

P.L.2015, CHAPTER 158, *approved November 9, 2015*
Assembly, No. 4587

1 **AN ACT** concerning medical marijuana, supplementing chapter 40
2 of Title 18A of the New Jersey Statutes and chapter 6D of Title
3 30 of the Revised Statutes, and amending P.L.2009, c.307 and
4 N.J.S.2C:35-18.

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

8
9 1. (New section) a. A board of education or chief school
10 administrator of a nonpublic school shall develop a policy
11 authorizing parents, guardians, and primary caregivers to administer
12 medical marijuana to a student while the student is on school
13 grounds, aboard a school bus, or attending a school-sponsored
14 event.

15 b. A policy adopted pursuant to subsection a. of this section
16 shall, at a minimum:

17 (1) require that the student be authorized to engage in the
18 medical use of marijuana pursuant to P.L.2009, c.307 (C.24:6I-
19 1 et al.) and that the parent, guardian, or primary caregiver be
20 authorized to assist the student with the medical use of marijuana
21 pursuant to P.L.2009, c.307 (C.24:6I-1 et al.);

22 (2) establish protocols for verifying the registration status and
23 ongoing authorization pursuant to P.L.2009, c.307 (C.24:6I-1 et al.)
24 concerning the medical use of marijuana for the student and the
25 parent, guardian, or primary caregiver;

26 (3) expressly authorize parents, guardians, and primary
27 caregivers of students who have been authorized for the medical use
28 of marijuana to administer medical marijuana to the student while
29 the student is on school grounds, aboard a school bus, or attending a
30 school-sponsored event;

31 (4) identify locations on school grounds where medical
32 marijuana may be administered; and

33 (5) prohibit the administration of medical marijuana to a student
34 by smoking or other form of inhalation while the student is on
35 school grounds, aboard a school bus, or attending a school-
36 sponsored event.

37 c. Medical marijuana may be administered to a student while
38 the student is on school grounds, aboard a school bus, or attending
39 school-sponsored events, provided that such administration is

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 consistent with the requirements of the policy adopted pursuant to
2 this section.

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4 2. (New section) a. The chief administrator of a facility that
5 offers services for persons with developmental disabilities shall
6 develop a policy authorizing a parent, guardian, or primary
7 caregiver authorized to assist a qualifying patient with the use of
8 medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) to
9 administer medical marijuana to a person who is receiving services
10 for persons with developmental disabilities at the facility.

11 b. A policy adopted pursuant to subsection a. of this section
12 shall, at a minimum:

13 (1) require the person receiving services for persons with
14 developmental disabilities be a qualifying patient authorized for the
15 use of medical marijuana pursuant to P.L.2009, c.307 (C.24:6I-
16 1 et al.), and that the parent, guardian, or primary caregiver be
17 authorized to assist the person with the medical use of marijuana
18 pursuant to P.L.2009, c.307 (C.24:6I-1 et al.);

19 (2) establish protocols for verifying the registration status and
20 ongoing authorization pursuant to P.L.2009, c.307 (C.24:6I-1 et al.)
21 concerning the medical use of marijuana for the person and the
22 parent, guardian, or primary caregiver;

23 (3) expressly authorize parents, guardians, and primary
24 caregivers to administer medical marijuana to the person receiving
25 services for persons with developmental disabilities while the
26 person is at the facility; and

27 (4) identify locations at the facility where medical marijuana
28 may be administered.

29 c. Medical marijuana may be administered to a person
30 receiving services for persons with developmental disabilities at a
31 facility that offers such services while the person is at the facility,
32 provided that such administration is consistent with the
33 requirements of the policy adopted pursuant to this section and the
34 provisions of P.L.2009, c.307 (C.24:6I-1 et al.).

35 d. Nothing in this section shall be construed to authorize
36 medical marijuana to be smoked in any place where smoking is
37 prohibited pursuant to N.J.S.2C:33-13.

38

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

40 2C:35-18. Exemption; Burden of Proof. a. If conduct is
41 authorized by the provisions of P.L.1970, c.226 (C.24:21-1 et seq.)
42 **[or]** , P.L.2009, c.307 (C.24:6I-1 et al.), or P.L. , c. (C.)
43 (pending before the Legislature as this bill), that authorization shall,
44 subject to the provisions of this section, constitute an exemption
45 from criminal liability under this chapter or chapter 36, and the
46 absence of such authorization shall not be construed to be an
47 element of any offense in this chapter or chapter 36. It is an
48 affirmative defense to any criminal action arising under this chapter
49 or chapter 36 that the defendant is the authorized holder of an

1 appropriate registration, permit or order form or is otherwise
2 exempted or excepted from criminal liability by virtue of any
3 provision of P.L.1970, c.226 (C.24:21-1 et seq.) **【or】** , P.L.2009,
4 c.307 (C.24:6I-1 et al.), or P.L. , c. (C.) (pending before
5 the Legislature as this bill). The affirmative defense established
6 herein shall be proved by the defendant by a preponderance of the
7 evidence. It shall not be necessary for the State to negate any
8 exemption set forth in this act or in any provision of Title 24 of the
9 Revised Statutes in any complaint, information, indictment or other
10 pleading or in any trial, hearing or other proceeding under this act.

11 b. No liability shall be imposed by virtue of this chapter or
12 chapter 36 upon any duly authorized State officer, engaged in the
13 enforcement of any law or municipal ordinance relating to
14 controlled dangerous substances or controlled substance analogs.
15 (cf: P.L.2009, c.307, s.12)

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

19 6. a. The provisions of N.J.S.2C:35-18 shall apply to any
20 qualifying patient, primary caregiver, alternative treatment center,
21 physician, or any other person acting in accordance with the
22 provisions of **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) or P.L. ,
23 c. (C.) (pending before the Legislature as this bill).

24 b. A qualifying patient, primary caregiver, alternative treatment
25 center, physician, or any other person acting in accordance with the
26 provisions of **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) or P.L. ,
27 c. (C.) (pending before the Legislature as this bill) shall not
28 be subject to any civil or administrative penalty, or denied any right
29 or privilege, including, but not limited to, civil penalty or
30 disciplinary action by a professional licensing board, related to the
31 medical use of marijuana as authorized under **【this act】** P.L.2009,
32 c.307 (C.24:6I-1 et al.) or P.L. , c. (C.) (pending before
33 the Legislature as this bill).

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

39 d. The provisions of section 2 of P.L.1939, c.248 (C.26:2-82),
40 relating to destruction of marijuana determined to exist by the
41 department, shall not apply if a qualifying patient or primary
42 caregiver has in his possession a registry identification card and no
43 more than the maximum amount of usable marijuana that may be
44 obtained in accordance with section 10 of **【this act】** P.L.2009,
45 c.307 (C.24:6I-10).

46 e. No person shall be subject to arrest or prosecution for
47 constructive possession, conspiracy or any other offense for simply
48 being in the presence or vicinity of the medical use of marijuana as

1 authorized under **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) or
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3 f. No custodial parent, guardian, or person who has legal
4 custody of a qualifying patient who is a minor shall be subject to
5 arrest or prosecution for constructive possession, conspiracy or any
6 other offense for assisting the minor in the medical use of marijuana
7 as authorized under **【this act】** P.L.2009, c.307 (C.24:6I-1 et al.) or
8 P.L. , c. (C.) (pending before the Legislature as this bill).
9 (cf: P.L.2009, c.307, s.6)

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11 5. The Commissioner of Human Services and the State Board
12 of Education may, in consultation with the Commissioner of Health
13 and pursuant to the "Administrative Procedure Act," P.L.1968,
14 c.410 (C.52:14B-1 et seq.), adopt rules and regulations as may be
15 necessary to implement the provisions of this act.

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17 6. This act shall take effect immediately.

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20 STATEMENT

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22 This bill requires boards of education, chief school
23 administrators of nonpublic schools, and chief administrators of
24 facilities providing services to persons with developmental
25 disabilities to adopt a policy authorizing parents, guardians, and
26 primary caregivers to administer medical marijuana to qualifying
27 patients under certain circumstances.

28 In the case of a public or nonpublic school, parents, guardians,
29 and primary caregivers would be authorized to administer medical
30 marijuana to a student in a nonsmokable form while the student is
31 on school grounds, aboard a school bus, or attending a school-
32 sponsored event, provided the administration is consistent with a
33 school policy that: (1) requires the student to be authorized to
34 engage in the medical use of marijuana pursuant to the
35 "Compassionate Use Medical Marijuana Act" and the parent,
36 guardian, or primary caregiver to be authorized to assist the student
37 with the medical use of medical marijuana; (2) establishes protocols
38 for verifying the registration status and ongoing authorization
39 concerning the medical use of marijuana for the student and the
40 parent, guardian, or primary caregiver; (3) expressly authorizes
41 parents, guardians, and primary caregivers to administer medical
42 marijuana to the student while the student is on school grounds,
43 aboard a school bus, or attending a school-sponsored event; (4)
44 identifies locations on school grounds where medical marijuana
45 may be administered; and (5) prohibits the administration of
46 medical marijuana by smoking or other form of inhalation.

47 The bill expressly authorizes parents, guardians, and primary
48 caregivers to administer medical marijuana to a student while on
49 school grounds, aboard a school bus, or attending a school event,

1 provided that such administration is consistent with the provisions
2 of the school's policy.

3 In the case of facilities providing services to persons with
4 developmental disabilities, the chief administrator of the facility
5 would be required to develop a policy authorizing a parent,
6 guardian, or primary caregiver to administer medical marijuana to a
7 qualifying patient who is receiving services at the facility. The
8 policy would be required to: (1) require the person receiving
9 services be a qualifying patient authorized for the use of medical
10 marijuana, and that the parent, guardian, or primary caregiver be
11 authorized to assist the person with the medical use of marijuana;
12 (2) establish protocols for verifying the registration status and
13 ongoing authorization concerning the medical use of marijuana for
14 the person and the parent, guardian, or primary caregiver; (3)
15 expressly authorize parents, guardians, and primary caregivers to
16 administer medical marijuana to the person receiving services at the
17 facility while at the facility; and (4) identify locations at the facility
18 where medical marijuana may be administered. Nothing in the bill
19 would permit medical marijuana to be smoked in a place where
20 smoking is prohibited pursuant to N.J.S.2C:33-13.

21 The bill provides that conduct authorized under its provisions
22 falls within the provisions of N.J.S.2C:35-18 and section 6 of
23 P.L.2009, c.307 (C.24:6I-6) that provide immunity from civil and
24 criminal liability and professional disciplinary action for persons
25 acting in accordance with the "Compassionate Use Medical
26 Marijuana Act."
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31 Requires facilities providing services to persons with
32 developmental disabilities and schools to adopt policies permitting
33 administration of medical marijuana to qualifying patients.