32 all debts and obligations of the nonprofit entity are either paid in
33 full or assumed by the for-profit entity purchasing or acquiring the
34 permit, or a reserve fund is established for the purpose of paying in
35 full the debts and obligations of the nonprofit entity, and the for-
36 profit entity pays the full value of all assets held by the nonprofit
37 entity, as reflected on the nonprofit entity's balance sheet, in
38 addition to the agreed-upon price for the sale or transfer of the
39 entity's alternative treatment center permit. Until such time as the
40 members of the Cannabis Regulatory Commission are appointed
41 and the commission first organizes, the Department of Health shall
42 have full authority to approve a sale or transfer pursuant to this
43 paragraph.

44 (2) The sale or transfer of any interest of five percent or more in
45 a medical cannabis cultivator, medical cannabis manufacturer,
46 medical cannabis dispensary, or clinical registrant permit shall be
47 subject to approval by the commission and conditioned on the entity
48 that is purchasing or receiving transfer of the interest in the medical

1 cannabis cultivator, medical cannabis manufacturer, medical
2 cannabis dispensary, or clinical registrant permit completing a
3 criminal history record background check pursuant to the
4 requirements of subsection d. of this section.

5 1. No employee of any department, division, agency, board, or
6 other State, county, or local government entity involved in the
7 process of reviewing, processing, or making determinations with
8 regard to medical cannabis cultivator, medical cannabis
9 manufacturer, medical cannabis dispensary, or clinical registrant
10 permit applications shall have any direct or indirect financial
11 interest in the cultivating, manufacturing, or dispensing of medical
12 cannabis or related paraphernalia, or otherwise receive anything of
13 value from an applicant for a medical cannabis cultivator, medical
14 cannabis manufacturer, medical cannabis dispensary, or clinical
15 registrant permit in exchange for reviewing, processing, or making
16 any recommendations with respect to a permit application.

17 m. In the event that a medical cannabis cultivator, medical
18 cannabis manufacturer, medical cannabis dispensary, or clinical
19 registrant fails to comply with any requirements set forth in
20 P.L.2009, c.307 (C.24:6I-1 et al.) or any related law or regulation,
21 the commission may invoke penalties or take administrative action
22 against the medical cannabis cultivator, medical cannabis
23 manufacturer, medical cannabis dispensary, or clinical registrant
24 and its employees, officers, investors, directors, or governing board,
25 including, but not limited to, assessing fines, referring matters to
26 another State agency, and suspending or terminating any permit
27 held by the medical cannabis cultivator, medical cannabis
28 manufacturer, medical cannabis dispensary, or clinical registrant.
29 Any penalties imposed or administrative actions taken by the
30 commission pursuant to this subsection may be imposed in a
31 summary proceeding.

32 (cf: P.L.2019, c.153, s.10)

33

34 2. This act shall take effect immediately.

35

36

37

STATEMENT

38

39 This bill revises the restrictions that apply to ownership of or
40 investment in a medical cannabis dispensary and other types of
41 alternative treatment centers.

42 Current law provides that, subject to certain exceptions, no entity
43 may simultaneously hold more than one medical cannabis
44 cultivator, medical cannabis manufacturer, or medical cannabis
45 dispensary permit, although effective January 2021, a single entity
46 may hold up to one of each type of permit.

47 This bill would establish a new exception to these ownership
48 restrictions, pursuant to which an investor group or a fund formed

1 for the sole and express purpose of providing financial and
2 technical assistance or the use of intellectual property to an
3 applicant for a medical cannabis dispensary permit that has been
4 certified as a minority or women's business or is a disabled-
5 veterans' business, may own up to a 40 percent interest in up to 10
6 entities that have been issued a medical cannabis dispensary permit.

7 The bill requires that the terms of the agreement for the
8 provision of financial or technical assistance or the use of
9 intellectual property, whether provided in the form of equity, a loan,
10 or otherwise, including interest rates, returns, and fees, are
11 commercially reasonable based on the terms generally provided to
12 comparable businesses. The terms of the agreement may include
13 performance, quality, and other requirements as a condition of
14 providing the financial or technical assistance or the use of
15 intellectual property.

16 The bill provides that in no case may the controlling interest in
17 the entity that holds the medical cannabis dispensary permit revert
18 to the investor group or fund in the event of a default or failure by
19 the certified minority or women's business or disabled-veterans'
20 business, and any such controlling interest may only be transferred
21 to a certified minority or women's business or a disabled-veterans'
22 business.

23 The bill allows an entity issued a medical cannabis cultivator,
24 manufacturer, or dispensary permit, or an individual associated with
25 the ownership or management of the entity, to participate in an
26 investor group or a fund that meets the requirements of the bill,
27 provided that the entity's or individual's interest in the investor
28 group or the fund does not exceed 10 percent.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2875

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 8, 2021

The Assembly Health Committee reports favorably and with committee amendments Senate Bill No. 2875 (1R).

As amended by the committee, this bill revises the restrictions that apply to ownership of or investment in a medical cannabis dispensary and other types of alternative treatment centers (ATCs), and grants the Cannabis Regulatory Commission (CRC) additional authority to review management services agreements for ATC permit applicants to determine whether the terms of the agreement are commercially reasonable and consistent with fair market value.

Current law provides that, subject to certain exceptions, no entity may simultaneously hold more than one medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit, although, effective January 2021, a single entity may hold up to one of each type of permit.

This bill would establish a new exception to these ownership restrictions, pursuant to which an investor, investor group, or fund that provides significant financial or technical assistance or the use of intellectual property, or a combination thereof, to an applicant for a medical cannabis dispensary permit that has been certified as a minority or women's business or is a disabled-veterans' business, may own up to a 40 percent interest in up to 10 entities that have been issued a medical cannabis dispensary permit, provided any such dispensary permit holder is also certified as a minority or women's business or is a disabled-veterans' business.

The bill requires that the terms of the agreement for the provision of significant financial or technical assistance or use of intellectual property, whether provided in the form of equity, a loan, or otherwise, including interest rates, returns, and fees, are commercially reasonable based on the terms generally provided to comparable businesses. The terms of the agreement may include performance, quality, and other requirements as a condition of providing the significant financial or technical assistance or the use of intellectual property. The applicant will be required to submit a copy of the agreement to the CRC for review.

Under the bill, an applicant for a medical cannabis dispensary permit that receives significant financial or technical assistance or the

use of intellectual property will be required to pay back the full value of the financial or technical assistance or intellectual property provided, plus any applicable interest and fees, within seven years after the date of the agreement, but no earlier than three years after the date of the agreement. An investor, investor group, or fund that has acquired an ownership interest in one or more medical cannabis dispensaries as authorized under the bill will be permitted to maintain the ownership interest after the full value of the assistance provided has been repaid.

The bill provides that in no case may the controlling interest in the entity that holds a medical cannabis dispensary permit revert to the investor group or fund in the event of a default or failure by the certified minority or women's business or disabled-veterans' business, and any such controlling interest may only be transferred to a certified minority or women's business or a disabled-veterans' business.

The bill allows an entity holding a medical cannabis cultivator, manufacturer, or dispensary permit, or an individual associated with the ownership or management of the entity, to participate in an investor group or a fund that meets the requirements of the bill.

The bill requires all applicants for an ATC permit to submit with the application a copy of any agreement between the applicant and a third party entity for the third party entity to provide services to the applicant. The services agreement will not be considered as part of the application, but, along with agreements to provide significant financial or technical assistance or the significant use of intellectual property to an applicant, will be subject to review by the CRC to determine whether the terms of the agreement, including interest rates, returns, and fees, are commercially reasonable and consistent with the fair market value for the terms generally applicable to agreements of a comparable nature. In the event the CRC determines the terms of an agreement are not commercially reasonable or consistent with fair market value, the CRC will have the authority to withhold approval of the permit application until the parties renegotiate a new agreement that, as determined by the CRC, is commercially reasonable and consistent with fair market value. The parties to the agreement may request that the CRC provide guidance as to what terms it would find to be commercially reasonable and consistent with fair market value. Nothing in the bill is to be construed to require the CRC to award a permit to an applicant if the CRC determines the applicant does not otherwise meet the requirements for issuance of the permit.

As reported by the committee with amendments, Senate Bill No. 2875 (1R) is identical to Assembly Bill No. 5179, which the committee also reported on this date with amendments.

COMMITTEE AMENDMENTS:

The committee amendments revise the bill to require that agreements to provide significant financial or technical assistance or the significant use of intellectual property to an applicant for a medical cannabis dispensary permit under the bill be submitted to the Cannabis

Regulatory Commission (CRC) along with the other application materials.

The committee amendments require all applicants for an alternative treatment center (ATC) permit to submit to the CRC, along with the application materials, copies of any services agreements the applicant has entered into with a third party entity.

The committee amendments expressly grant the CRC the authority to review services agreements and agreements to provide significant financial or technical assistance or the significant use of intellectual property to an applicant, to determine whether the terms of the agreement are commercially reasonable and consistent with fair market value. If the CRC finds the terms are not commercially reasonable and consistent with fair market value, the CRC will have the authority to withhold approval of an ATC permit application until the parties renegotiate a new agreement under terms that are commercially reasonable and consistent with fair market value, as determined by the CRC.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE, No. 2875

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 2021

The Assembly Health Committee reports favorably and with committee amendments Senate Bill No. 2875 (2R).

As amended by the committee, this bill revises the restrictions that apply to ownership of or investment in a medical cannabis dispensary and other types of alternative treatment centers (ATCs), and grants the Cannabis Regulatory Commission (CRC) additional authority to review management services agreements for ATC permit applicants to determine whether the terms of the agreement are commercially reasonable and consistent with fair market value.

Current law provides that, subject to certain exceptions, no entity may simultaneously hold more than one medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit, although, effective January 2021, a single entity may hold up to one of each type of permit.

This bill would establish a new exception to these ownership restrictions, pursuant to which an investor, investor group, or fund that provides significant financial or technical assistance or the use of intellectual property, or a combination thereof, to an applicant for a medical cannabis dispensary permit that has been certified as a minority or women's business or is a disabled-veterans' business, may own up to a 35 percent interest in up to seven entities that have been issued a medical cannabis dispensary permit, provided any such dispensary permit holder is also certified as a minority or women's business or is a disabled-veterans' business.

The bill requires that the terms of the agreement for the provision of significant financial or technical assistance or use of intellectual property, whether provided in the form of equity, a loan, or otherwise, including interest rates, returns, and fees, are commercially reasonable based on the terms generally provided to comparable businesses. The terms of the agreement may include performance, quality, and other requirements as a condition of providing the significant financial or technical assistance or the use of intellectual property. The applicant will be required to submit a copy of the agreement to the CRC for review.

Under the bill, an applicant for a medical cannabis dispensary permit that receives significant financial or technical assistance or the use of intellectual property will be required to pay back the full value of the financial or technical assistance or intellectual property provided, plus any applicable interest and fees, in a period not less than five years after the date of the agreement if the full value of the assistance or property is less than \$100,000, in a period not less than seven years after the date of the agreement if the full value of the assistance or property is between \$100,001 and \$250,000, in a period not less than 10 years after the date of agreement if the full value of the assistance or property is between \$250,001 and \$500,000, and, subject to any terms and conditions imposed by a lender, in a period not less than 10 years after the date of the agreement if the full value of the assistance or property is greater than \$500,000. An investor, investor group, or fund that has acquired an ownership interest in one or more medical cannabis dispensaries as authorized under the bill will be permitted to maintain the ownership interest after the full value of the assistance provided has been repaid.

The bill provides that in no case may the controlling interest in the entity that holds a medical cannabis dispensary permit revert to the investor group or fund in the event of a default or failure by the certified minority or women's business or disabled-veterans' business, and any such controlling interest may only be transferred to a certified minority or women's business or a disabled-veterans' business.

The bill allows an entity holding a medical cannabis cultivator, manufacturer, or dispensary permit, or an individual associated with the ownership or management of the entity, to participate in an investor group or a fund that meets the requirements of the bill.

The bill requires all applicants for an ATC permit to submit with the application a copy of any agreement between the applicant and a third party entity for the third party entity to provide services to the applicant. The services agreement will not be considered as part of the application, but, along with agreements to provide significant financial or technical assistance or the significant use of intellectual property to an applicant, will be subject to review by the CRC to determine whether the terms of the agreement, including interest rates, returns, and fees, are commercially reasonable and consistent with the fair market value for the terms generally applicable to agreements of a comparable nature. In the event the CRC determines the terms of an agreement are not commercially reasonable or consistent with fair market value, the CRC will have the authority to withhold approval of the permit application until the parties renegotiate a new agreement that, as determined by the CRC, is commercially reasonable and consistent with fair market value. The parties to the agreement may request that the CRC provide guidance as to what terms it would find to be commercially reasonable and consistent with fair market value. Nothing in the bill is to be construed to require the CRC to award a

permit to an applicant if the CRC determines the applicant does not otherwise meet the requirements for issuance of the permit.

As reported by the committee with amendments, Senate Bill No. 2875 (2R) is identical to Assembly Bill No. 5179 (1R), which the committee also reported on this date with amendments.

COMMITTEE AMENDMENTS:

The committee amendments:

1) revise the exception to ownership restrictions, pursuant to which an investor, investor group, or fund that provides significant assistance or property to an applicant for a medical cannabis dispensary permit that has been certified as a minority, women's, or disabled-veterans' business, to up to 35 percent ownership interest in up to seven entities; and

2) revise the time in which an applicant for a medical cannabis dispensary permit will be required to pay back the full value of the assistance or property received, as provided for in the bill.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2875

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2020

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2875.

As amended by the committee, this bill revises the restrictions that apply to ownership of or investment in a medical cannabis dispensary and other types of alternative treatment centers.

Current law provides that, subject to certain exceptions, no entity may simultaneously hold more than one medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit, although, effective January 2021, a single entity may hold up to one of each type of permit.

This bill, as amended, would establish a new exception to these ownership restrictions, pursuant to which an investor, investor group, or fund that provides significant financial or technical assistance or the use of intellectual property, or a combination thereof, to an applicant for a medical cannabis dispensary permit that has been certified as a minority or women's business or is a disabled-veterans' business, may own up to a 40 percent interest in up to 10 entities that have been issued a medical cannabis dispensary permit, provided any such dispensary permit holder is also certified as a minority or women's business or is a disabled-veterans' business.

As amended, the bill requires that the terms of the agreement for the provision of significant financial or technical assistance or use of intellectual property, whether provided in the form of equity, a loan, or otherwise, including interest rates, returns, and fees, are commercially reasonable based on the terms generally provided to comparable businesses. The terms of the agreement may include performance, quality, and other requirements as a condition of providing the significant financial or technical assistance or the use of intellectual property.

As amended, the bill provides that an applicant for a medical cannabis dispensary permit that receives significant financial or technical assistance or the use of intellectual property will be required to pay back the full value of the financial or technical assistance or intellectual property provided, plus any applicable interest and fees, within seven years after the date of the agreement but no earlier than three years after the date of the agreement. An investor, investor

group, or fund that has acquired an ownership interest in one or more medical cannabis dispensaries as authorized under the bill will be permitted to maintain the ownership interest after the full value of the assistance provided has been repaid.

The bill provides that in no case may the controlling interest in the entity that holds a medical cannabis dispensary permit revert to the investor group or fund in the event of a default or failure by the certified minority or women's business or disabled-veterans' business, and any such controlling interest may only be transferred to a certified minority or women's business or a disabled-veterans' business.

As amended, the bill allows an entity issued a medical cannabis cultivator, manufacturer, or dispensary permit, or an individual associated with the ownership or management of the entity, to participate in an investor group or a fund that meets the requirements of the bill.

COMMITTEE AMENDMENTS:

The committee amendments remove language providing that an investor group or fund operating under the provisions of the bill be formed for the sole purpose of providing financial or technical assistance or the use of intellectual property to an applicant for a medical cannabis dispensary permit.

The committee amendments allow for individual investors to provide assistance to an applicant for a medical cannabis dispensary permit, and thereby gain the ability to acquire an ownership interest in up to 10 other medical cannabis dispensary permit holders.

The committee amendments add language providing that an investor, investor group, or fund may only acquire an ownership interest in a medical cannabis dispensary permit holder under the bill if the permit holder is a certified minority or women's business or that is a disabled-veterans' business.

The committee amendments add a requirement that the technical or financial assistance or use of intellectual property must be significant to qualify the investor, investor group, or fund to qualify for the exception from the ownership restrictions set forth under current law. The committee amendments clarify that assistance provided to an applicant under the bill may be any combination of significant financial assistance, significant technical assistance, or the significant use of intellectual property.

The committee amendments add a requirement for the entity receiving financial or technical assistance or the use of intellectual property to pay back the full value of the assistance, plus interest, within seven years after the date of the agreement, but no earlier than three years after the date of the agreement. The investor, investor group, or fund will be allowed to retain any ownership interests held in a medical cannabis dispensary permit holder that were acquired under the bill after the date the full value of the assistance is repaid.

The committee amendments remove language restricting the ownership interest of a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary participating in an investor group that is providing assistance under the bill to 10 percent.

The committee amendments make various technical changes to correct typographical errors and harmonize internal terminology.

ASSEMBLY, No. 5179

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 21, 2020

Sponsored by:

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblyman BRIAN BERGEN

District 25 (Morris and Somerset)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Co-Sponsored by:

Assemblyman Johnson

SYNOPSIS

Revises certain restrictions on ownership of medical cannabis alternative treatment centers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/25/2021)

A5179 REYNOLDS-JACKSON, BERGEN

2

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

3

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

6

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

9 7. a. (1) The commission shall accept applications from
10 entities for permits to operate as medical cannabis cultivators,
11 medical cannabis manufacturers, and medical cannabis dispensaries.
12 For the purposes of this section, the term "permit" shall be deemed
13 to include a conditional permit issued pursuant to subsection d. of
14 section 11 of P.L.2019, c.153 (C.24:6I-7.1) and any permit issued to
15 a microbusiness pursuant to subsection e. of section 11 of P.L.2019,
16 c.153 (C.24:6I-7.1).

17 (2) (a) For a period of 18 months after the effective date of
18 P.L.2019, c.153 (C.24:6I-5.1 et al.):

19 (i) no applicant may concurrently hold more than one permit
20 issued by the commission pursuant to this section, regardless of
21 type; and

22 (ii) there shall be no more than 28 active medical cannabis
23 cultivator permits, including medical cannabis cultivator permits
24 deemed to be held by alternative treatment centers issued a permit
25 prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) and
26 medical cannabis cultivator permits deemed to be held by
27 alternative treatment centers issued a permit subsequent to the
28 effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) pursuant to an
29 application submitted prior to the effective date of P.L.2019, c.153
30 (C.24:6I-5.1 et al.); provided that medical cannabis cultivator
31 permits issued to microbusinesses pursuant to subsection e. of
32 section 11 of P.L.2019, c.153 (C.24:6I-7.1) shall not count toward
33 this limit.

34 (b) Commencing 18 months after the effective date of P.L.2019,
35 c.153 (C.24:6I-5.1 et al.), a permit holder shall be authorized to
36 concurrently hold a medical cannabis cultivator permit, a medical
37 cannabis manufacturer permit, and a medical cannabis dispensary
38 permit, provided that no permit holder shall be authorized to
39 concurrently hold more than one permit of each type. The permit
40 holder may submit an application for a permit of any type that the
41 permit holder does not currently hold prior to the expiration of the
42 18-month period described in subparagraph (a) of this paragraph,
43 provided that no additional permit shall be awarded to the permit
44 holder during the 18 month period.

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 (c) The provisions of subparagraph (a) of this paragraph shall
2 not apply to any alternative treatment center that was issued a
3 permit prior to the effective date of P.L.2019, c.153 (C.24:6I-
4 5.1 et al.), to any alternative treatment center that was issued a
5 permit after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.)
6 pursuant to an application submitted prior to the effective date of
7 P.L.2019, c.153 (C.24:6I-5.1 et al.), to one of the four alternative
8 treatment centers issued a permit pursuant to an application
9 submitted after the effective date of P.L.2019, c.153 (C.24:6I-
10 5.1 et al.) pursuant to a request for applications published in the
11 New Jersey Register prior to the effective date of P.L.2019, c.153
12 (C.24:6I-5.1 et al.) that are expressly exempt from the provisions of
13 subparagraph (i) of subparagraph (a) of this paragraph, or to one
14 of the three alternative treatment centers issued a permit pursuant to
15 section 11 of P.L.2019, c.153 (C.24:6I-7.1) that are expressly
16 exempt from the provisions of subparagraph (i) of subparagraph
17 (a) of this paragraph, which alternative treatment centers shall be
18 deemed to concurrently hold a medical cannabis cultivator permit, a
19 medical cannabis manufacturer permit, and a medical cannabis
20 dispensary permit, and shall be authorized to engage in any conduct
21 authorized pursuant to those permits in relation to the cultivation,
22 manufacturing, and dispensing of medical cannabis.

23 (d) (i) No entity may be issued or concurrently hold more than
24 one medical cannabis cultivator permit, one medical cannabis
25 manufacturer permit, or one medical cannabis dispensary permit at
26 one time, and no medical cannabis dispensary shall be authorized to
27 establish a satellite location on or after the effective date of
28 P.L.2019, c.153 (C.24:6I-5.1 et al.), except that an alternative
29 treatment center that was issued a permit prior to the effective date
30 of P.L.2019, c.153 (C.24:6I-5.1 et al.) or that was issued a permit
31 after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.)
32 pursuant to an application submitted prior to the effective date of
33 P.L.2019, c.153 (C.24:6I-5.1 et al.) shall be authorized to maintain
34 up to two satellite dispensaries, including any satellite dispensary
35 that was approved pursuant to an application submitted prior to or
36 within 18 months after the effective date of P.L.2019, c.153
37 (C.24:6I-5.1 et al.). The three alternative treatment centers issued
38 permits pursuant to section 11 of P.L.2019, c.153 (C.24:6I-7.1) that
39 are expressly exempt from the provisions of subparagraph (i) of
40 subparagraph (a) of this paragraph shall be authorized to establish
41 and maintain up to one satellite dispensary location, provided that
42 the satellite dispensary was approved pursuant to an application
43 submitted within 18 months after the effective date of P.L.2019,
44 c.153 (C.24:6I-5.1 et al.).

45 (ii) Notwithstanding the provisions of subparagraph (i) of
46 this subparagraph, an investor, investor group, or fund that provides
47 significant financial or technical assistance or the significant use of
48 intellectual property, or a combination thereof, to an applicant for a

1 medical cannabis dispensary permit, which applicant has been
2 certified as a minority business pursuant to P.L.1986, c.195
3 (C.52:27H-21.18 et seq.), a women's business pursuant to P.L.1986,
4 c.195 (C.52:27H-21.18 et seq.), or is a disabled-veterans' business,
5 as defined in section 2 of P.L.2015, c.116 (C.52:32-31.2), may own
6 up to a 40 percent interest in up to 10 entities that have been issued
7 a medical cannabis dispensary permit, provided that each such
8 medical cannabis dispensary is a certified minority or women's
9 business or a disabled-veterans' business, and the terms of the
10 agreement to provide significant financial or technical assistance or
11 the significant use of intellectual property, or a combination thereof,
12 whether provided in the form of equity, a loan, or otherwise,
13 including interest rates, returns, and fees, are commercially
14 reasonable based on the terms generally provided to comparable
15 businesses. The terms of the agreement for the provision of
16 significant financial or technical assistance or the significant use of
17 intellectual property, or a combination thereof, may include
18 performance, quality, and other requirements as a condition of
19 providing the financial or technical assistance or use of intellectual
20 property.

21 An applicant for a medical cannabis dispensary permit that
22 receives significant financial or technical assistance or the
23 significant use of intellectual property under this subparagraph
24 shall pay back to the investor, investor group, or fund the full value
25 of the financial or technical assistance or intellectual property
26 provided under the agreement, plus any applicable interest and fees,
27 within seven years after the date the applicant entered into the
28 agreement for the provision of significant financial or technical
29 assistance or significant use of intellectual property, but no earlier
30 than three years after the date of the agreement. An investor,
31 investor group, or fund that has acquired an ownership interest in
32 one or more entities that have been issued a medical cannabis
33 dispensary permit as authorized under this subparagraph may
34 maintain the ownership interest after the date the full value of the
35 financial or technical assistance or use of intellectual property
36 provided under the agreement, plus interest and fees, has been
37 repaid by the applicant that received the assistance or use of
38 intellectual property.

39 In no case may the controlling interest in the entity that holds a
40 medical cannabis dispensary permit in which an investor, investor
41 group, or fund owns an interest as authorized under this
42 subparagraph revert to the investor, investor group, or fund in
43 the event of a default or failure by the certified minority or
44 women's business or disabled-veterans' business, as applicable, and
45 any such controlling interest may only be transferred to a certified
46 minority or women's business or a disabled-veterans' business.

47 An entity issued a medical cannabis cultivator, medical cannabis
48 manufacturer, or medical cannabis dispensary permit, or an

1 individual associated with the ownership or management of the
2 entity, may participate in an investor group or a fund that meets the
3 requirements of this subsubparagraph.

4 (e) No entity issued a medical cannabis cultivator, medical
5 cannabis manufacturer, or medical cannabis dispensary permit may
6 concurrently hold a clinical registrant permit issued pursuant to
7 section 13 of P.L.2019, c.153 (C.24:6I-7.3), and no entity issued a
8 clinical registrant permit pursuant to section 13 of P.L.2019, c.153
9 (C.24:6I-7.3) may concurrently hold a medical cannabis cultivator
10 permit, a medical cannabis manufacturer permit, or a medical
11 cannabis dispensary permit.

12 (f) Any medical cannabis dispensary permit holder may be
13 approved by the commission to operate a medical cannabis
14 consumption area, provided that the permit holder otherwise meets
15 the requirements of section 28 of P.L.2019, c.153 (C.24:6I-21).

16 (g) An alternative treatment center that was issued a permit prior
17 to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), that was
18 issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-
19 5.1 et al.) pursuant to an application submitted pursuant to a request
20 for applications published in the New Jersey Register prior to the
21 effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), or that was
22 issued a permit after the effective date of P.L.2019, c.153 (C.24:6I-
23 5.1 et al.) pursuant to an application submitted prior to the effective
24 date of P.L.2019, c.153 (C.24:6I-5.1 et al.), shall be required to
25 submit an attestation signed by a bona fide labor organization
26 stating that the alternative treatment center has entered into a labor
27 peace agreement with such bona fide labor organization no later
28 than 100 days after the effective date of P.L.2019, c.153 (C.24:6I-
29 5.1 et al.) or no later than 100 days after the date the alternative
30 treatment center first opens, whichever date is later. The
31 maintenance of a labor peace agreement with a bona fide labor
32 organization shall be an ongoing material condition of maintaining
33 the alternative treatment center's permit. The failure to submit an
34 attestation as required pursuant to this subparagraph within 100
35 days after the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.)
36 or within 100 days after the alternative treatment center first opens,
37 as applicable, shall result in the suspension or revocation of the
38 alternative treatment center's permit, provided that the commission
39 may grant an extension to this deadline to the alternative treatment
40 center based upon extenuating circumstances or for good cause
41 shown.

42 (3) The commission shall seek to ensure the availability of a
43 sufficient number of medical cannabis cultivators, medical cannabis
44 manufacturers, and medical cannabis dispensaries throughout the
45 State, pursuant to need, including at least two each in the northern,
46 central, and southern regions of the State. Medical cannabis
47 cultivators, medical cannabis manufacturers, and medical cannabis

1 dispensaries issued permits pursuant to this section may be
2 nonprofit or for-profit entities.

3 (4) The commission shall periodically evaluate whether the
4 number of medical cannabis cultivator, medical cannabis
5 manufacturer, and medical cannabis dispensary permits issued are
6 sufficient to meet the needs of qualifying patients in the State, and
7 shall make requests for applications and issue such additional
8 permits as shall be necessary to meet those needs. The types of
9 permits requested and issued, and the locations of any additional
10 permits that are authorized, shall be in the discretion of the
11 commission based on the needs of qualifying patients in the State.

12 (5) (a) A medical cannabis cultivator shall be authorized to:
13 acquire a reasonable initial and ongoing inventory, as determined
14 by the commission, of cannabis seeds or seedlings and
15 paraphernalia; possess, cultivate, plant, grow, harvest, and package
16 medical cannabis, including prerolled forms, for any authorized
17 purpose, including, but not limited to, research purposes; and
18 deliver, transfer, transport, distribute, supply, or sell medical
19 cannabis and related supplies to any medical cannabis cultivator,
20 medical cannabis manufacturer, medical cannabis dispensary, or
21 clinical registrant in the State. In no case shall a medical cannabis
22 cultivator operate or be located on land that is valued, assessed or
23 taxed as an agricultural or horticultural use pursuant to the
24 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-
25 23.1 et seq.).

26 (b) A medical cannabis manufacturer shall be authorized to:
27 purchase or acquire medical cannabis from any medical cannabis
28 cultivator, medical cannabis manufacturer, or clinical registrant in
29 the State; possess and utilize medical cannabis in the manufacture,
30 production, and creation of medical cannabis products; and deliver,
31 transfer, transport, supply, or sell medical cannabis products and
32 related supplies to any medical cannabis manufacturer, medical
33 cannabis dispensary, or clinical registrant in the State.

34 (c) A medical cannabis dispensary shall be authorized to:
35 purchase or acquire medical cannabis from any medical cannabis
36 cultivator, medical cannabis dispensary, or clinical registrant in the
37 State and medical cannabis products and related supplies from any
38 medical cannabis manufacturer, medical cannabis dispensary, or
39 clinical registrant in the State; purchase or acquire paraphernalia
40 from any legal source; and distribute, supply, sell, or dispense
41 medical cannabis, medical cannabis products, paraphernalia, and
42 related supplies to qualifying patients or their designated or
43 institutional caregivers who are registered with the commission
44 pursuant to section 4 of P.L.2009, c.307 (C.24:6I-4). A medical
45 cannabis dispensary may furnish medical cannabis, medical
46 cannabis products, paraphernalia, and related supplies to a medical
47 cannabis handler for delivery to a registered qualifying patient,
48 designated caregiver, or institutional caregiver consistent with the

1 requirements of subsection i. of section 27 of P.L.2019, c.153
2 (C.24:6I-20).

3 (6) A medical cannabis cultivator shall not be limited in the
4 number of strains of medical cannabis cultivated, and a medical
5 cannabis manufacturer shall not be limited in the number or type of
6 medical cannabis products manufactured, produced, or created. A
7 medical cannabis manufacturer may package, and a medical
8 cannabis dispensary may directly dispense medical cannabis and
9 medical cannabis products to qualifying patients and their
10 designated and institutional caregivers in any authorized form.
11 Authorized forms shall include dried form, oral lozenges, topical
12 formulations, transdermal form, sublingual form, tincture form, or
13 edible form, or any other form as authorized by the commission.
14 Edible form shall include pills, tablets, capsules, drops or syrups,
15 oils, chewable forms, and any other form as authorized by the
16 commission, except that the edible forms made available to minor
17 patients shall be limited to forms that are medically appropriate for
18 children, including pills, tablets, capsules, chewable forms, and
19 drops, oils, syrups, and other liquids.

20 (7) Nonprofit medical cannabis cultivators, medical cannabis
21 manufacturers, and medical cannabis dispensaries need not be
22 recognized as a 501(c)(3) organization by the federal Internal
23 Revenue Service.

24 b. The commission shall require that an applicant provide such
25 information as the commission determines to be necessary pursuant
26 to regulations adopted pursuant to P.L.2009, c.307 (C.24:6I-
27 1 et al.).

28 c. A person who has been convicted of a crime of the first,
29 second, or third degree under New Jersey law or of a crime
30 involving any controlled dangerous substance or controlled
31 substance analog as set forth in chapter 35 of Title 2C of the New
32 Jersey Statutes except paragraph (11) or (12) of subsection b. of
33 N.J.S.2C:35-5, or paragraph (3) or (4) of subsection a. of
34 N.J.S.2C:35-10, or any similar law of the United States or any other
35 state shall not be issued a permit to operate as a medical cannabis
36 cultivator, medical cannabis manufacturer, medical cannabis
37 dispensary, or clinical registrant or be a director, officer, or
38 employee of a medical cannabis cultivator, medical cannabis
39 manufacturer, medical cannabis dispensary, or clinical registrant,
40 unless such conviction occurred after the effective date of P.L.2009,
41 c.307 (C.24:6I-1 et al.) and was for a violation of federal law
42 relating to possession or sale of cannabis for conduct that is
43 authorized under P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015,
44 c.158 (C.18A:40-12.22 et al.).

45 d. (1) The commission shall require each applicant seeking a
46 permit to operate as, to be a director, officer, or employee of, or to
47 be a significantly involved person in, a medical cannabis cultivator,
48 medical cannabis manufacturer, medical cannabis dispensary, or

1 clinical registrant to undergo a criminal history record background
2 check.

3 Any individual seeking to become a director, officer, or
4 employee of a medical cannabis cultivator, medical cannabis
5 manufacturer, medical cannabis dispensary, or clinical registrant,
6 after issuance of an initial permit shall notify the commission and
7 shall complete a criminal history record background check and
8 provide all information as may be required by the commission as a
9 condition of assuming a position as director, officer, or employee of
10 the permitted entity. An individual who incurs an investment
11 interest or gains the authority to make controlling decisions in a
12 permitted entity that makes the individual a significantly involved
13 person shall notify the commission, complete a criminal history
14 record background check, and provide all information as may be
15 required by the commission no later than 30 days after the date the
16 individual becomes a significantly involved person, or any permit
17 issued to the individual or group of which the significantly involved
18 person is a member shall be revoked and the individual or group
19 shall be deemed ineligible to hold any ownership or investment
20 interest in a medical cannabis cultivator, medical cannabis
21 manufacturer, medical cannabis dispensary, or clinical registrant for
22 a period of at least two years, commencing from the date of
23 revocation, and for such additional period of time as the
24 commission deems appropriate, based on the duration of the
25 nondisclosure, the size of the individual's or group's investment
26 interest in the permitted entity, the amount of profits, revenue, or
27 income realized by the individual or group from the permitted entity
28 during the period of nondisclosure, and whether the individual had a
29 disqualifying conviction or would otherwise have been deemed
30 ineligible to be a significantly involved person in a medical
31 cannabis cultivator, medical cannabis manufacturer, medical
32 cannabis dispensary, or clinical registrant.

33 For purposes of this section, the term "applicant" shall include
34 any owner, director, officer, or employee of, and any significantly
35 involved person in, a medical cannabis cultivator, medical cannabis
36 manufacturer, medical cannabis dispensary, or clinical registrant.
37 The commission is authorized to exchange fingerprint data with and
38 receive criminal history record background information from the
39 Division of State Police and the Federal Bureau of Investigation
40 consistent with the provisions of applicable federal and State laws,
41 rules, and regulations. The Division of State Police shall forward
42 criminal history record background information to the commission
43 in a timely manner when requested pursuant to the provisions of
44 this section.

45 An applicant who is required to undergo a criminal history
46 record background check pursuant to this section shall submit to
47 being fingerprinted in accordance with applicable State and federal
48 laws, rules, and regulations. No check of criminal history record

1 background information shall be performed pursuant to this section
2 unless the applicant has furnished the applicant's written consent to
3 that check. An applicant who is required to undergo a criminal
4 history record background check pursuant to this section who
5 refuses to consent to, or cooperate in, the securing of a check of
6 criminal history record background information shall not be
7 considered for a permit to operate, or authorization to be employed
8 at or to be a significantly involved person in, a medical cannabis
9 cultivator, medical cannabis manufacturer, medical cannabis
10 dispensary, or clinical registrant. An applicant shall bear the cost
11 for the criminal history record background check, including all
12 costs of administering and processing the check.

13 (2) The commission shall not approve an applicant for a permit
14 to operate, or authorization to be employed at or to be a
15 significantly involved person in, a medical cannabis cultivator,
16 medical cannabis manufacturer, medical cannabis dispensary, or
17 clinical registrant if the criminal history record background
18 information of the applicant reveals a disqualifying conviction as
19 set forth in subsection c. of this section.

20 (3) Upon receipt of the criminal history record background
21 information from the Division of State Police and the Federal
22 Bureau of Investigation, the commission shall provide written
23 notification to the applicant of the applicant's qualification for or
24 disqualification for a permit to operate or be a director, officer, or
25 employee of, or a significantly involved person in, a medical
26 cannabis cultivator, medical cannabis manufacturer, medical
27 cannabis dispensary, or clinical registrant.

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

32 (4) The Division of State Police shall promptly notify the
33 commission in the event that an individual who was the subject of a
34 criminal history record background check conducted pursuant to
35 this section is convicted of a crime or offense in this State after the
36 date the background check was performed. Upon receipt of that
37 notification, the commission shall make a determination regarding
38 the continued eligibility to operate or be a director, officer, or
39 employee of, or a significantly involved person in, a medical
40 cannabis cultivator, medical cannabis manufacturer, medical
41 cannabis dispensary, or clinical registrant.

42 (5) Notwithstanding the provisions of subsection c. of this
43 section to the contrary, the commission may offer provisional
44 authority for an applicant to be an owner, director, officer, or
45 employee of, or a significantly involved person in, a medical
46 cannabis cultivator, medical cannabis manufacturer, medical
47 cannabis dispensary, or clinical registrant for a period not to exceed
48 three months if the applicant submits to the commission a sworn

1 statement attesting that the person has not been convicted of any
2 disqualifying conviction pursuant to this section.

3 (6) Notwithstanding the provisions of subsection c. of this
4 section to the contrary, no applicant to be an owner, director,
5 officer, or employee of, or a significantly involved person in, a
6 medical cannabis cultivator, medical cannabis manufacturer,
7 medical cannabis dispensary, or clinical registrant shall be
8 disqualified on the basis of any conviction disclosed by a criminal
9 history record background check conducted pursuant to this section
10 if the individual has affirmatively demonstrated to the commission
11 clear and convincing evidence of rehabilitation. In determining
12 whether clear and convincing evidence of rehabilitation has been
13 demonstrated, the following factors shall be considered:

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

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

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

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

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

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

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

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

32 e. The commission shall issue a permit to operate or be an
33 owner, director, officer, or employee of, or a significantly involved
34 person in, a medical cannabis cultivator, medical cannabis
35 manufacturer, or medical cannabis dispensary if the commission
36 finds that issuing such a permit would be consistent with the
37 purposes of P.L.2009, c.307 (C.24:6I-1 et al.) and the requirements
38 of this section and section 11 of P.L.2019, c.153 (C.24:6I-7.1) are
39 met. The denial of an application shall be considered a final agency
40 decision, subject to review by the Appellate Division of the
41 Superior Court. A permit to operate a medical cannabis cultivator,
42 medical cannabis manufacturer, or medical cannabis dispensary
43 issued on or after the effective date of P.L.2019, c.153 (C.24:6I-
44 5.1 et al.) shall be valid for one year and shall be renewable
45 annually.

46 f. A person who has been issued a permit pursuant to this
47 section or a clinical registrant permit pursuant to section 13 of
48 P.L.2019, c.153 (C.24:6I-7.3) shall display the permit at the front

1 entrance to the premises of the permitted facility at all times when
2 the facility is engaged in conduct authorized pursuant to P.L.2009,
3 c.307 (C.24:6I-1 et al.) involving medical cannabis, including, but
4 not limited to, the cultivating, manufacturing, or dispensing of
5 medical cannabis.

6 g. A medical cannabis cultivator, medical cannabis
7 manufacturer, medical cannabis dispensary, or clinical registrant
8 shall report any change in information to the commission not later
9 than 10 days after such change, or the permit shall be deemed null
10 and void.

11 h. Each medical cannabis dispensary and clinical registrant
12 shall maintain and make available on its Internet website, if any, a
13 standard price list that shall apply to all medical cannabis, medical
14 cannabis products, and related supplies and paraphernalia sold or
15 dispensed by the medical cannabis dispensary or clinical registrant,
16 which prices shall be reasonable and consistent with the actual costs
17 incurred by the medical cannabis dispensary or clinical registrant in
18 connection with acquiring and selling, transferring, or dispensing
19 the medical cannabis or medical cannabis product and related
20 supplies and paraphernalia. The prices charged by the medical
21 cannabis dispensary or clinical registrant shall not deviate from the
22 prices indicated on the entity's current price list, provided that a
23 price list maintained by a medical cannabis dispensary or clinical
24 registrant may allow for medical cannabis to be made available at a
25 reduced price or without charge to qualifying patients who have a
26 demonstrated financial hardship, as that term shall be defined by the
27 commission by regulation. A price list required pursuant to this
28 subsection may be revised no more than once per month, and each
29 medical cannabis dispensary and clinical registrant shall be
30 responsible for ensuring that the commission has a copy of the
31 facility's current price list. A medical cannabis dispensary or
32 clinical registrant shall be liable to a civil penalty of \$1,000 for
33 each sale that occurs at a price that deviates from the entity's current
34 price list, and to a civil penalty of \$10,000 for each week during
35 which the entity's current price list is not on file with the
36 commission. Any civil penalties collected by the commission
37 pursuant to this section shall be used by the commission for the
38 purposes of administering the State medical cannabis program.

39 i. The commission shall adopt regulations to:

40 (1) require such written documentation of each delivery or
41 dispensation of cannabis to, and pickup of cannabis for, a registered
42 qualifying patient, including the date and amount dispensed, and, in
43 the case of delivery, the date and times the delivery commenced and
44 was completed, the address where the medical cannabis was
45 delivered, the name of the patient or caregiver to whom the medical
46 cannabis was delivered, and the name, handler certification number,
47 and delivery certification number of the medical cannabis handler
48 who performed the delivery, to be maintained in the records of the

1 medical cannabis dispensary or clinical registrant, as the
2 commission determines necessary to ensure effective
3 documentation of the operations of each medical cannabis
4 dispensary or clinical registrant;

5 (2) monitor, oversee, and investigate all activities performed by
6 medical cannabis cultivators, medical cannabis manufacturers,
7 medical cannabis dispensaries, and clinical registrants;

8 (3) ensure adequate security of all facilities 24 hours per day
9 and security of all delivery methods to registered qualifying
10 patients; and

11 (4) establish thresholds for administrative action to be taken
12 against a medical cannabis cultivator, medical cannabis
13 manufacturer, medical cannabis dispensary, or clinical registrant
14 and its employees, officers, investors, directors, or governing board
15 pursuant to subsection m. of this section, including, but not limited
16 to, specific penalties or disciplinary actions that may be imposed in
17 a summary proceeding.

18 j. (1) Each medical cannabis cultivator, medical cannabis
19 manufacturer, medical cannabis dispensary, and clinical registrant
20 shall require the owners, directors, officers, and employees at the
21 permitted facility to complete at least eight hours of ongoing
22 training each calendar year. The training shall be tailored to the
23 roles and responsibilities of the individual's job function, and shall
24 include training on confidentiality and such other topics as shall be
25 required by the commission.

26 (2) Each medical cannabis dispensary and clinical registrant
27 shall consider whether to make interpreter services available to the
28 population served, including for individuals with a visual or hearing
29 impairment. The commission shall provide assistance to any
30 medical cannabis dispensary or clinical registrant that seeks to
31 provide such services in locating appropriate interpreter resources.
32 A medical cannabis dispensary or clinical registrant shall assume
33 the cost of providing interpreter services pursuant to this
34 subsection.

35 k. (1) The first six alternative treatment centers issued permits
36 following the effective date of P.L.2009, c.307 (C.24:6I-1 et al.)
37 shall be authorized to sell or transfer such permit and other assets to
38 a for-profit entity, provided that: the sale or transfer is approved by
39 the commission; each owner, director, officer, and employee of, and
40 significantly involved person in, the entity seeking to purchase or
41 receive the transfer of the permit, undergoes a criminal history
42 record background check pursuant to subsection d. of this section,
43 provided that nothing in this subsection shall be construed to
44 require any individual to undergo a criminal history record
45 background check if the individual would otherwise be exempt from
46 undergoing a criminal history record background check pursuant to
47 subsection d. of this section; the commission finds that the sale or
48 transfer of the permit would be consistent with the purposes of

1 P.L.2009, c.307 (C.24:6I-1 et al.); and no such sale or transfer shall
2 be authorized more than one year after the effective date of
3 P.L.2019, c.153 (C.24:6I-5.1 et al.). The sale or transfer of a permit
4 pursuant to this subsection shall not be subject to the requirements
5 of the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-
6 1 et seq., provided that, prior to or at the time of the sale or transfer,
7 all debts and obligations of the nonprofit entity are either paid in
8 full or assumed by the for-profit entity purchasing or acquiring the
9 permit, or a reserve fund is established for the purpose of paying in
10 full the debts and obligations of the nonprofit entity, and the for-
11 profit entity pays the full value of all assets held by the nonprofit
12 entity, as reflected on the nonprofit entity's balance sheet, in
13 addition to the agreed-upon price for the sale or transfer of the
14 entity's alternative treatment center permit. Until such time as the
15 members of the Cannabis Regulatory Commission are appointed
16 and the commission first organizes, the Department of Health shall
17 have full authority to approve a sale or transfer pursuant to this
18 paragraph.

19 (2) The sale or transfer of any interest of five percent or more in
20 a medical cannabis cultivator, medical cannabis manufacturer,
21 medical cannabis dispensary, or clinical registrant permit shall be
22 subject to approval by the commission and conditioned on the entity
23 that is purchasing or receiving transfer of the interest in the medical
24 cannabis cultivator, medical cannabis manufacturer, medical
25 cannabis dispensary, or clinical registrant permit completing a
26 criminal history record background check pursuant to the
27 requirements of subsection d. of this section.

28 1. No employee of any department, division, agency, board, or
29 other State, county, or local government entity involved in the
30 process of reviewing, processing, or making determinations with
31 regard to medical cannabis cultivator, medical cannabis
32 manufacturer, medical cannabis dispensary, or clinical registrant
33 permit applications shall have any direct or indirect financial
34 interest in the cultivating, manufacturing, or dispensing of medical
35 cannabis or related paraphernalia, or otherwise receive anything of
36 value from an applicant for a medical cannabis cultivator, medical
37 cannabis manufacturer, medical cannabis dispensary, or clinical
38 registrant permit in exchange for reviewing, processing, or making
39 any recommendations with respect to a permit application.

40 m. In the event that a medical cannabis cultivator, medical
41 cannabis manufacturer, medical cannabis dispensary, or clinical
42 registrant fails to comply with any requirements set forth in
43 P.L.2009, c.307 (C.24:6I-1 et al.) or any related law or regulation,
44 the commission may invoke penalties or take administrative action
45 against the medical cannabis cultivator, medical cannabis
46 manufacturer, medical cannabis dispensary, or clinical registrant
47 and its employees, officers, investors, directors, or governing board,
48 including, but not limited to, assessing fines, referring matters to

1 another State agency, and suspending or terminating any permit
2 held by the medical cannabis cultivator, medical cannabis
3 manufacturer, medical cannabis dispensary, or clinical registrant.
4 Any penalties imposed or administrative actions taken by the
5 commission pursuant to this subsection may be imposed in a
6 summary proceeding.
7 (cf: P.L.2019, c.153, s.10)

8

9 2. This act shall take effect immediately.

10

11

12

STATEMENT

13

14 This bill revises the restrictions that apply to ownership of or
15 investment in a medical cannabis dispensary and other types of
16 alternative treatment centers.

17 Current law provides that, subject to certain exceptions, no entity
18 may simultaneously hold more than one medical cannabis
19 cultivator, medical cannabis manufacturer, or medical cannabis
20 dispensary permit, although, effective January 2021, a single entity
21 may hold up to one of each type of permit.

22 This bill would establish a new exception to these ownership
23 restrictions, pursuant to which an investor, investor group, or fund
24 that provides significant financial or technical assistance or the use
25 of intellectual property, or a combination thereof, to an applicant
26 for a medical cannabis dispensary permit that has been certified as a
27 minority or women's business or is a disabled-veterans' business,
28 may own up to a 40 percent interest in up to 10 entities that have
29 been issued a medical cannabis dispensary permit, provided any
30 such dispensary permit holder is also certified as a minority or
31 women's business or is a disabled-veterans' business.

32 The bill requires that the terms of the agreement for the
33 provision of significant financial or technical assistance or use of
34 intellectual property, whether provided in the form of equity, a loan,
35 or otherwise, including interest rates, returns, and fees, are
36 commercially reasonable based on the terms generally provided to
37 comparable businesses. The terms of the agreement may include
38 performance, quality, and other requirements as a condition of
39 providing the significant financial or technical assistance or the use
40 of intellectual property.

41 Under the bill, an applicant for a medical cannabis dispensary
42 permit that receives significant financial or technical assistance or
43 the use of intellectual property will be required to pay back the full
44 value of the financial or technical assistance or intellectual property
45 provided, plus any applicable interest and fees, within seven years
46 after the date of the agreement, but no earlier than three years after
47 the date of the agreement. An investor, investor group, or fund that
48 has acquired an ownership interest in one or more medical cannabis

1 dispensaries as authorized under the bill will be permitted to
2 maintain the ownership interest after the full value of the assistance
3 provided has been repaid.

4 The bill provides that in no case may the controlling interest in
5 the entity that holds a medical cannabis dispensary permit revert to
6 the investor group or fund in the event of a default or failure by the
7 certified minority or women's business or disabled-veterans'
8 business, and any such controlling interest may only be transferred
9 to a certified minority or women's business or a disabled-veterans'
10 business.

11 The bill allows an entity holding a medical cannabis cultivator,
12 manufacturer, or dispensary permit, or an individual associated with
13 the ownership or management of the entity, to participate in an
14 investor group or a fund that meets the requirements of the bill.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5179

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 8, 2021

The Assembly Health Committee reports favorably and with committee amendments Assembly Bill No. 5179.

As amended by the committee, this bill revises the restrictions that apply to ownership of or investment in a medical cannabis dispensary and other types of alternative treatment centers (ATCs), and grants the Cannabis Regulatory Commission (CRC) additional authority to review management services agreements for ATC permit applicants to determine whether the terms of the agreement are commercially reasonable and consistent with fair market value.

Current law provides that, subject to certain exceptions, no entity may simultaneously hold more than one medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit, although, effective January 2021, a single entity may hold up to one of each type of permit.

This bill would establish a new exception to these ownership restrictions, pursuant to which an investor, investor group, or fund that provides significant financial or technical assistance or the use of intellectual property, or a combination thereof, to an applicant for a medical cannabis dispensary permit that has been certified as a minority or women's business or is a disabled-veterans' business, may own up to a 40 percent interest in up to 10 entities that have been issued a medical cannabis dispensary permit, provided any such dispensary permit holder is also certified as a minority or women's business or is a disabled-veterans' business.

The bill requires that the terms of the agreement for the provision of significant financial or technical assistance or use of intellectual property, whether provided in the form of equity, a loan, or otherwise, including interest rates, returns, and fees, are commercially reasonable based on the terms generally provided to comparable businesses. The terms of the agreement may include performance, quality, and other requirements as a condition of providing the significant financial or technical assistance or the use of intellectual property. The applicant will be required to submit a copy of the agreement to the CRC for review.

Under the bill, an applicant for a medical cannabis dispensary permit that receives significant financial or technical assistance or the

use of intellectual property will be required to pay back the full value of the financial or technical assistance or intellectual property provided, plus any applicable interest and fees, within seven years after the date of the agreement, but no earlier than three years after the date of the agreement. An investor, investor group, or fund that has acquired an ownership interest in one or more medical cannabis dispensaries as authorized under the bill will be permitted to maintain the ownership interest after the full value of the assistance provided has been repaid.

The bill provides that in no case may the controlling interest in the entity that holds a medical cannabis dispensary permit revert to the investor group or fund in the event of a default or failure by the certified minority or women's business or disabled-veterans' business, and any such controlling interest may only be transferred to a certified minority or women's business or a disabled-veterans' business.

The bill allows an entity holding a medical cannabis cultivator, manufacturer, or dispensary permit, or an individual associated with the ownership or management of the entity, to participate in an investor group or a fund that meets the requirements of the bill.

The bill requires all applicants for an ATC permit to submit with the application a copy of any agreement between the applicant and a third party entity for the third party entity to provide services to the applicant. The services agreement will not be considered as part of the application, but, along with agreements to provide significant financial or technical assistance or the significant use of intellectual property to an applicant, will be subject to review by the CRC to determine whether the terms of the agreement, including interest rates, returns, and fees, are commercially reasonable and consistent with the fair market value for the terms generally applicable to agreements of a comparable nature. In the event the CRC determines the terms of an agreement are not commercially reasonable or consistent with fair market value, the CRC will have the authority to withhold approval of the permit application until the parties renegotiate a new agreement that, as determined by the CRC, is commercially reasonable and consistent with fair market value. The parties to the agreement may request that the CRC provide guidance as to what terms it would find to be commercially reasonable and consistent with fair market value. Nothing in the bill is to be construed to require the CRC to award a permit to an applicant if the CRC determines the applicant does not otherwise meet the requirements for issuance of the permit.

As reported by the committee with amendments, Assembly Bill No. 5179 is identical to Senate Bill No. 2875 (1R), which the committee also reported on this date with amendments.

COMMITTEE AMENDMENTS:

The committee amendments revise the bill to require that agreements to provide significant financial or technical assistance or

the significant use of intellectual property to an applicant for a medical cannabis dispensary permit under the bill be submitted to the Cannabis Regulatory Commission (CRC) along with the other application materials.

The committee amendments require all applicants for an alternative treatment center (ATC) permit to submit to the CRC, along with the application materials, copies of any services agreements the applicant has entered into with a third party entity.

The committee amendments expressly grant the CRC the authority to review services agreements and agreements to provide significant financial or technical assistance or the significant use of intellectual property to an applicant, to determine whether the terms of the agreement are commercially reasonable and consistent with fair market value. If the CRC finds the terms are not commercially reasonable and consistent with fair market value, the CRC will have the authority to withhold approval of an ATC permit application until the parties renegotiate a new agreement under terms that are commercially reasonable and consistent with fair market value, as determined by the CRC.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5179

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 2021

The Assembly Health Committee reports favorably and with committee amendments Assembly Bill No. 5179 (1R).

As amended by the committee, this bill revises the restrictions that apply to ownership of or investment in a medical cannabis dispensary and other types of alternative treatment centers (ATCs), and grants the Cannabis Regulatory Commission (CRC) additional authority to review management services agreements for ATC permit applicants to determine whether the terms of the agreement are commercially reasonable and consistent with fair market value.

Current law provides that, subject to certain exceptions, no entity may simultaneously hold more than one medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit, although, effective January 2021, a single entity may hold up to one of each type of permit.

This bill would establish a new exception to these ownership restrictions, pursuant to which an investor, investor group, or fund that provides significant financial or technical assistance or the use of intellectual property, or a combination thereof, to an applicant for a medical cannabis dispensary permit that has been certified as a minority or women's business or is a disabled-veterans' business, may own up to a 35 percent interest in up to seven entities that have been issued a medical cannabis dispensary permit, provided any such dispensary permit holder is also certified as a minority or women's business or is a disabled-veterans' business.

The bill requires that the terms of the agreement for the provision of significant financial or technical assistance or use of intellectual property, whether provided in the form of equity, a loan, or otherwise, including interest rates, returns, and fees, are commercially reasonable based on the terms generally provided to comparable businesses. The terms of the agreement may include performance, quality, and other requirements as a condition of providing the significant financial or technical assistance or the use of intellectual property. The applicant will be required to submit a copy of the agreement to the CRC for review.

Under the bill, an applicant for a medical cannabis dispensary permit that receives significant financial or technical assistance or the use of intellectual property will be required to pay back the full value of the financial or technical assistance or intellectual property provided, plus any applicable interest and fees, in a period not less than five years after the date of the agreement if the full value of the assistance or property is less than \$100,000, in a period not less than seven years after the date of the agreement if the full value of the assistance or property is between \$100,001 and \$250,000, in a period not less than 10 years after the date of agreement if the full value of the assistance or property is between \$250,001 and \$500,000, and, subject to any terms and conditions imposed by a lender, in a period not less than 10 years after the date of the agreement if the full value of the assistance or property is greater than \$500,000. An investor, investor group, or fund that has acquired an ownership interest in one or more medical cannabis dispensaries as authorized under the bill will be permitted to maintain the ownership interest after the full value of the assistance provided has been repaid.

The bill provides that in no case may the controlling interest in the entity that holds a medical cannabis dispensary permit revert to the investor group or fund in the event of a default or failure by the certified minority or women's business or disabled-veterans' business, and any such controlling interest may only be transferred to a certified minority or women's business or a disabled-veterans' business.

The bill allows an entity holding a medical cannabis cultivator, manufacturer, or dispensary permit, or an individual associated with the ownership or management of the entity, to participate in an investor group or a fund that meets the requirements of the bill.

The bill requires all applicants for an ATC permit to submit with the application a copy of any agreement between the applicant and a third party entity for the third party entity to provide services to the applicant. The services agreement will not be considered as part of the application, but, along with agreements to provide significant financial or technical assistance or the significant use of intellectual property to an applicant, will be subject to review by the CRC to determine whether the terms of the agreement, including interest rates, returns, and fees, are commercially reasonable and consistent with the fair market value for the terms generally applicable to agreements of a comparable nature. In the event the CRC determines the terms of an agreement are not commercially reasonable or consistent with fair market value, the CRC will have the authority to withhold approval of the permit application until the parties renegotiate a new agreement that, as determined by the CRC, is commercially reasonable and consistent with fair market value. The parties to the agreement may request that the CRC provide guidance as to what terms it would find to be commercially reasonable and consistent with fair market value. Nothing in the bill is to be construed to require the CRC to award a

permit to an applicant if the CRC determines the applicant does not otherwise meet the requirements for issuance of the permit.

As reported by the committee with amendments, Assembly Bill No. 5179 (1R) is identical to Senate Bill No. 2875 (2R), which the committee also reported on this date with amendments.

COMMITTEE AMENDMENTS:

The committee amendments:

1) revise the exception to ownership restrictions, pursuant to which an investor, investor group, or fund that provides significant assistance or property to an applicant for a medical cannabis dispensary permit that has been certified as a minority, women's, or disabled-veterans' business, to up to 35 percent ownership interest in up to seven entities; and

2) revise the time in which an applicant for a medical cannabis dispensary permit will be required to pay back the full value of the assistance or property received, as provided for in the bill.

Governor Murphy Takes Action on Legislation

10/18/2021

TRENTON – Today, Governor Murphy signed the following bills into law:

S-970/A-1385 (Ruiz, Cunningham/Moen) – Requires members of governing boards of public institutions of higher education to complete training program developed by institution in consultation with Secretary of Higher Education.

S-2875/A-5179 (Singleton, Turner/Reynolds-Jackson, Bergen, Holley) – Revises certain restrictions on ownership of medical cannabis alternative treatment centers; expands scope of review of alternative treatment center permit applications and related materials.

[Copy of Statement](#)

A-1536/S-3844 (Spearman, Mukherji, Greenwald/Madden, Lagana) – Concerns sign fabrication and prevailing wage requirements.

**GOVERNOR'S STATEMENT UPON SIGNING
SENATE BILL NO. 2875
(Third Reprint)**

Today I am pleased to sign Senate Bill No. 2875 (Third Reprint), which revises certain restrictions relating to ownership of, or investment in, Alternative Treatment Centers ("ATCs"). The bill aims to incentivize the deployment of private capital to fund medical cannabis dispensaries certified as minority-owned, woman-owned, or disabled veteran-owned businesses. Under the bill, such investment must be paired with technical assistance to further help entrepreneurs succeed.

In general, under current law, no single entity may concurrently hold more than one medical cannabis cultivator permit, one medical cannabis manufacturer permit, and one medical cannabis dispensary permit. Senate Bill No. 2875 (Third Reprint) carves out a narrow exception to this prohibition to permit an investor, investor group, or fund to own up to a 35 percent interest in up to seven entities that have been issued a medical cannabis dispensary permit, provided that each dispensary has been certified as a minority-owned, woman-owned, or a disabled-veteran-owned business enterprise by the Division of Revenue and Enterprise Services in the Department of the Treasury and that the terms of the investor agreement require the investor to provide significant financial or technical assistance or the significant use of intellectual property to the dispensary. Although the bill specifies that an investor, investment group, or fund may maintain an ownership interest even after the full value of the investment is paid off, the bill makes clear that the controlling interest in the entity holding the dispensary permit shall not revert to the investor, investor group, or fund that provided support to the business, even in the event of a default.

I applaud the bill's sponsors for seeking to address what can be a major impediment to some prospective cannabis business owners: accessing the capital necessary to start and sustain their businesses. This bill will not only enable investors to support multiple businesses, but will also allow new entrepreneurs who have been historically underrepresented as business owners in the nation's regulated cannabis industries to receive capital, training, and assistance in running a successful business.

Importantly, the bill contains several safeguards to protect cannabis businesses from unscrupulous practices. As noted, the bill prohibits investors from obtaining majority ownership or control over a dispensary, even if a business defaults on a loan payment, and maintains the cap in current law limiting a single entity to only one dispensary, one cultivator, and one manufacturer permit in most cases. In addition, the Cannabis Regulatory Commission ("CRC") is charged with reviewing and approving the agreements between the investment funds and cannabis businesses and specifically is tasked with determining whether the terms of the agreement are commercially reasonable and consistent with the fair market value of agreements of a comparable nature. The bill

makes clear that the CRC has the authority to withhold approval of an application unless and until these criteria are satisfied.

Pursuant to the CRC's authority under the bill and in order to ensure that the bill is implemented in a manner that furthers the bill's goal of promoting a diverse and equitable cannabis industry, I urge the CRC to adopt regulations in accordance with the Administrative Procedure Act that protect against predatory lending practices and one-sided agreement terms that put power solely in the hands of the lender.

Date: October 18, 2021

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor