

News and Announcements

2019 NJ Medicinal Marijuana Program Legislation

On July 2, 2019, Governor Phil Murphy signed the [Jake Honig Compassionate Use Medical Cannabis Act](#) (the “Act”) to dramatically reform the [NJ Medicinal Marijuana Program](#) (NJMMP) and expand patient access to medicinal marijuana. Many of the provisions in the new law were included in the Governor’s [Executive Order No. 6](#), which was issued in March 2018.

LAW HIGHLIGHTS:

- **Monthly Limit Increased from 2 to 3 Ounces** - Patients will now be able to receive 3 instead of 2 ounces during a 30-day period. This will be reevaluated by the Cannabis Regulatory Commission after 18 months. Effective immediately, terminally ill and hospice patients will not have any monthly limits imposed.
- **Reduction in Frequency of Office Visits from 90 Days to 1 Time a Year** - This reduces the need for in-person provider office visits from quarterly to annually and decreases the costs for patients.
- **Edibles for Adults** – Previously, only minors could obtain edibles. Adult patients will now also have access to edibles.
- **Advanced Practice Nurses (APNs) and Physician Assistants (PAs) can Authorize Medicinal Marijuana** – The Act specifically states that the PA’s delegation agreement with the supervising physician must at least include: (1) authorization for the PA to issue written instructions to registered qualifying patients; (2) the PA verifies the patient’s status as a registered qualifying patient; and (3) the PA complies with the requirements for issuing written instructions for medicinal marijuana established pursuant to P.L.2009, c.307 (C.24:6I-1 et al.). In addition, the APN’s collaborative agreement must at least include: (1) whether prior consultation with the collaborating physician is required to authorize a qualifying patient for the use of medicinal marijuana or to issue written instructions; (2) standing orders or joint protocols developed in agreement between a collaborating physician and the advanced practice nurse, or pursuant to the specific direction of a physician; (3) charts of qualifying patients treated by the APN periodically reviewed by the collaborating physician and the APN; and (4) the APN complies with the requirements for authorizing qualifying patients for medicinal marijuana and for issuing written instructions pursuant to P.L.2009, c.307 (C.24:6I-1 et al.).
- **Multiple Caregivers Per Patient** - Patients can now designate up to 2 primary caregivers instead of only one.
- **Home Delivery** - The Act authorized adoption of regulations to enable dispensaries to deliver medicinal marijuana to patients. The goal is to improve access for patients and/or caregivers who have difficulty traveling to the dispensary.
- **Institutional Caregivers** - NJ residents who are employed and authorized by a healthcare facility, within the scope of their practice, may assist the facility’s registered qualifying patients/residents with obtaining and administering medical marijuana. The facility must implement protocols and procedures to ensure safe transport and storage; and to review treatment plans to better assure the health and safety of the patient/resident will not be significantly jeopardized.
- **Out of State Medicinal Marijuana Users Qualify for 6 Months** – Individuals who are registered as qualifying patients in other states can obtain medicinal marijuana from a NJ dispensary for up to 6 months. However, they must get authorization from a NJ provider, based on the qualifying condition.
- **Patient Care Protections** - For the purposes of medical care, qualifying patients using medicinal marijuana shall not be considered as using illicit substances, nor shall it disqualify the patient from medical care.
- **Patient Employment Protections** - Employers may not take any adverse employment action against an employee who is a registered qualifying patient based solely on his/her status as a medicinal marijuana patient. However, the Act clarifies that nothing requires employers to allow the consumption of medicinal marijuana during work hours, employee possession on premises, or to do anything that could result in the loss of federal funding. If an employer has a drug testing policy and the job applicant or employee tests positive for marijuana, then the employer must: (1) provide written notice of the right of the employee or job applicant to explain; and (2) offer an opportunity for the individual to present a legitimate medical explanation for the positive test result within 3 working days or request a re-test.

- **Dispensary Price List Transparency** – In order to help promote competition and lower prices, dispensaries will be required to post their pricelist on their website and can't revise it more than once per month.
- **Phase Out of Sales Tax** – Medicinal Marijuana is currently subject to sales tax, unlike most other medication. The Act phases out the sales tax over 3 years to 4% in July 2020, 2% in July 2021, and totally eliminated in July 2022.
- **Increase in Alternative Treatment Centers (ATCs)** – The NJ Department of Health (NJDOH) is seeking up to 24 new ATCs with a goal of increasing licenses awarded to minor owners and women, in addition to the 6 existing ATCs and the 6 that were selected to apply for permits in 2018. This is in an effort to meet increased patient demand.
- **Creation of a Cannabis Regulatory Commission** – The Act creates a commission to assume responsibility over the NJMMP.
- **Provider Education Requirements** – In the future, the Cannabis Regulatory Commission will establish by regulation a curriculum for healthcare practitioners and staff of medicinal marijuana dispensaries. The curriculum for providers will be designed to help counsel patients. The course shall be completed as a condition of authorizing patients for medicinal marijuana

RISK REDUCTION STRATEGIES TO CONSIDER

- Understand and comply with the NJ Board of Medical Examiners (NJBME) Regulations on the [Compassionate Use of Medicinal Marijuana](#), including qualifying and certifying a patient as eligible for medicinal marijuana, comprehensive medical evaluation, history and physical, establishing treatment goals and objectives, monitoring and follow up, medical record documentation requirements, and written instructions provided to the patient. Please note that a provider is not prescribing medicinal marijuana, but only certifying the patient for eligibility and the amount of supply per month, i.e. up to 3 ounces.
- Adjust office policies and procedures to reflect the ability to authorize a 1-year supply of medicinal marijuana for up to 3 ounces/month.
- Keep up-to-date with any NJBME regulation changes and any other rule or legislative updates. It can be reasonably anticipated that the NJBME regulations will be revised in the future to incorporate the Act's new requirements.
- If you would like to participate in the [NJMMP](#), follow the [Physician Checklist](#) and instructions provided by NJDOH.
- If you are a provider registered in the [NJMMP](#), you must provide the patient with an informed consent that is documented in your medical records and/or through an informed consent form that at least includes: lack of scientific consensus; sedative properties and; risk of addiction.
- Revise medical record documentation forms and templates to include whether your patient uses medicinal marijuana. Remember, the Act provides protections for patients to still receive proper medical care, regardless of whether the provider chooses to register and participate in the NJMMP.
- Revise APN collaborative agreements and joint protocols, as well as PA delegation agreements, to meet the Act's requirements.
- Revise any existing office "zero tolerance" drug screen policies to reflect the Act's new employee protections and requirements. It is strongly advised that you consult with an employment attorney or your personal legal counsel for further guidance

For more information, you may also refer to the Conventus whitepapers, "[NJ Medicinal Marijuana Changes Update – Will It Affect Your Practice](#)" and "[NJ Medical Marijuana Program Changes: What You Need to Know for Your Patients and Practice.](#)"

Conventus members who have questions or would like to request assistance in implementing risk reduction strategies may contact the Practice Resources Department at 877-444-0484, x7466. Our expert consultants would be happy to help you.

For more information please contact us at:

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