

HEALTH AND SENIOR SERVICES

PUBLIC HEALTH SERVICES BRANCH

ENVIRONMENTAL AND OCCUPATIONAL HEALTH SERVICES DIVISION

MEDICINAL MARIJUANA PROGRAM

Medicinal Marijuana Program Rules

Proposed New Rules: N.J.A.C. 8:64

Authorized By: _____

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and Senior Services.

Authority: N.J.S.A. 24:6I-1 et seq., particularly 24:6I-7 and 16.

Calendar Reference: See Summary below for explanation of exception to calendar
requirement.

Full Text

Full text of the proposed new rules follows:

CHAPTER 64

MEDICINAL MARIJUANA PROGRAM RULES

SUBCHAPTER 1. GENERAL PROVISIONS

8:64-1.1 Purpose and scope

(a) This chapter implements the “New Jersey Compassionate Use Medical
Marijuana Act,” P.L. 2009, c. 307 (approved January 18, 2010), codified at N.J.S.A.
24:6I (“Act”).

(b) This chapter is applicable to:

1. Persons seeking to register and/or who register with the Department of Health and Senior Services (Department) as qualifying patients and/or primary caregivers;
2. Physicians seeking to certify and/or who certify that a person has a debilitating medical condition;
3. Entities seeking to operate and/or operating alternative treatment centers, and their owners, directors, officers, and employees;
4. Persons seeking to petition the Department for identification of debilitating medical conditions not specified at N.J.S.A. 24:6I-3.

8:64-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise or another subchapter defines one of the following words or terms differently for the purposes of that subchapter.

“Adequate supply” shall mean not more than is reasonably necessary to assure the uninterrupted availability of marijuana to meet the needs of registered patients at a given ATC—Dispensary.

“Adulteration” means for the purposes of these rules, made impure or inferior by adding extraneous ingredients.

“Adulterated” means, for the purpose of these rules, made impure or inferior by adding extraneous ingredients.

“Alternative treatment center” or “ATC” means the permitted alternative treatment center – plant cultivation and/or the permitted alternative treatment center – dispensary

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unless otherwise noted authorized to perform activities necessary for cultivation and/or dispensing to provide registered qualifying patients with usable marijuana and related paraphernalia in accordance with the provisions of the Act. This term shall include the organization's officers, directors, board members, and employees.

“Alternative treatment center—dispensary” or “ATC—dispensary” means an entity that the Department determines to be qualified for responsibility related to dispensing, selling, and/or delivering medical marijuana and paraphernalia to registered qualifying patients or primary caregivers. This term shall include the organization's officers, directors, board members, and employees

“Alternative treatment center—plant cultivation” or “ATC—plant cultivation” means an entity that the Department determines to be qualified for responsibility related to the cultivation of medical marijuana for dispensing to a permitted ATC—dispensary for dispensing to registered qualifying patients. An ATC—plant cultivation is also responsible for packaging and labeling of the container of medical marijuana prepared for dispensing and may also manufacture, purchase, possess, and distribute to a permitted ATC—dispensary. An alternative treatment center—plant cultivation shall not dispense marijuana directly to registered qualifying patients. This term shall include the organization's officers, directors, board members, and employees.

“ATC— Dispensary satellite site” means a permitted facility, which is owned and operated by a permitted ATC-Dispensary, which shall provide dispensing services at a specified physical site.

“Bona fide physician-patient relationship” means a relationship in which the physician has ongoing responsibility for the assessment, care and treatment of a patient’s debilitating medical condition.

1. For purposes of this definition, “ongoing” means that:

- i. The physician-patient relationship has existed for at least one year;
- ii. The physician has seen and/or assessed the patient on at least four visits for the patient’s debilitating medical condition; or
- iii. The physician assumes responsibility for providing management and care of the patient’s debilitating medical condition after conducting a comprehensive medical history and physical examination, including a personal review of the patient’s medical record maintained by other treating physicians reflecting the patient’s reaction and response to conventional medical therapies.

“Central Region” means the counties of Hunterdon, Middlesex, Mercer, Monmouth, Ocean, Somerset, and Union.

“Certification” means a statement signed by a physician with whom a qualifying patient has a bona fide physician-patient relationship, which attests to the physician’s authorization for the patient to apply for registration for the medical use of marijuana.

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

“Cultivation” includes the planting, propagating, cultivation, growing, harvesting, labeling or manufacturing, compounding, and storing of medical marijuana for the limited purpose of the Act and this chapter.

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“Debilitating medical condition” means:

1. One of the following conditions, if resistant to conventional medical therapy: seizure disorder, including epilepsy; intractable skeletal muscular spasticity; or glaucoma;
2. One of the following conditions, if severe or chronic pain, severe nausea or vomiting, cachexia, or wasting syndrome results from the condition or treatment thereof: positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or cancer;
3. Amyotrophic lateral sclerosis, multiple sclerosis, terminal cancer, muscular dystrophy, or inflammatory bowel disease, including Crohn’s disease;
4. Terminal illness, if the physician has determined a prognosis of less than 12 months of life; or
5. Any other medical condition or its treatment that is approved by the Department pursuant to N.J.A.C. 8:64-5.

“Delivery route” means the departure of an ATC dispensary residential delivery vehicle from the ATC dispensary to the designated delivery addresses through to the return of the vehicle to the ATC dispensary.

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

“Disqualifying conviction” means a conviction 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 (4) of subsection a. of N.J.S.A. 2C:35-10, or any similar law of the United States or of any other state.

“Electronic signature” or “signature” means either the name of one written by oneself or an electronic code, sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

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

“Mature plant” means a harvestable female marijuana plant that is (1) flowering, (2) greater than twelve inches in height, or (3) greater than twelve inches in diameter.

“Medical use of marijuana” means the acquisition, possession, transport, or use of marijuana or paraphernalia by a registered qualifying patient as authorized by the Act.

“Medicinal Marijuana Program” or “MMP” means the program

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

“Misbranded” means the term “misbranded” as defined in N.J.S.A. 24:5-16 and 17.

“Nonprofit entity” means corporations, associations or organizations not conducted for pecuniary profit of any private shareholder or individual, and established, organized or chartered without capital stock under the provisions of Titles 15, 15A, 16 or 17 of the Revised Statutes; or a special charter; or any similar general or special law of this or any other state, that are exempt from the tax imposed by the Corporation

Business Tax Act, as set forth at N.J.S.A. 54:10A-3(e). A nonprofit entity is not required to be a tax-exempt organization under 26 United States Code, Section 501(c)(3).

“Northern Region” means the counties of Bergen, Essex, Hudson, Morris, Passaic, Sussex and Warren.

“Onsite assessment” means a visit by an employee of the Department to ensure compliance with the Act and this chapter to any site that has received a permit as either an alternative treatment center or an ATC—Dispensary satellite site.

“Organic” means the organic program standards as defined at N.J.A.C. 2:78 seq.

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

“Permit” means the document issued by the Department pursuant to this rule granting the legal right to produce and/or distribute medical marijuana for a specified time.

“Permitting authority” means the Medicinal Marijuana Program within the Department of which the mailing address is P O Box 360, Trenton, NJ 08625-0360.

“Physician” means a person licensed to practice medicine and surgery pursuant to Title 45 of the Revised Statutes with whom the patient has a bona fide physician-patient relationship and who is the primary care physician, hospice physician, or physician responsible for the ongoing treatment of a patient’s debilitating medical condition, provided, however, that such ongoing treatment shall not be limited to the provision of authorization for a patient to use medical marijuana or consultation solely for that purpose.

“Primary caregiver” or “caregiver” means a resident of the State who:

1. Is at least 18 years old;

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2. Has agreed to assist with a registered qualifying patient's medical use of marijuana, is not currently serving as primary caregiver for another qualifying patient, and is not the qualifying patient's physician;

3. Has never been convicted of possession or sale of a controlled dangerous substance, unless such conviction occurred after October 1, 2010, the effective date of the Act, N.J.S.A. 24:6I-1 et seq., and was for a violation of federal law related to possession or sale of marijuana that is authorized under the Act;

4. Has registered with the Department pursuant to N.J.A.C. 8:64-2.3, and has satisfied the criminal history record background check requirement of N.J.A.C. 8:64-2.3(e); and

5. Has been designated as primary caregiver on the qualifying patient's application or renewal for a registry identification card or in other written notification to the Department.

"Qualifying patient" or "patient" means a resident of the State who has been provided with a certification by a physician pursuant to a bona fide physician-patient relationship.

"Registry identification card" means a document issued by the Department that identifies a person as a registered qualifying patient or primary caregiver.

"Security alarm system" means any device or series of devices, including, but not limited to, a signal system interconnected with a radio frequency method such as cellular, private radio signals, or other mechanical or electronic device used to detect an unauthorized intrusion.

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“Seedling” means a cannabis plant that has no flowers and that is less than twelve (12) inches in height and less than twelve (12) inches in diameter.

“Southern Region” means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem.”

“Topical formulation” means a transcutaneous therapeutic marijuana extract formulation comprising of water, short carbon chains alcohol, dimethylsulfoxide, polyethylene glycol, polypropylene glycol, glycerin, mineral and mixtures thereof.

“THC” means delta-9-tetrahydrocannabinol.

“Unusable marijuana” means marijuana seedlings, seeds, stems, stalks or roots.

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

SUBCHAPTER 2: REGISTRATION REQUIREMENTS FOR QUALIFYING PATIENTS AND PRIMARY CAREGIVERS

8:64-2.1 Fees for issuance and renewal of registration

(a) Registration and renewal fees are due upon filing of an application for issuance or renewal of registration as either a qualifying patient or a primary caregiver, and are non-refundable.

(b) An applicant for issuance of registration and registration renewal shall transmit to the Medicinal Marijuana Program a check or money order, or any other form

of payment approved by the Medicinal Marijuana Program, that is made payable to the “Treasurer, State of New Jersey” in the amount of the required payment.

1. The Department shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check.

(c) The fee to apply for issuance or renewal of a registry identification card is \$200.00.

1. If an applicant can demonstrate eligibility to receive services under the New Jersey Medicaid program, receipt of current food stamp benefits, receipt of current New Jersey Temporary Disability Insurance benefits, Supplemental Security Income benefits or Social Security Disability benefits, then the fee to apply for a registry identification card is \$20.00.

(d) The Department shall not grant an application fee refund if an applicant demonstrates eligibility for a reduced application fee as provided at N.J.A.C. 8:64-2.1(c)1 on or after the date of issuance of the applicant’s registry identification card.

(e) The Department shall notify an applicant who submits a reduced fee for which the applicant is not eligible and shall grant the applicant 30 days from the date of such notice to either:

1. Submit the correct fee to the Department; or
2. Demonstrate eligibility to receive services under the New Jersey Medicaid program, receipt of current food stamp benefits, New Jersey Temporary Disability Insurance benefits, Supplemental Security Income (SSI) benefits or Social Security Disability (SSD) benefits.

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(f) The fee to apply for issuance or renewal of a primary caregiver identification card is \$200.00.

8:64-2.2 Application for registration as a qualifying patient

(a) A person applying for issuance or renewal of registration as a qualifying patient shall provide the following to the Department.

1. The patient's full name, address, date of birth, telephone number and signature;
2. The name, address and telephone number of the patient's physician;
3. The physician certification identification number obtained from the patient's physician;
4. The name, address, and telephone number of the alternative treatment center with which the applicant would register;
 - i. A qualifying patient shall be registered to purchase usable marijuana from only one ATC at any given time;
5. The correct application fee as specified at N.J.A.C. 8:64-2.1; and
6. Proof that the applicant is a New Jersey resident, consisting of one or more of the following:
 - i. A New Jersey driver's license;
 - ii. A government-issued identification card that shows the applicant's name and address;

iii. A utility bill issued within the previous two months that shows the applicant's name and address.

7. One recent, identical passport-size color photographs, two inches by two inches, taken against a white background or backdrop with the applicant's face being not less than three quarters of an inch in width. The applicant shall not wear a hat, glasses or any other item which may alter or disguise the overall features of the face in the photographs; and

i. The applicant shall legibly print his or her name on the back of both photographs submitted;

ii. The photo shall have been taken not more than 30 days prior to the date of the application.

(b) The Department shall notify the applicant in writing, by electronic mail, or by telephone if an application is incomplete and shall explain what documents or information is necessary for the Department to deem the application complete;

1. An applicant shall have 30 days from the date of a notification issued pursuant to (b) above to submit the materials required to complete the application;

2. The Department shall not process incomplete applications;

3. The Department shall issue a notice of rejection of an application to applicants who fail to submit materials necessary to complete an application within the 30 days provided pursuant to (b)1 above, and shall discard the application;

4. Applicants whose applications are rejected pursuant to (b)4 who seek to reapply for registration would need to submit a new application and the applicable fee in accordance with (a) above.

(c) Prior to issuing or renewing a registry identification card, the Department shall verify the information submitted by the applicant.

(d) The Department shall approve or deny an application to issue or renew a registration within 30 days of receipt of the completed application or renewal, and shall issue a registry identification card within five business days of approving the application or renewal.

(e) A qualifying patient may designate a primary caregiver either on the application for issuance or renewal of registry identification card or in another written notification to the Department.

1. The Department shall not acknowledge a qualifying patient's designation of a primary caregiver unless and until the persons designated as a primary caregivers successfully applies for primary caregiver registration in accordance with N.J.A.C. 8:64-2.3.

(f) As a condition of registration of a qualifying patient who is a minor, the minor's custodial parent, guardian, or another legal custodian of the minor shall consent in writing in the application for issuance or renewal of registration to the minor's medical use of marijuana and shall acknowledge that the parent, guardian, or custodian will control the acquisition and possession of the medical marijuana and any related paraphernalia dispensed by an alternative treatment center.

1. Upon the Department's issuance of a registry identification card to a qualifying patient who is a minor, the Department shall issue a primary caregiver registry identification card to the minor's custodial parent, guardian, or another legal custodian of the minor; however, no additional fee shall apply.

8:64-2.3 Primary caregiver registration

(a) A person who a qualifying patient designates as a primary caregiver pursuant to N.J.A.C. 8:64-2.2(e) shall submit the following to the Department to apply for issuance or renewal of primary caregiver registration:

1. The applicant's full name, address, date of birth, telephone number and signature;
2. Written consent to submit to a criminal history record background check pursuant to N.J.S.A. 24:61-4;
 - i. The applicant shall remit the fee for the criminal history record background check in compliance with the procedures established by the Division of State Police pursuant to N.J.A.C. 13:59;
3. The correct application fee as specified in N.J.A.C. 8:64-2.1;
4. A statement that the applicant's agrees to assist the qualifying patient with the medical use of marijuana, is not currently serving as primary caregiver for another qualifying patient, and is not the qualifying patient's physician; and
5. Proof that the applicant is a New Jersey resident, consisting of one or more of the following:
 - i. A New Jersey driver's license;

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ii. A government-issued identification card that shows the applicant's name and address;

iii. A utility bill issued within the previous two months that shows the applicant's name and address.

6. One recent, identical passport-size color photographs, two inches by two inches, taken against a white background or backdrop with the applicant's face being not less than three quarters of an inch in width. The applicant shall not wear a hat, glasses or any other item which may alter or disguise the overall features of the face in the photographs; and

i. The applicant shall legibly print his or her name on the back of both photographs submitted;

ii. The photo shall have been taken not more than 30 days prior to the date of the application.

(b) The Department shall notify the applicant in writing, by electronic mail, or by telephone if an application is incomplete and shall explain what documents or information is necessary for the Department to deem the application to be complete;

1. An applicant shall have 30 days from the date of a notification issued pursuant to (b) above to submit the materials required to complete the application;

2. The Department shall not process incomplete applications;

3. The Department shall issue a notice of rejection of an application to applicants who fail to submit materials necessary to complete an application

within the 30 days provided pursuant to (b)1 above, and shall discard the application;

4. Applicants whose applications are rejected pursuant to (b)3 above who seek to reapply for registration would need to submit a new application and the applicable fee in accordance with (a) above.

(c) Prior to issuing or renewing a registry identification card, the Department shall verify the information submitted by the applicant.

(d) The Department shall approve or deny an application or renewal within 30 days of receipt of the completed application or renewal, and shall issue a registry identification card within five business days of approving the application or renewal.

(e) Each applicant for issuance or renewal of registration as a primary caregiver shall submit to a fingerprinting process as part of the criminal history record background check and shall comply with procedures established by the Division of State Police pursuant to N.J.A.C. 13:59 for obtaining readable fingerprint impressions.

(f) The Department shall deny registration of a primary caregiver who:

1. Refuses to consent to, or cooperate in, the securing of a criminal history record background check; or

2. Fails to provide any of the information required by N.J.A.C. 8:64-2.3(a).

(g) Subject to (h) below, the Department shall deny an application for issuance or renewal of registration as a primary caregiver if the criminal history record background check of the applicant reveals a disqualifying conviction;

1. If an applicant has a disqualifying conviction, the Department shall issue written notice to the applicant identifying the conviction that constitutes the basis for the denial of the application.

(h) The Department shall not deny an application for issuance or renewal of registration as a primary caregiver of an applicant who has a disqualifying conviction if the applicant affirmatively demonstrates to the Department by clear and convincing evidence that the applicant is rehabilitated.

1. In determining whether an applicant has demonstrated clear and convincing evidence of rehabilitation, the Department shall consider the following factors:

- i. The nature and responsibility of the position that the convicted individual would hold, has held, or currently holds;
- ii. The nature and seriousness of the crime or offense;
- iii. The circumstances under which the crime or offense occurred;
- iv. The date of the crime or offense;
- v. The age of the individual when the crime or offense was committed;
- vi. Whether the crime or offense was an isolated or repeated incident;
- vii. Any social conditions that may have contributed to the commission of the crime or offense; and
- viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received,

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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.

8:64-2.4 Physician registration

To be eligible to submit a certification pursuant to N.J.A.C. 8:64-2.5, a physician shall register using the secure Department web page.

8:64-2.5 Physician certification

(a) A physician who is licensed and in good standing to practice medicine in this State and who is registered pursuant to N.J.A.C. 8:64-2.4 is eligible to authorize the medical use of marijuana by a qualifying patient pursuant to a certification the physician issues pursuant to N.J.A.C. 13:35-7.6(d) through (g) that contains:

1. The physician's name, address, and telephone number;
2. The physician's license number as issued by the New Jersey Board of Medical Examiners;
3. A statement that the physician is licensed and in good standing to practice medicine in this State;
 - i. possesses an active controlled dangerous substances registration issued by the Division of Consumer Affairs;
4. A statement that the physician has an ongoing responsibility for the assessment, care, and treatment of the patient's debilitating medical condition;

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5. The patient's name, address, and telephone number;
6. The patient's diagnosis;
7. A statement that the patient's diagnosis qualifies as a debilitating medical condition that authorizes the patient to use medical marijuana pursuant to N.J.S.A. 24:6I;
8. Written instructions to a registered qualifying patient and/or the patient's primary caregiver concerning the total amount of usable marijuana that may be dispensed to the patient, in weight, in a 30-day period, which amount shall not exceed two ounces;
 - i. If the physician does not specify an amount, the maximum amount that may be dispensed at one time is two ounces; and
9. The physician's certification that the physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and has documented the explanation in the patient's medical record;
 - i. The certification shall include the following statement:

"I have completed a comprehensive history and physical on this patient and have documented an assessment and treatment plan. This patient has not responded to conventional medical treatment as defined by evidence-based algorithms of care and may benefit from the use of medicinal marijuana. I have provided education to the patient on the lack of scientific consensus for the use of medical marijuana, its sedative properties, and the risk of addiction. The patient has provided informed consent. I will

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continue to follow this patient at a minimum every three months and reassess the patient's debilitating medical condition and responses to treatment options .”

(b) Prior to complying with (a) above, a registered physician seeking to authorize the medicinal use of marijuana by a patient who is a minor shall:

1. Obtain written confirmation from a physician trained in the care of pediatric patients and from a psychiatrist establishing, in their professional opinions, following review of the minor patient's medical record or examination of the minor patient, that the minor patient is likely to receive therapeutic or palliative benefits from the medical use of marijuana to treat or alleviate symptoms associated with his or her debilitating medical condition;

i. If the certifying physician is trained in the care of pediatric patients, he or she shall only be required to obtain written confirmation from a psychiatrist, and

2. Explain the potential risks and benefits of the medical use of marijuana to the minor patient and to the minor patient's parent, guardian, or another person having legal custody of the minor patient. Such explanation shall be documented in the minor patient's medical record.

(c) A physician may issue multiple written instructions at one time authorizing the patient to receive a total of up to a 90-day supply, provided that the following conditions are met:

1. Each separate set of instructions shall be issued for a legitimate medical purpose by the physician, as provided in the Act and this chapter;

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2. Each separate set of instructions shall indicate the earliest date on which an ATC—Dispensary may dispense the marijuana, except for the first dispensation if it is to be filled immediately; and

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

8:64-2.6 Enforcement actions

(a) The Department shall deny an application for a registry identification card that:

1. Contains false information, including, but not limited to, a false name, address, physician certification, date of birth, signature, or photo identification; or

2. Fails to provide any of the information required by N.J.A.C. 8:64-2.2(a).

(b) The Department shall revoke a registry identification card upon finding that a registered individual:

1. Submitted false information to the Department;

2. Has a disqualifying conviction; or

3. Ceases to have his or her debilitating condition.

SUBCHAPTER 3. REGISTRY IDENTIFICATION CARDS FOR QUALIFYING PATIENTS AND PRIMARY CAREGIVERS

8:64-3.1 Registry identification cards

(a) Subject to N.J.A.C. 8:64-3.2, registry identification cards shall be valid for two years from their effective date unless revoked or surrendered.

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(b) Each person to whom the Department has issued a registry identification card shall possess the registry identification card whenever he or she is in possession of medical marijuana.

(c) Registry identification cards shall contain:

1. The name, address, date of birth and Department-issued registry identification number of the qualifying patient;

2. If the qualifying patient has designated a registered primary caregiver, the name, address, date of birth and Department-issued registry identification number of the primary caregiver,

3. If the qualifying patient is a minor, the name, address, date of birth and Department-issued registry identification number of the parent, guardian, or person who has legal custody of a qualifying patient who is a minor;

4. An indication as to whether the cardholder is the qualifying patient, a primary caregiver, a minor who is a qualifying patient, or the parent, guardian, or person who has legal custody of a qualifying patient who is a minor;

5. A photograph of the cardholder;

6. The effective date and expiration date of the registry identification card;
and

7. The telephone number and web address of the Medicinal Marijuana Program of the Department so that the authenticity of the registry identification card can be validated.

(d) Each person to whom the Department issues a registry identification card shall produce it to Department staff for inspection upon demand.

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(e) Registry identification cards shall not be transferable.

(f) Registry identification cards are the property of the Department and shall be surrendered to Department staff upon issuance of a new registry identification card or following the revocation or denial of renewal of registration of the registrant.

i. The temporary registry identification card may be surrendered by United States mail to the Medicinal Marijuana Program, or in person.

(g) A person may voluntarily surrender a registry identification card with a written notice stating that the person wishes to surrender voluntarily the registry identification card pursuant to N.J.A.C. 8:64-3.1(f).

1. The Department shall deem a voluntarily surrendered registry identification card to be null and void on the date the Department receives it.

8:64-3.2 Provisional approval of primary caregiver and temporary registry identification card

(a) Notwithstanding N.J.A.C. 8:64-3.1(a) above, the Department shall issue a temporary registry identification card to an applicant for issuance or renewal of registration as a primary caregiver pending the results of the applicant's criminal history record background check, provided the applicant otherwise satisfies the requirements for registration as a primary caregiver.

(b) A temporary registry identification card issued pursuant to this section shall be valid for no more than 30 days from its effective date.

(c) The primary caregiver shall surrender the temporary registry identification card to the Department within 10 days following the date that the Department approves or denies the primary caregiver's application.

i. The temporary registry identification card may be surrendered by United States mail to the Medicinal Marijuana Program, or in person pursuant to N.J.A.C. 8:64-3.1(f).

8:64-3.3 Registry identification card replacement

(a) If a qualifying registered patient or registered primary caregiver becomes aware of the loss, theft, or destruction of his or her registry identification card, he or she shall notify the MMP in writing or by telephone, within 24 hours of the loss.

(b) The Department shall deem the initial registry identification card null and void and issue a replacement registry identification card with a new random identification number within five days of the request provided the applicant continues to satisfy the requirements for registration.

(c) An applicant for issuance of a registration replacement card shall transmit to the Medicinal Marijuana Program a check or money order, or any other form of payment approved by the Medicinal Marijuana Program, that is made payable to the "Treasurer, State of New Jersey" in the amount of the required payment.

1. The Department shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check.

(d) The fee to apply for issuance of a registry identification card replacement is \$10.00.

1. If an applicant can demonstrate eligibility to receive services under the New Jersey Medicaid program, receipt of current food stamp benefits, receipt of current New Jersey Temporary Disability Insurance benefits, Supplemental Security Income benefits or Social Security Disability benefits, then the fee to apply for a registry identification card replacement is \$5.00.

8:64-3.4 Marijuana obtained from designated ATC—dispensary

(a) As a condition of issuance of a primary caregiver registration card, a primary caregiver shall execute a certification in which the primary caregiver agrees to comply with (b) and (c) below.

(b) The registered primary caregiver shall only obtain medical marijuana for the qualifying patient from the alternative treatment center—dispensary designated on his or her registry identification card and shall not:

1. Grow or cultivate medical marijuana for the qualifying patient;
2. Purchase medical marijuana through non-permitted alternative treatment centers or vendors; or
3. Obtain medical marijuana from or for other qualifying patients and/or primary caregivers.

(c) If the qualifying patient changes his or her designation of alternative treatment center, or makes a change to the information set forth on his or her registry identification card, both the qualifying patient and the primary caregiver shall surrender their registry identification cards to the Department and obtain new registry identification cards reflecting the change.

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SUBCHAPTER 4: REPORTING REQUIREMENTS

8:64-4.1 Reporting requirements for qualifying patients, primary caregivers and the parents, guardians, custodians of qualifying patients who are minors, and/or physicians

(a) Each qualifying patient, primary caregiver or parent, guardian, custodian of a qualifying patient who is a minor, or physician shall notify the Department of any change in the qualifying patient's name, address, alternative treatment center, physician, and/or change in status of the patient's debilitating medical condition, within 10 days of such change.

(b) Each primary caregiver to whom the Department issues a registry identification card shall notify the Department of any change in the primary caregiver's name or address within 10 days of such change.

(c) Each qualifying patient, primary caregiver or parent, guardian, custodian of a qualifying patient who is a minor, shall notify the Department of the theft, loss, or destruction of his or her registry identification card within 24 hours after the discovery of the occurrence of the theft, loss, or destruction.

(d) Failure of a registrant to make a notification required pursuant to this section shall result in the Department deeming the registration of the registrant to be null and void.

(e) Such other information as may be required by the Department in the administration and enforcement of N.J.A.C. 8:64.

8:64-4.2 Reporting requirements of the Department

(a) The commissioner shall report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1):

1. No later than one year after the effective date of N.J.S.A. 24:6I on the actions taken to implement the provisions of the New Jersey Compassionate Use Medical Marijuana Act; and,

2. Annually thereafter on the number of applications for registry identification cards, the number of qualifying patients registered, the number of primary caregivers registered, the nature of the debilitating medical conditions of the patients, the number of registry identification cards revoked, the number of alternative treatment center permits issued and revoked, and the number of physicians providing certifications for patients.

(b) The reports shall not contain any identifying information of patients, caregivers, or physicians.

8:64-4.3 Alternative Treatment Center Reporting requirements

(a) The facility shall collect and submit to the Department for each calendar year at least the following statistical data:

1. number of registered qualified patients and registered primary caregivers,
2. debilitating medical conditions of qualified patients,
3. number of registered qualified patients receiving residential home delivery;

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3. patient demographic data,
4. program costs, and,
5. summary of patient surveys and evaluation of services.

(b) Such other information as may be required by the Department in the administration and enforcement of N.J.A.C. 8:64.

8:64-4.4 Confidentiality

(a) The Department shall maintain a confidential list of the persons to whom it issues registry identification cards.

(b) Individual names and other identifying information on the list, and information contained in any application form, or accompanying or supporting document shall be confidential, and shall not be considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.), and shall not be disclosed except to:

1. Authorized employees of the Department and the Division of Consumer Affairs in the Department of Law and Public Safety as necessary to perform official duties of the Department and the Division, as applicable; and
2. Authorized employees of State or law enforcement agencies, only as necessary to verify that a person who is engaged in the suspected or alleged medical use of marijuana is lawfully in possession of a registry identification card.

SUBCHAPTER 5. ESTABLISHMENT OF ADDITIONAL DEBILITATING MEDICAL CONDITIONS

8:64-5.1 Review cycle for accepting petitions for additional qualifying debilitating medical condition

(a) The Commissioner shall take no action concerning the acceptance of petitions to approve other medical conditions or the treatment thereof as debilitating medical conditions pursuant to (b) below, before completing at least two annual reports required pursuant to N.J.A.C. 8:64-4.2.

1. The Department shall publish notice of an open period to accept petitions in the New Jersey Register.

(b) The process for review of petitions to approve other medical conditions or the treatment thereof as debilitating medical conditions pursuant to the definition at N.J.S.A. 24:6I-3 of “debilitating medical condition” at (5) (hereinafter referred to in this subchapter as petitions) shall include one review cycle each year, subject to (a) above.

(c) The beginning of each cycle shall be the first business day of the month.

(c) The Department shall accept petitions on the first business day of each cycle.

(d) The Department shall return to the petitioner a petition submitted in any month outside of the review cycle as not accepted for processing.

8:64-5.2 Panel to review petitions and make recommendations for identification and approval of additional debilitating medical conditions; membership; responsibilities

(a) The Commissioner shall appoint a review panel (panel) to make recommendations to the Commissioner regarding approval or denial of a petition submitted pursuant to this subchapter.

(b) The panel shall consist of not more than 15 health care professionals, among whom shall be:

1. The Chair of the Board of Medical Examiners, or the Chair's designee; and
2. Other physicians and non-physicians who are knowledgeable about the condition as to which the petition seeks approval;
 - i. Each physician appointed to the review panel shall be nationally board-certified in his or her area of specialty; and
3. At least three physicians appointed to the review panel shall have expertise in pain and symptom management.

(c) The majority of the panel shall be physicians.

(d) The Department shall convene the panel at least once per year to review petitions.

1. The Review Panel may examine scientific and medical evidence and research pertaining to the petition, and may gather information, in person or in writing, from other parties knowledgeable about the addition of the debilitating medical conditions being considered;

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2. The petitioner shall be given the opportunity to address the review panel in person or by telephone;

3. The petitioner may request that his or her individual identifiable health information remain confidential;

4. The Department shall provide staff support to the review panel and other administrative support;

5. The meetings will be considered open public meetings.

(c) The review panel shall make a written recommendation to the Commissioner regarding approval or denial of the addition of a qualifying debilitating medical condition.

1. A quorum of the review panel shall concur with the recommendation in order to be considered a final recommendation of the panel.

2. For purposes of this subchapter, a majority of the members appointed and serving on the review panel constitute a quorum.

8:64- 5.3 Addition of qualifying debilitating medical condition

(a) In order for the petition to be accepted for processing, the petitioner shall send a letter by certified mail to the Medicinal Marijuana Program that contains the following information:

1. The extent to which the condition is generally accepted by the medical community and other experts as a valid, existing medical condition;

2. If one or more treatments of the condition, rather than the condition itself, are alleged to be the cause of the patient's suffering, the extent to which

the treatments causing suffering are generally accepted by the medical community and other experts as valid treatments for the condition;

3. The extent to which the condition itself and/or the treatments thereof cause severe suffering such as severe and/or chronic pain, severe nausea and/or vomiting, or otherwise severely impair the patient's ability to carry on activities of daily living;

4. The availability of conventional medical therapies other than those that cause suffering to alleviate suffering caused by the condition and/or the treatment thereof;

5. The extent to which evidence that is generally accepted among the medical community and other experts supports a finding that the use of marijuana alleviates suffering caused by the condition and/or the treatment thereof;

6. Letters of support from physicians or other licensed health care professionals knowledgeable about the condition.

(b) Upon review of materials submitted pursuant to (a) above, the Commissioner shall make a final determination as to whether:

1. The petition is frivolous and, if so, to deny a petition without further review; or

2. The petition is bona fide and, if so, to accept the petition for further review.

(c) If the petition is accepted, the Department shall refer the written petition to the review panel established pursuant to N.J.A.C. 8:64-5.2.

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(d) Within 60 days of the receipt of the petition, the review panel shall consider the petition in view of the factors identified in (a) above, and shall issue an initial written recommendation to the Commissioner as to whether:

- i. The medical condition and/or the treatment thereof is/are debilitating;
- ii. Marijuana is more likely than not to have the potential to be beneficial to treat or alleviate the debilitation associated with the medical condition and/or the treatment thereof; and
- iii. Other matters that the panel recommends that the Commissioner consider that are relevant to the approval or the denial of the petition.

(d) Upon receipt of the panel's recommendation, the Department shall:

1. Post the review panel's recommendations on the Department's website for 60-day public comment period;
2. Post notice of a public meeting no fewer than 10 days prior to the public meeting; and
3. Hold a public hearing within the 60-day public comment period.

(e) After the public hearing, the Department shall forward the comments made during the public hearing to the review panel for its consideration.

1. If, based on a review of the comments, the panel determines substantive changes should be made to its initial recommendation, the Commissioner shall deny the petition and the Department shall provide the petitioner with a copy of the initial recommendation and an explanation of the substantive changes and the petitioner may resubmit the petition to the Department at any time.

2. If, based on a review of the comments, the panel determines to recommend no changes to its initial recommendation, the initial recommendation shall be deemed a final recommendation and the Commissioner will make a final determination on the petition within 180 days of receipt of the petition.

8:64-5.4 Denial of a petition considered final agency action subject to judicial review.

(a) If a condition in a petition is the same as, or is, as determined by the Commissioner, substantially similar to a condition of which the Commissioner has issued a previous determination denying approval as a debilitating medical condition pursuant to N.J.A.C. 8:64-5.3, the Commissioner may deny the new petition unless new scientific research supporting the request is brought forward.

(b) A decision of the commissioner issued pursuant to N.J.A.C. 8:64-5.3 or 5.4 is a final agency decision, of which jurisdiction and venue for judicial review are vested in the New Jersey Superior Court, Appellate Division.

SUBCHAPTER 6. ALTERNATIVE TREATMENT CENTER; PROCESS FOR DEPARTMENT REQUEST FOR APPLICATIONS

8:64-6.1 Notice of request for applications

(a) The Department may periodically request applications for the entities which seek authority to apply for a permit to operate an alternative treatment center—dispensary or an alternative treatment center—plant cultivation.

(b) The Department shall announce a request for applications for entities which seek authority to apply for a permit to operate an alternative treatment center—

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dispensary or an alternative treatment center—plant cultivation by publishing a notice of request for applications in the New Jersey Register, which notice shall:

1. Include eligibility criteria and a statement of the general criteria by which the Department shall evaluate applications; or
2. Identify such criteria by reference to the provisions of the Act and this chapter.

(c) A notice of request for applications shall establish weights for the criteria the Department shall use to evaluate applications and select successful applicants, and shall identify the process for obtaining application materials and the deadline for receipt of applications, and

(d) The Department shall not consider an application that is submitted after the due date specified in, or that is not submitted in response to, a published notice of request for applications.

8:64-6.2 Criteria for identifying alternative treatment centers

(a) A selection committee shall evaluate applications on the following general criteria:

1. Submission of mandatory organizational information;
2. Documented involvement of a New Jersey acute care general hospital in the ATC's organization;
3. Ability to meet overall health needs of qualified patients and safety of the public; and
4. Community support and participation.

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(b) The applicant's failure to address all applicable criteria and measures, to provide requested information, or to present truthful information in the application process shall result in the application being considered non-responsive and shall be considered an unsuccessful application pursuant to N.J.A.C. 8:64-6.4.

8:64-6.3 Verification of applicant information

(a) The Department may verify information contained in each application and accompanying documentation by:

1. Contacting the applicant by telephone, mail, or electronic mail;
2. Conducting an on-site visit; and
3. Requiring a face-to-face meeting and the production of additional identification materials if proof of identity is uncertain.

8:64-6.4 Award decisions

(a) The Department shall convene a selection committee to evaluate and score each application.

1. The selection committee shall evaluate and score each application based on the quality of the applicant's submission, and its conformity to the notice of request for applications published in the New Jersey Register.

(b) The Department shall issue a written notice of its award decision to successful applicants.

1. A written notice of denial of an application (non-selection) is a final agency decision, of which jurisdiction and venue for judicial review are vested in the New Jersey Superior Court, Appellate Division.

(c) The record for review shall be the application and any attached supporting documents excluding information deemed exempt pursuant to N.J.S.A. 47:1A-1.1 et seq.

8:64-6.5 Request for application; fee

(a) As a condition of Department consideration of an application submitted in response to a request for applications issued pursuant to N.J.A.C. 8:64-6.1, applicants shall submit a fee of \$20,000 for each application;

1. The applicant shall submit the fee with the application, in the form of two checks payable to the "Treasurer, State of New Jersey," one of which is for \$2,000 and the other of which is for \$18,000;

2. If an application is unsuccessful, the Department shall retain the \$2,000 fee and shall destroy the other check for \$18,000;

3. Application fees of successful applicants are non-refundable.

(b) Applicants may submit an application for an ATC permit for one or more regions, but must submit a separate application for each region.

(c) Applicants may submit an application for a permit to operate an alternative treatment center—plant cultivation and/or an alternative treatment center-dispensary, but must submit a separate application and fee for each type of alternative treatment center.

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SUBCHAPTER 7. GENERAL PROCEDURES AND STANDARDS APPLICABLE TO
ALL ALTERNATIVE TREATMENT CENTERS

8:64 -7.1 Permit application procedures and requirements for alternative treatment
centers

(a) An applicant for an ATC permit shall submit an application form and the fees required by 8:64-6.5, as well as all other required documentation on forms obtained from the permitting authority or on the Department's web site at www.state.nj.us/health.

(b) In addition to the application, the documentation shall include the following:

1. The legal name of the corporation, a copy of the articles of incorporation and by-laws, evidence that the corporation is in good standing with the New Jersey Secretary of State, and a certificate certified under the seal of the New Jersey State Treasurer as to the legal status of the business entity;

2. Each applicant including the information for each subcontractor or affiliate to the entity named in the application shall submit:

i. Documentation of a valid Business Registration Certificate on file with the New Jersey Department of Treasury Division of Revenue;

ii. A list of the names, addresses, and dates of birth of the proposed alternative treatment center's employees, principal officers, owners, and board members, including service on any other ATC board;

iii. A list of all persons or business entities having direct or indirect authority over the management or policies of the ATC;

iv. A list of all persons or business entities having five percent or more ownership in the ATC, whether direct or indirect and whether the interest is in profits, land or building, including owners of any business entity which owns all or part of the land or building;

v. The identities of all creditors holding a security interest in the premises, if any;

vi. The by-laws and a list of the members of a medical advisory board, none of whom shall be employees, officers, or board members of the ATC, and consisting of at least three licensed health care professionals, at least one of whom is a physician, and at least two community members;

vii. Evidence of compliance with N.J.A.C. 8:21-3A.18, with regards to inspection and auditing of the ATC;

viii. Evidence of the principals, board members, owners, and employees to cooperate with a criminal history record background check pursuant to N.J.A.C. 8:64-7.2, including payment of all applicable fees associated with the criminal history record background check which shall be paid by the ATC or the individual;

ix. The mailing and physical addresses of the proposed alternative treatment center and a satellite site, if authorized by the permitting authority;

x. Written verification of the approval of the community or governing body of the municipality in which the alternative treatment center is or will be located;

xi. Evidence of compliance with local codes and ordinances including, but not limited to, the distance to the closest school, church, temple or other places used exclusively for religious worship, or a playground, park, child day care facility from the alternative treatment center;

xii. A legible map or maps of the service areas by zip code to be served by the alternative treatment center showing locations of the alternative treatment center and administrative office, if located in different site locations; and

xiii. Text and graphic materials showing the exterior appearance of the ATC and its site compatibility with commercial structures already constructed or under construction within the immediate neighborhood;

(b) The applicant's failure to provide requested information or to present truthful information in the application process shall result in a decision to not accept the application for processing. The Department shall notify the applicant of this decision and the filing fee shall be nonrefundable.

8:64-7.2 Criminal history record background checks for principals, board members, owners, and employees

(a) Each principal, board member, owner, and employee shall provide:

1. Written consent to submit to a criminal history record background check pursuant to N.J.S.A. 24:6I-4 and shall comply with procedures established by the Division of State Police pursuant to N.J.A.C. 13:59 for obtaining readable fingerprint impressions.

(b) The Department shall deny registration of a principal, board member, owner, and employee who:

1. Refuses to consent to, or cooperate in, the securing of a criminal history record background check; or
2. Fails to provide any of the information required by N.J.A.C. 8:64-7.2(a).

(c) Subject to N.J.A.C. 8:64-7.1 above, in considering any application for a permit for an ATC, the Department shall consider, at a minimum, the following factors in reviewing the qualifications of principals, board members, and owners applying for a permit as an alternative treatment center:

1. Any convictions of the applicant under any Federal, state, or local laws relating to drug samples, wholesale or retail drug distribution, or distribution of a controlled substance;
2. Any felony conviction under Federal laws, or the equivalent (under whatever statutory term) conviction under state or local laws;
3. The applicant's past experience in the manufacturing or distribution of drugs or controlled substances;
4. The furnishing of false or fraudulent material in any application made in connection with drug or device manufacturing or distribution;
5. Suspension or revocation by Federal, state or local government of any registration currently or previously held by the applicant for the manufacture or distribution of any drugs, including controlled substances;
6. Compliance with license and/or registration requirements under any previously granted license or registration, if any;

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7. Compliance with requirements to maintain and/or make available to the Department or Federal or law enforcement officials those records required by this subchapter; and

8. Any other factors or qualifications the Department considers relevant to and consistent with ensuring public health and safety.

(d) Subject to (f) below, in considering any application for a permit for an ATC, the Department shall consider, at a minimum, the following factors at N.J.A.C. 8:64-7.2(f) in reviewing the qualifications of an employee who has a disqualifying conviction. The Department shall issue written notice to the employee identifying the conviction that constitutes the basis for the denial of the application.

(e) The Department shall not disqualify an applicant from serving as an officer, director, board member, or employee of an alternative treatment center as a result of a disqualifying conviction if the applicant affirmatively demonstrates to the Department by clear and convincing evidence that the applicant is rehabilitated.

(f) In determining whether an applicant has demonstrated clear and convincing evidence of rehabilitation, the Department shall consider the following factors:

1. The nature and responsibility of the position which the convicted individual would hold, has held, or currently holds;
2. The nature and seriousness of the crime or offense;
3. The circumstances under which the crime or offense occurred;
4. The date of the crime or offense;
5. The age of the individual when the crime or offense was committed;
6. Whether the crime or offense was an isolated or repeated incident;

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7. Any social conditions that may have contributed to the commission of the crime or offense;

8. 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.

(g) In accordance with the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedures Rules, N.J.A.C. 1:1, any individual disqualified from owning or operating an alternative treatment center shall be given an opportunity to challenge the accuracy of the disqualifying criminal history record prior to being permanently disqualified from participation.

8:64-7.3 Verification of applicant information

(a) The Department may verify information contained in each selected application and accompanying documentation by:

1. Contacting the applicant by telephone, mail, or electronic mail;
2. Conducting an on-site visit;
3. Requiring a face-to-face meeting and the production of additional identification materials if proof of identity is uncertain; and
4. Requiring additional relevant information as the Department deems necessary.

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8:64-7.4 Residency requirement policy

(a) All principal officers, owners, directors, and the majority of board members of an ATC shall be residents of the State of New Jersey.

1. An ATC may submit a request to allow an out-of-state resident to serve as a board member based on that individual's knowledge and expertise related to medical marijuana but the majority of the board shall be New Jersey residents.

(b) Documentation of current State residency shall be maintained in the alternative treatment center's personnel files of principal officers, owners, directors, and board members and shall include at a minimum as evidence of residency a copy of a New Jersey driver's license or other State-issued photo identification and physical home address (not mailing address) in New Jersey.

8:64-7.5 Permit issuance; nontransferability of permit

(a) Upon approval of the application for an ATC permit and payment of the required fee, the permitting authority may conduct an onsite assessment of the alternative treatment center to determine if the facility adheres to the Act and this chapter.

(b) An ATC permit is not assignable or transferable without Department approval, and it shall be immediately null and void if the alternative treatment center ceases to operate, if the alternative treatment center's ownership changes or if the alternative treatment center relocates.

(c) This chapter does not prohibit a political subdivision of this State from limiting the number of alternative treatment centers that may operate in the political subdivision or from enacting reasonable local ordinances applicable to alternative treatment centers.

8:64-7.6 Permit required; term; posting

(a) No person shall operate an alternative treatment center without a Department-issued permit.

(b) The permit holder shall have responsibility for the management, operation, and financial viability of the alternative treatment center.

(c) A permit shall be in effect for a period of one year and shall be renewable thereafter subject to N.J.A.C. 8:64-7.7.

(d) The permit holder shall post the permit in a conspicuous location on the premises of each permitted alternative treatment center.

8:64-7.7 Renewal of alternative treatment center permit

(a) 60 days prior to the expiration of an ATC permit, an ATC that seeks to renew the permit shall submit to the permitting authority an application for renewal of the permit with all required documentation and the required fees pursuant to N.J.A.C. 8:64-7.10.

1. An ATC shall update and ensure the correctness of all information submitted in previous applications for a permit or otherwise on file with the Department.

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2. Failure to provide correct and current up-to-date information is grounds for denial of application for renewal of the permit.

(b) The permit period for an alternative treatment center shall be from January 1st (or the date of approval of the application, if later) through December 31st of a given year.

(c) The Department may deny the application for renewal of the permit if the applicant is noncompliant with applicable local rules, ordinances, and/or zoning requirements, or if the Department determines that the facility is in violation of the Act or this chapter.

(d) The Department may issue and/or renew a permit subject to such conditions that the Department deems necessary.

8:64-7.8 Amendments to alternative treatment center permit

(a) An ATC shall submit to the Department an application for an amended permit, together with fees, if applicable, pursuant to N.J.A.C. 8:64-7.10, prior to any:

1. Change of the alternative treatment center's location;
2. Change of the alternative treatment center's ownership;
3. Change of the alternative treatment center's name;
4. Change in the alternative treatment center's capacity; or
5. Modification of or addition to the alternative treatment center's physical

plant.

(b) The alternative treatment center shall submit the application to the permitting authority no later than 30 business days prior to the change.

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8:64-7.9 ATC-dispensary satellite sites

(a) Upon application and approval from the Department, an ATC-dispensary may operate one satellite site at a specific building, place, or premises that is at a separate location from the permitted ATC-dispensary.

1. ATC-dispensary satellite sites shall act under the direct administrative and professional supervision of an ATC-dispensary.

2. ATC-dispensary satellite sites shall only provide ATC-dispensary services that the primary ATC-dispensary is permitted to provide.

3. ATC-dispensary satellite sites shall be in the same region as the ATC-dispensary of which they are satellites.

4. An ATC-dispensary satellite site shall operate pursuant to the ATC-dispensary permit issued to the ATC-dispensary of which they are satellites.

i. The ATC—dispensary permit shall identify the physical address of the ATC-dispensary satellite site;

ii. The Department shall issue an additional permit for posting by the ATC-dispensary satellite site that shall indicate that the ATC-dispensary satellite site is operating subject to the ATC-dispensary permit and contain the ATC-dispensary satellite site address.

5. An ATC-dispensary shall not locate ATC-dispensary satellite sites within 1,000 feet of the property line of a preexisting public or private school.

6. This chapter does not prohibit a political subdivision of this State from limiting the number of ATC-dispensary satellite sites that may operate in the

political subdivision or from enacting reasonable local ordinances applicable to ATC-dispensaries and ATC-dispensary satellite sites.

7. The Department shall conduct an onsite assessment of each ATC-dispensary satellite site prior to permit issuance.

8:64-7.10 Fees

(a) The following fees apply:

1. The annual fee for the review of a permit renewal application for an alternative treatment center – dispensary and/or alternative treatment center – cultivation shall be twenty thousand dollars (\$20,000).

i. The fee for the addition of a satellite site upon the annual permit renewal application for an alternative treatment center – dispensary shall be ten thousand dollars (\$10,000).

2. The fee for a change of location of the alternative treatment center shall be ten thousand dollars (\$10,000).

3. The fee for a change of capacity or any physical modification or addition to the facility shall be two thousand dollars (\$2,000).

4. The fee for the transfer of ownership of a permit shall be twenty thousand dollars (\$20,000).

(b) Fees shall be paid by certified check, money order, or any other form of payment approved by the Medicinal Marijuana Program, and made payable to the “Treasurer, State of New Jersey.”

8:64- 7.11 Waiver

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The Commissioner, or the Commissioner's designee, may in accordance with the general purposes and intent of N.J.S.A. 24:6I-1, et seq, and amendments thereto, and the standards in this chapter, waive a requirement regarding the operations of the ATC, if in the Commissioner's, or the Commissioner's designee's, determination, such a waiver is necessary to achieve the purpose of the Act and provide access to patients who would otherwise qualify for the use of medical marijuana to alleviate suffering from debilitating medical conditions, and does not create a danger to the public health, safety or welfare.

SUBCHAPTER 8. ALTERNATIVE TREATMENT CENTER IDENTIFICATION CARDS

8:64-8.1 Department issuance of identification cards; expiration

(a) The Department shall issue each qualified principal officer, owner, board member, and employee of an alternative treatment center an ATC identification card within 10 business days of the date the Department receives a completed Department-approved application form with required documents including a copy of a New Jersey driver's license or other State-issued photo identification.

(b) Principal officers, owners, board members, and employees shall not begin working at the registered ATC before the Department issues an ATC identification card and the card is in the registrant's physical possession.

(c) ATC identification cards issued to principal officers, owners, board members and employees of an alternative treatment center expire one year after the date of issuance.

(d) ATC identification cards shall contain:

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1. The name of the individual;
2. The name of the ATC;
3. The date of issuance and expiration; and,
4. A photograph of the cardholder.

8:64-8.2 Notice to Department when employment or affiliation ceases; expiration of an ATC identification card

(a) The alternative treatment center shall notify the permitting authority within 10 business days of the date that a principal officer, board member or employee ceases to work at or be affiliated with the alternative treatment center.

1. The alternative treatment center identification card of a principal officer, board member or employee expires immediately when a person ceases to work at or be affiliated with the alternative treatment center.

8:64-8.3 Surrender of ATC identification cards

(a) The alternative treatment center shall surrender to the permitting authority the ATC identification card of any principal officer, board member or employee who is no longer eligible to validly use or possess the card for any reason.

(b) The alternative treatment center shall document the reason the person is no longer eligible to validly use or possess the card in the alternative treatment center's personnel files and shall submit a copy of the documentation to the permitting authority.

SUBCHAPTER 9. GENERAL ADMINISTRATIVE REQUIREMENTS FOR
ORGANIZATION AND RECORDKEEPING

8:64-9.1 Alternative treatment centers policies, procedures and records

(a) Each alternative treatment center shall develop, implement, and maintain on the premises an operations manual that addresses, at a minimum, the following:

1. Procedures for the oversight of the alternative treatment center;
2. Procedures for safely dispensing and transporting medical marijuana, as applicable:
 - i. From the ATC-plant cultivation to the ATC-dispensary; and/or
 - ii. From the ATC- Dispensary to qualifying patients or their primary caregivers;
3. Procedures to ensure accurate record keeping, including inventory protocols to ensure that quantities purchased do not suggest redistribution;
4. Employee security policies;
5. Safety and security procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies;
6. Personal safety and crime prevention techniques;
8. The alternative treatment center's alcohol, smoke and drug-free workplace policies; and
9. A description of the ATC's:
 - i. Hours of operation and after hour contact information;
 - ii. Fee schedule and availability of sliding fee scales based on income;

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iii. Expectations of onsite personnel in maintaining confidentiality and privacy of the operations and clients of the ATC;

iv. Criteria for involuntary disenrollment from the ATC's list of qualifying patients pursuant to unacceptable behavior and appeal process; and

v. Registered qualifying patient's assumption of risk in complying with ATC registration policies.

(b) The permit holder shall ensure that the operating manual of the alternative treatment center is available for inspection by the Department, upon request.

8:64-9.2 Prohibitions applicable to alternative treatment centers

(a) Consumption of marijuana and/or alcohol on, or in the vicinity of, the premises of an ATC is prohibited.

(b) Consumption of food, beverages, by qualifying patients and primary caregivers on the premises of an ATC-dispensary is prohibited.

(c) Sales of food, beverages, alcohol or tobacco on the premises of an ATC is prohibited.

(d) Entry onto the premises of an ATC—plant cultivation by a person who is under the age of 18 under any circumstances is prohibited.

(e) Entry onto the premises of an ATC—dispensary by a person who is under the age of 18 is prohibited unless he or she is a qualifying patient accompanied by his or her primary caregiver and both are in possession of a registry identification card.

8:64-9.3 Organization and recordkeeping requirements applicable to alternative treatment centers

(a) The ATC shall maintain the following administrative records, as applicable:

1. Organization charts consistent with the job descriptions in 8:64-9.4(a)6 below;
2. A general description of any facilities to be used as an ATC and a floor plan identifying the square footage available and descriptions of the functional areas of the ATC;
3. If applicable, a projection of the number of qualified patients to be served in each ATC-dispensary site;
4. Projections by the ATC for a two-year period of the ratio of registered qualifying patients-to-demand for usable marijuana and procedures by which the ATC shall periodically review these ratios for consistency with actual patient demand ratios;
5. Procedures by which the ATC shall ensure the availability and accessibility of medical marijuana in accordance with projected and actual demand ratios;
6. If applicable, a projection of the quantity of usable marijuana each ATC-plant cultivation shall provide to the ATC–dispensaries and/or ATC-dispensary satellite sites with which it has contracted;
7. The name, medical license number, résumé, and contact address of the medical director of the ATC, if applicable;

8. The name, résumé, and address of the chief administrative officer of the ATC;

9. The standards and procedures by which the ATC determines the price it charges for usable marijuana and a record of the prices charged.

(b) ATCs shall maintain business records including manual or computerized records of assets and liabilities, monetary transactions, various journals, ledgers, and supporting documents, including agreements, checks, invoices, and vouchers that the ATC keeps as its books of accounts.

(c) Business records include sales records that indicate the name of the qualifying patient or primary caregiver to whom marijuana is distributed, the quantity and form, and the cost of the product.

(d) The bylaws of the ATC and its affiliates or sub-contractors shall contain provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its nonprofit status, as applicable.

8:64-9.4 Personnel records

(a) Each alternative treatment center shall maintain a personnel record for each employee, principal officer, board member, agent, or volunteer that includes, as a minimum, the following:

1. An application for employment or to volunteer;
2. Copy of current ATC identification card and copy of a New Jersey driver's license or other State-issued photo identification card;

3. Documentation of State residency for each principal officer, owner, and board member, as applicable;
4. Documentation of verification of references;
5. Documentation of background checks;
6. Job description or employment contract which include duties, authority, responsibilities, qualifications, supervision;
7. Documentation of all required training including training regarding privacy and confidentiality requirements, and the signed statement of the individual indicating the date, time and place he or she received said training and the topics discussed, including the name and title of presenters;
8. Documentation of periodic performance evaluations;
9. A record of any disciplinary action taken; and
10. Documentation of the results of drug tests authorized pursuant to this chapter.

(b) The permit holder shall maintain personnel records for at least 12 months after termination of the individual's affiliation with the alternative treatment center, for the purposes of this rule.

1. Permit holders are responsible for maintaining personnel records for all other business purposes in accordance with their business practice.

8:64–9.5 Alternative treatment center employee training

(a) Each alternative treatment center shall either:

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1. Develop, implement and maintain on the premises an on-site training curriculum; or

2. Enter into contractual relationships with outside resources capable of meeting employee, agent, and volunteer training needs.

(b) Each employee, agent, or volunteer, at the time of his or her initial appointment, shall receive, as a minimum, training in the following:

1. Professional conduct, ethics, and State and Federal laws regarding patient confidentiality;

2. Informational developments in the field of medical use of marijuana;

3. The proper use of security measures and controls that have been adopted; and

4. Specific procedural instructions for responding to an emergency, including robbery or violent accident.

8:64-9.6 Alcohol and drug-free workplace policy and smoke free workplace policy; employee assistance program

(a) The ATC shall establish, implement, and adhere to a written alcohol, drug-free and smoke-free workplace policy.

(b) The permit holder shall ensure that the policy is available to the Department upon request.

(c) The policy shall address the following:

1. The policy's inapplicability if an employee, who is also a qualifying patient, fails the drug test solely because of the presence of marijuana in a confirmed positive test result;

2. The ATC's policy providing for probable cause substance abuse testing consistent with applicable State and Federal law; and

3. Opportunities for assistance of an employee with a substance abuse problem.

(d) The ATC shall maintain a contract with an approved New Jersey employee assistance program.

8:64-9.7 Security

(a) Each alternative treatment center shall provide effective controls and procedures to guard against theft and diversion of marijuana including, when appropriate, systems to protect against electronic records tampering.

(b) At minimum, each alternative treatment center shall:

1. Install, maintain in good working order, and operate a safety and security alarm system at each authorized physical address that will provide suitable protection 24 hours a day and seven days a week against theft and diversion and that provides, at a minimum:

i. Immediate automatic or electronic notification to alert State or local police agencies to an unauthorized breach of security at the alternative treatment center or at any ATC-dispensary satellite site;

ii. A backup system that activates immediately and automatically upon a loss of electrical support and that immediately issues either automatically or electronic notification to State or local police agencies of the loss of electrical support; and

2. Implement appropriate security and safety measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana;

3. Implement security measures that protect the premises, registered qualifying patients, registered primary caregivers, and principal officers, board members and employees of the alternative treatment center;

4. Establish a protocol for testing and maintenance of the security alarm system;

5. Conduct maintenance inspections and tests of the security alarm system for each authorized location at intervals not to exceed 30 days from the previous inspection and test and promptly implement all necessary repairs to ensure the proper operation of the alarm system;

6. In the event of a failure of the security alarm system due to a loss of electrical support or mechanical malfunction that is expected to last longer than eight hours:

i. Notify the Department pursuant to N.J.A.C. 8:64-9.8; and

ii. Provide alternative security measures approved by the

Department or close the authorized physical addresses impacted by the

failure or malfunction until the security alarm system is restored to full operation;

7. Keep access from outside the premises to a minimum and ensure that access is well controlled;

8. Keep the outside areas of the premises and its perimeter well lighted;

i. Exterior lighting must be sufficient to deter nuisance and criminal activity and facilitate surveillance, and must not disturb surrounding businesses or neighbors;

9. Provide law enforcement and neighbors within 100 feet of the ATC with the name and phone number of a staff person to notify during and after operating hours to whom they can report problems with the establishment.

10. Equip interior and exterior premises with electronic monitoring, video cameras, and panic buttons;

i. A video surveillance system shall be installed and operated to clearly monitor all critical control activities of the ATC and shall be in working order and operating at all times. The ATC shall provide two monitors for remote viewing via telephone lines in state offices. This system shall be approved by the MMP prior to permit issuance.

11. Limit entry into areas where marijuana is held to authorized personnel;

12. Consistently and systematically prevent loitering, that is, the presence of persons who are not on-duty personnel of the ATC and who are not ATC registrants engaging in authorized ATC-dispensary activity; and

13. Provide on-site parking.

8:64-9.8 Reportable events

(a) An ATC, upon becoming aware of a reportable loss, discrepancies identified during inventory, diversion, or theft, whether or not the medical marijuana, funds, or other lost or stolen property is subsequently recovered and/or the responsible parties are identified and action taken against them, shall:

1. Immediately notify appropriate law enforcement authorities by telephone; and,
2. Notify the permitting authority immediately but no later than three hours after discovery of the event.

(b) The ATC shall notify the permitting authority within 24 hours by telephone at (609) ###-####, followed by written notification within 10 business days, of any of the following:

1. An alarm activation or other event that requires response by public safety personnel;
2. A breach of security;
3. The failure of the security alarm system due to a loss of electrical support or mechanical malfunction that is expected to last longer than eight hours; and
4. Corrective measures taken, if any.

(c) An ATC shall maintain documentation in an auditable form for a period of at least two years after the reporting of an occurrence that is reportable pursuant to this section.

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8:64-9.9 Inventory

(a) Each alternative treatment center, at a minimum, shall:

1. Conduct an initial comprehensive inventory of all medical marijuana, including usable marijuana available for dispensing, seedling to mature marijuana plants and unusable marijuana, at each authorized location on the date the alternative treatment center first engages in the production or dispensing of medical marijuana;

i. If an alternative treatment center commences business with no medical marijuana on hand, the ATC shall record this fact as the initial inventory;

ii. Marijuana is deemed to be “on hand” if it is in the possession of or under the control of an ATC—plant cultivation, including substances returned by an ATC—dispensary, ordered by an ATC—dispensary but not yet invoiced, or stored in a warehouse on behalf of an ATC—dispensary;

iii. An inventory shall include damaged, defective, expired, or adulterated marijuana awaiting disposal, including the name, the quantity, and the reasons for which the ATC is maintaining the marijuana.

2. Establish inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of stored, usable and unusable marijuana;

3. Conduct a monthly inventory of stored, usable and unusable marijuana;

4. Conduct a comprehensive annual inventory at least once every year from the date of the previous comprehensive inventory;

5. Promptly transcribe inventories taken by use of an oral recording device; and

6. If marijuana is disposed of, maintain a written record of the date, the quantity disposed of, the manner of disposal, and the persons present during the disposal, with their signatures;

i. ATCs shall keep disposal records for at least two years.

(b) The record of an inventory conducted pursuant to this section shall include, at a minimum, the date of the inventory, a summary of the inventory findings and the name, signature and title of the individuals who conducted the inventory.

8:64–9.10 Destruction of marijuana; recordkeeping

(a) If a permit to operate an alternative treatment center expires without being renewed or is revoked, the permit holder shall:

1. Destroy or dispose of all unused marijuana or surplus inventory in its possession by providing it to the New Jersey State Police for destruction;

2. Create and maintain a written record of the disposal of marijuana that is identified for disposal by the alternative treatment center and shall weigh and inventory prior to destruction; and

3. Discontinue production of marijuana.

(b) Within 10 business days after destroying the marijuana, the holder of the permit shall notify the Department, in writing, of the amount of marijuana destroyed.

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(c) A qualifying patient or a primary caregiver in possession of unused, unadulterated marijuana that is no longer needed for the qualifying patient's medical use shall dispose of the marijuana by:

1. Returning it to an alternative treatment center—dispensary; or
2. Transporting it or arranging for pickup by State or local police;
 - i. The person or entity submitting marijuana for disposal pursuant to this section shall present a valid registry identification card and a New Jersey driver's license or other State-issued photographic identification to the ATC-dispensary or the police, as applicable.

8:64-10 ALTERNATIVE TREATMENT CENTER—PLANT CULTIVATION

AUTHORIZED CONDUCT

8:64-10.1 Alternative treatment center—plant cultivation: indoor cultivation site; limitation of inventory

(a) An alternative treatment center—plant cultivation shall:

1. Produce marijuana only at the indoor cultivation site and area authorized in the permit;
2. Sell marijuana with a consistent unit price and label, and without volume discounts;
3. Limit to its inventory of usable marijuana and seeds to reflect current patient needs as identified by the alternative treatment center—dispensary with which it is authorized to conduct transactions;

4. Comply with applicable laws and rules of the New Jersey Department of Agriculture and attendant inspection and enforcement activities; and

5. Comply with N.J.A.C. 8:21-3A.8 and 9.

8:64-10.2 Alternative treatment center—plant cultivation: accessibility of marijuana storage areas

(a) An ATC—plant cultivation shall limit access to medical marijuana storage areas to the absolute minimum number of specifically authorized employees.

1. When it is necessary for employee maintenance personnel, nonemployee maintenance personnel, business guests, or visitors to be present in or pass through medical marijuana storage areas, the ATC—plant cultivation shall provide for adequate observation of the area by an employee whom the permit holder specifically authorized by policy or job description to supervise the activity.

(b) Each alternative treatment center—plant cultivation shall ensure that the storage of marijuana prepared for dispensing to an ATC—dispensary is in a locked area with adequate security.

1. For purposes of this section, “adequate security,” at a minimum, shall be assessed, established and maintained based on:

i. The quantity of usable marijuana that will be kept on hand at each authorized location;

ii. The alternative treatment center’s inventory system for tracking and dispensing usable marijuana;

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iii. The number of principal officers, board members, agents, volunteers, or employees who have or could have access to the usable marijuana;

iv. The geographic location of the alternative treatment center and its associated demographic information, such as the remoteness of the facility from local populations and the relative level of crime associated with the area;

v. The scope and sustainability of the security alarm system; and

vi. The findings of root cause analyses of any breaches of security and/or inventory discrepancies for usable marijuana at that location.

8:64-10.3 Plant cultivation

(a) An ATC—plant cultivation shall maintain records identifying the source of each ingredient used in the manufacture or processing of marijuana.

1. Records identifying the source of each ingredient shall include the date of receipt of the ingredient, vendor's name and address, the name of the ingredient and the vendor's batch number, lot number, control number or other identifying symbol, if any, used by the vendor to identify the ingredient as well as the grade (such as U.S.P., N.F., reagent, technical or crude) and quantity of said ingredient;

(b) An alternative treatment center-plant cultivation shall meet good manufacturing practices at N.J.A.C. 8:21 for the production of marijuana lozenges or topical formulations;

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(c) An alternative treatment center—plant cultivation shall maintain a system of recordkeeping that will permit the identification for purposes of recall of any lot or batch of medical marijuana from registered qualifying patients when such is found to be unsafe for use.

1. As part of this system, the alternative treatment center—plant cultivation shall ensure that the container of any drug at any stage in the process of manufacture and distribution bears an identifying name and number, commonly known as a “lot” or “control” number, to make it possible to determine the complete manufacturing history of the package of the marijuana.

8:64-10.4 ATC—plant cultivation: physical plant

(a) All cultivation of marijuana shall take place in an enclosed, locked facility unless the plants or paraphernalia are being transported between the location of the ATC—plant cultivation and the ATC—dispensary or the ATC—dispensary satellite site, if any.

(b) Access to the enclosed, locked facility is limited to a cardholder who is a principal officer, board member, or employee of an ATC—plant cultivation when acting in his or her official capacity.

8:64:10.5 Storage of marijuana

(a) Medical marijuana that is prepared for distribution shall be stored securely in compliance with 21 CFR 1301.72, as amended and supplemented.

8:64-10.6 Informational policies, labeling

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(a) An ATC—plant cultivation shall establish and implement policies that require the ATC—plant cultivation to provide information about marijuana to the ATC—dispensary about the different potencies, effects, and forms for each usable marijuana package that the ATC—plant cultivation dispenses to the ATC—dispensary.

(b) The ATC—plant cultivation shall place a legible, firmly affixed label containing the information specified in (c) below on each package of medical marijuana it dispenses to an ATC—dispensary, and shall not dispense medical marijuana if the package does not bear the label.

(c) The label required pursuant to (b) above shall contain the following:

1. The name and address of the alternative treatment center—plant cultivation that produced the medical marijuana;
2. The quantity of the medical marijuana contained within the package;
3. The date that the ATC—plant cultivation packaged the content;
4. A sequential serial number, lot number, and bar code to identify lot associated with manufacturing and processing;
5. The cannabinoid profile of the medical marijuana contained within the package, including THC level not to exceed 10 percent;
6. Whether the medical marijuana is of the low, medium, or high strength strain;
7. A statement that the product is for medical use by a qualifying patient and not for resale; and
8. A list of any other ingredients besides medical marijuana contained within the package.

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(c) Labeling shall be clear and truthful in all respects and shall not be false or misleading in any particular.

1. A label containing any statements about the product other than those specified in this chapter shall contain the following statement prominently displayed, and in boldface type: “This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.”

8:64-10.7 Strains of marijuana

(a) An ATC—plant cultivation shall cultivate no more than three strains of medical marijuana.

(b) Strains of marijuana authorized for cultivation shall be labeled as one of the following strengths: low, medium, and high.

8:64-10.8 Processing and Packaging of marijuana

(a) An ATC—plant cultivation shall process marijuana in a safe and sanitary manner to protect registered qualifying patients from adulterated marijuana and shall process the:

1. Dried leaves and flowers of the female Marijuana plant only which shall be:
 - i. Well cured, free of seeds and stems;
 - ii. Free of dirt, sand, debris or other foreign matter; and,
 - iii. Free of mold, rot, or other fungous or bacterial diseases.

(b) Medical marijuana shall be packaged in a secure area connected to the production area.

1. The dried product shall be handled on food grade stainless steel benches (tables); and
2. Proper sanitation shall be maintained; and,
3. Proper rodent/bird exclusion practices shall be employed at all times.

(c) Each package of usable marijuana, at a minimum, shall:

1. Contain no more than $\frac{1}{4}$ ounce of marijuana or equivalent dose dependent on form;
2. Bear a label that complies with N.J.A.C. 8:64-10.7;
3. Be in a closed container that holds no more than $\frac{1}{4}$ ounce and sealed so that the package cannot be opened, and the contents consumed, without the seal being broken.

(d) Once a package is sealed, the ATC shall not open the package except for quality control. Once the seal is broken at an ATC, the marijuana is deemed unusable.

(e) An ATC—plant cultivation shall package or dispense medical marijuana only in:

- i. dried form for direct dispensing to qualifying patients by an ATC—dispensary;
- ii. Oral Lozenges for direct dispensing to qualifying patients by an ATC—dispensary ; or
- iii. Topical formulations for direct dispensing to qualifying patients by an ATC—dispensary.

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(f) The ATC-plant cultivation shall submit the label to MMP for approval and record. The MMP shall provide a copy of the label to authorized employees of State or law enforcement agencies, as necessary to perform official duties of that department and that division.

8:64-10.9 Pesticide use prohibited

Inasmuch as there are no pesticides authorized for use on marijuana, and the unauthorized application of pesticides is unlawful, an ATC—plant cultivation shall not apply pesticides in the cultivation of marijuana.

8:64-10.10 Organic certification

Marijuana for medical use may be labeled “organic” if the registered dispensary is certified as being in compliance with the United States Department of Agriculture certification requirements applying to organic products.

8:64-10.11 Alternative treatment center—cultivation delivery program

(a) Each Alternative treatment center—Cultivation shall establish a procedure by which it shall accept and process Alternative treatment center—dispensary orders for delivery.

(b) The procedure shall address at minimum the following:

1. Mechanisms by which the alternative treatment center—cultivation will accept orders;
2. Safeguards to confirm the identity of persons placing orders as a ATC-dispensary;
3. Standards for delivery of secure packaging and labeling of medical marijuana in the forms and quantities ordered;

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4. Methods of scheduling deliveries; and
5. Inventory controls.

(c) Vehicles used for delivery shall bear no identifying markings.

(d) The alternative treatment center—cultivation shall maintain current commercial automobile insurance on each vehicle used for delivery.

(e) Two registered alternative treatment center—cultivation employees, who shall have access to a form of secure telecommunication with the alternative treatment center—cultivation, such as a cellular telephone, shall staff each vehicle.

(f) An ATC—cultivation shall store and protect medical marijuana during transport in conformance with State and Federal laws and regulations.

SUBCHAPTER 11. ALTERNATIVE TREATMENT CENTER—DISPENSARY

AUTHORIZED CONDUCT

8:64-11.1 Alternative treatment center: education policies

(a) Each ATC shall establish and implement policies describing its plans for providing information to registered qualifying patients and primary caregivers as to:

1. Limitations of the right to possess and use marijuana pursuant to the Act and this chapter;
2. Potential side effects of marijuana use and how this shall be communicated to registered qualifying patients and primary caregivers;
3. The differing strengths of products dispensed;
4. Safe techniques for use of medical marijuana and paraphernalia;
5. Alternative methods and forms of consumption or inhalation by which one can use medicinal marijuana;

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6. Signs and symptoms of substance abuse;
7. Opportunities to participate in substance abuse programs; and
8. Information on tolerance, dependence, and withdrawal.

8:64-11.2 Patient informational materials

(a) Each ATC—dispensary shall maintain, and make available for distribution to registered qualifying patients and their primary caregivers, an adequate supply of up-to-date informational materials addressing the matters identified in the policies developed pursuant to N.J.A.C. 8:64-11.1.

(b) Informational materials must be available for inspection by the Department upon request.

(c) Each ATC—dispensary shall provide registered qualifying patients and their primary caregivers with a notice requesting approval for the ATC—dispensary to contact registered qualifying patients and their primary caregivers with information concerning on-going peer reviewed clinical studies related to the use of marijuana.

8:64-11.3 Notice of and adherence to ATC—dispensary designation

(a) The Department shall maintain a list of dispensaries and the qualified patients who have designated each ATC to provide medical marijuana for the patient's medical use.

(b) An alternative treatment center—dispensary shall maintain, and make available for Department inspection upon request, a copy of the registry identification card and New Jersey driver's license or other State-issued photographic identification of each current qualifying patient and his or her primary caregiver, if any.

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(c) The Department shall issue written notice to each affected ATC—dispensary each time a registered qualifying patient and/or his or her primary caregiver designates or ceases his or her designation of the ATC—dispensary.

1. Upon receipt of a notice issued pursuant to (c) above, the ATC—dispensary shall update its records to reflect the content of the notice.

(d) An ATC—dispensary shall not provide dispensary services to qualifying patients and/or their primary caregivers who have not previously designated the ATC—dispensary as their registered ATC—dispensary, as reflected on the registry identification card of the qualifying patient and/or his or her primary caregiver.

8:64-11.4 Pain assessment records

(a) An alternative treatment center—dispensary shall formulate a system for documenting a patient's self-assessment of pain and/or primary qualifying symptom using a pain rating scale.

1. An alternative treatment center-dispensary serving different patient populations shall make more than one pain scale available for patient use, as appropriate.

(b) An alternative treatment center—dispensary shall document a patient's self-assessment of pain or primary qualifying symptom upon commencement of the dispensing of medical marijuana to the patient and thereafter at three-month intervals.

1. The ATC—dispensary shall maintain the record for the patient's use and information in consulting with his or her physician as to the use of medical marijuana to address the patient's qualifying debilitating condition.

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(c) ATCs shall provide “log books” to registered qualifying patients and registered primary caregivers who request them to keep track of the strains used and their effects.

8:64-11.5 Alternative treatment center—dispensary: prohibitions

(a) An ATC—dispensary shall not furnish usable marijuana to a registered patient or primary caregiver if the ATC—dispensary suspects or has reason to believe that the person is abusing marijuana or other substances, or unlawfully redistributing usable marijuana.

(b) An alternative treatment center—dispensary shall not acquire marijuana or contract for the cultivation of seeds, seedlings or small plants or the cultivation, production or preparation of marijuana or goods containing marijuana except for usable marijuana through a permitted alternative treatment center—plant cultivation.

(c) An alternative treatment center—dispensary shall not acquire, possess, cultivate, deliver, transfer, transport, supply or dispense marijuana except:

1. It may accept the dispensing of usable marijuana from an ATC—plant cultivation; and

2. It may dispense usable marijuana to registered qualifying patients and primary caregivers.

(d) An ATC—dispensary shall dispense medical marijuana only in dried form directly to registered qualifying patients and their registered primary caregivers.

(e) An ATC—dispensary shall not open or break the seal on a package of sealed usable marijuana that is packaged pursuant to N.J.A.C. 8:64-10.8.

8:64-11.6 Alternative treatment center—dispensary: inventory

(a) An alternative treatment center—dispensary is authorized to possess two ounces of usable marijuana per registered qualifying patient plus an additional supply, not to exceed the amount needed to enable the alternative treatment center—dispensary to meet the demand of newly registered qualifying patients, consistent with actual demand ratios calculated pursuant to N.J.A.C. 8:64-9.3(a)3 - 5.

(b) During the first 60 days after commencement of operations, an alternative treatment center—dispensary is authorized to possess a reasonable supply of usable marijuana to build initial inventory, without the ATC—dispensary having been designated for use by any registered qualifying patients or primary caregivers.

(c) When there is a decrease in the number of registered qualifying patients and primary caregivers who have designated the alternative treatment center—dispensary as their dispensary, the alternative treatment center—dispensary shall have 10 business days to adjust the inventory.

(d) Two alternative treatment center—dispensary employees shall weigh, log-in and sign-out quantities of packaged usable marijuana to perform dispensing.

8:64-11.7 Dispensing procedures; labeling tickets

(a) Upon its receipt of usable marijuana from an ATC—plant cultivation, an ATC—dispensary and ATC—dispensary satellite site shall place a legible, firmly affixed label containing the information required pursuant to (b)1 below and room for insertion of the fields specified in (b)2 through 4 below upon each package of usable marijuana it receives;

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1. The ATC—dispensary or ATC—dispensary satellite site, as applicable, shall insert the information required pursuant to (b)2 through 4 below on the label when it dispenses the usable marijuana.

(b) The label required pursuant to (a) above shall contain the following:

1. The name, of the ATC-dispensary or ATC—dispensary satellite site;
2. The package serial number, bar code and date of dispensing to the qualifying patient or primary caregiver; and,
3. The qualifying patient’s name and registry identification card number.

(c) An ATC-dispensary shall not dispense usable marijuana that does not bear the ATC—plant cultivation label required pursuant to N.J.A.C. 8:64-10.6 and a completed label pursuant to this section.

(d) Labeling shall be clear and truthful in all respects and shall not be false or misleading in any particular.

(e) The ATC—dispensary shall file the form of label with the permitting program.

(f) Neither an ATC—dispensary nor an ATC—dispensary satellite site shall open a package that is sealed pursuant to N.J.A.C. 8:64-10.8.

SUBCHAPTER 12. RESIDENTIAL DELIVERY SERVICES

8:64-12.1 Eligibility of registrant for residential delivery

(a) A qualifying patient and his or her primary caregiver, if any, are eligible for residential delivery of medical marijuana:

1. If the qualifying patient is a child;

2. Due to age, medical condition, or disability of the qualifying patient or the primary caregiver; or

3. If the qualifying patient and the primary caregiver are unable to travel to the patient's designated alternative treatment center—dispensary because they lack access to a personal vehicle or convenient public transportation or have limited mobility.

(b) A registrant seeking to demonstrate eligibility for residential delivery pursuant to (a) above shall submit a written statement to the alternative treatment center—dispensary describing the circumstances that the registrant contends make him or her eligible for residential delivery.

(c) The alternative treatment center—dispensary shall review the application and shall determine whether additional information is necessary to process the application.

(d) If the alternative treatment center—dispensary determines that the registrant meets the eligibility criteria at (a), the alternative treatment center shall send written notice of the registrant eligibility to the registrant and to the permitting authority.

1. The written notice shall identify conditions or circumstances that may limit the registrant's eligibility for residential delivery;

2. Determinations of eligibility are subject to and may be conditioned upon periodic review by the alternative treatment center—dispensary or the permitting authority to evaluate whether circumstances forming the basis of an eligibility determination have changed;

3. The registrant is responsible to notify the alternative treatment center—dispensary of any change in circumstances that may affect the registrant’s eligibility for residential delivery.

4. If the registrant does not meet the eligibility criteria, the alternative treatment center—dispensary shall send written notice of the registrant ineligibility to the registrant, stating the reasons upon which the ATC—dispensary bases its determination.

8:64-12.2 Alternative treatment center—dispensary residential delivery program requirements

(a) Each alternative treatment center—dispensary shall establish a service for residential delivery of medical marijuana to registered qualifying patients and their primary caregivers, if any, who are eligible for residential delivery pursuant to N.J.A.C.

8:64-12.1.

(b) If the ATC—dispensary charges fees for residential delivery, the fees shall be reasonable;

1. The ATC—dispensary shall provide the Department its residential delivery fee schedule.

(c) Vehicles used for residential delivery shall bear no identifying markings.

(d) The alternative treatment center—dispensary shall maintain current commercial automobile insurance on each vehicle used for residential delivery in the amount of one million dollars per incident.

(e) Two registered alternative treatment center—dispensary employees, who shall have access to a form of secure telecommunication with the alternative treatment center—dispensary, such as a cellular telephone, shall staff each vehicle.

(f) The alternative treatment center—dispensary shall ensure that each delivery vehicle is equipped with the following:

1. A lockbox that is to be used to hold currency; and
2. A secured lockbox within the vehicle that is to be used to hold medical marijuana for delivery.

8:64-12.3 Alternative treatment center—dispensary residential delivery program ordering procedures

(a) Each alternative treatment center Dispensary shall establish a procedure by which it shall accept and process orders from qualifying patients and/or their primary caregivers for residential delivery.

1. An alternative treatment center—dispensary shall not deliver an order on the same day the alternative treatment center—dispensary receives the order.

(b) The procedure shall address at minimum the following:

1. Mechanisms by which the alternative treatment center—dispensary will accept orders;
2. Safeguards to confirm the identity of persons placing orders as a qualifying patient or primary caregiver;

3. Mechanisms to confirm that the amount ordered does not exceed the amount the corresponding physician certification authorizes the qualifying patient or primary caregiver placing the order to receive;

4. Standards for secure packaging and labeling of medical marijuana in the forms and quantities ordered and identifying qualifying patient or primary caregiver for whom the order is placed;

5. Methods of scheduling deliveries and notifying registrants to ensure that they are at the residence to receive delivery at scheduled delivery times; and

6. Inventory controls.

(c) Alternative treatment center—dispensaries shall issue written instructions to qualifying patients and primary caregivers who request residential delivery:

1. Advising qualifying patients and primary caregivers as to the procedures by which to place orders;

2. Advising qualifying patients and primary caregivers as to the procedures to which the delivery team will adhere in making deliveries and the need for the qualifying patients or primary caregivers to have a lockbox pursuant to N.J.A.C. 8:64-12.4(d);

2. Counseling qualifying patients or primary caregivers to refrain from extraneous conversation with members of delivery teams during deliveries; and

3. Requesting qualifying patients and primary caregivers to direct questions relating to the use of medical marijuana or the delivery process or any other matter to a specified alternative treatment center—dispensary customer service telephone number.

8:64-12.4 Alternative treatment center—dispensary residential delivery program delivery procedures

(a) Deliveries shall occur only between the hours of nine o'clock A.M. and five o'clock P.M.

(b) For each vehicle an alternative treatment center—dispensary uses to perform residential delivery, the alternative treatment center—dispensary shall establish a prospective weekly schedule that identifies:

1. The vehicle the delivery team is to use to perform delivery;
2. The personnel designated to perform each delivery;
3. The scheduled date and time of each delivery;
4. The delivery addresses;
5. The registration number of the qualifying patient or primary caregiver to whom delivery is to be made;
6. The quantity of medical marijuana to be delivered to each address;
7. The cost of each package of medical marijuana to be delivered to each address;
8. The total amount of medical marijuana and cash the delivery vehicle is to carry upon commencement of each delivery route; and
9. The total amount of medical marijuana and cash and/or other forms of currency with which the delivery vehicle is to return to the alternative treatment center—dispensary at the end of the delivery route.

(c) The alternative treatment center—dispensary shall establish a procedure by which personnel other than vehicle staff review and reconcile the schedule established pursuant to (b) above before the commencement and upon the conclusion of each scheduled delivery route in comparison to the actual facts of the delivery route with respect to each of the facts identified in (b)1 through 9 above.

1. The alternative treatment center—dispensary shall identify in writing on the schedule any variance from the schedule with an explanation of the reasons for each variance.

2. Each delivery vehicle shall carry no more medical marijuana than the amount necessary to fill scheduled deliveries.

(d) The alternative treatment center—dispensary shall require as a condition of residential delivery that each residential delivery recipient obtain and maintain in good working order a secure lockbox to which only the qualifying patient and/or the primary caregiver have the only keys or combination.

1. The alternative treatment center—dispensary may elect to provide lockboxes to qualifying patients and primary caregivers provided the alternative treatment center—dispensary establishes and implements mechanisms for security and inventory control to ensure that only the qualifying patient and the primary caregiver have the only keys or combination.

2. The alternative treatment center—dispensary may elect to authorize its delivery personnel to equip delivery vehicles with lockboxes to provide to registrants scheduled to receive residential delivery who do not have lockboxes in good working order.

(e) The alternative treatment center—dispensary shall designate a staff member at the alternative treatment center—dispensary with whom the delivery team is to telecommunicate if it has any questions or experiences any irregularities during a delivery route.

1. The staff member the alternative treatment center—dispensary designates shall confirm that each package to be delivered is labeled with the receiving registrant's name and the quantity of medical marijuana contained in the package, shall supervise the transfer of packages for delivery from the alternative treatment center—dispensary to the vehicle, and shall sign the weekly schedule indicating the date and time of transfer, the amount transferred, and the names of the delivery team members.

(f) The alternative treatment center—dispensary shall provide the delivery team with photocopies of the registry identification card for each registrant to whom delivery is to be made, and sufficient copies of a written notice of inability to perform delivery stating that the team is unable to perform the scheduled delivery and that the alternative treatment center—dispensary will contact the qualifying patient or primary caregiver within 24 hours to address any issues impeding the completion of delivery.

(g) The ATC—dispensary shall establish policies and procedures to which the delivery team shall adhere that address the following:

1. Verification of qualifying patient or primary caregiver;
2. Prevention of diversion or theft;
3. Employee safety;
4. Verification of quantity for delivery;

5. Inventory control;

6. Access to ATC-dispensary for immediate communication.

(h) At least one member of the delivery team shall remain with the delivery vehicle at all times when the delivery vehicle contains medical marijuana and/or currency.

(i) Each member of the delivery team shall bear his or her identification card on his or her person at all times while he or she is in possession of medical marijuana.

(j) Delivery team members shall refrain from extraneous conversation with persons to whom they are making deliveries, and shall direct qualifying patient or primary caregiver having questions to contact the alternative treatment center—dispensary.

(k) The alternative treatment center—dispensary shall designate a staff member to perform reviews within 24 hours of the occurrence of irregularities and/or incidents occurring during the delivery route and shall follow up as the circumstances may indicate, such as:

1. Ensuring the reporting of any attempted misuse of a registration to appropriate authorities;

2. Counseling qualifying patient or primary caregiver to update, and/or assisting qualifying patient or primary caregiver in updating, the photographs and/or signatures on their registry identification cards if their likenesses and/or handwriting have changed;

3. Counseling qualifying patients or primary caregivers to update, and/or assisting qualifying patient or primary caregiver in updating, the addresses on their registry identification cards if their addresses have changed;

4. Counseling qualifying patients or primary caregivers as to the need to obtain, and/or assisting qualifying patient or primary caregiver in obtaining, a lockbox in good working order for medical marijuana storage pursuant to N.J.A.C. 8:64-13.4(d);

5. Evaluating the timeliness of deliveries in comparison to the times the alternative treatment center—dispensary directed qualifying patient or primary caregiver to expect deliveries, and developing mechanisms to improve delivery timeliness; and

6. Attempting to resolve other matters that impede efficient and timely delivery.

(l) The staff member the alternative treatment center—dispensary designates pursuant to (k) above shall maintain a written record of irregularities and the staff member's efforts to follow up.

SUBCHAPTER 13. MARKETING AND ADVERTISING

8:64–13.1 Marketing and advertising

(a) Alternative treatment centers shall restrict signage to black text on a white background on external signage, labeling, and brochures for the alternative treatment center.

(b) Alternative treatment center signage shall not be illuminated at any time.

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(c) Alternative treatment centers shall not display on the exterior of the facility advertisements for medical marijuana or a brand name except for purposes of identifying the building by the permitted name.

(d) Alternative treatment centers shall not advertise the price of marijuana, except that:

1. An ATC—plant cultivation can make a price list available to an ATC—dispensary; and

2. An ATC—dispensary can provide a catalogue or a printed list of the prices and strains of medical marijuana available at the alternative treatment center—dispensary to registered qualifying patients and primary caregivers.

(c) Marijuana and paraphernalia shall not be displayed or clearly visible to a person from the exterior of an alternative treatment center.

(d) Alternative treatment centers shall not produce any items for sale or promotional gifts, such as T-shirts or novelty items, bearing a symbol or references to marijuana. This prohibition shall not pertain to paraphernalia sold to registered qualifying patients or their primary caregiver.

SUBCHAPTER 14. MONITORING, ENFORCEMENT ACTIONS AND APPEAL RIGHTS

8:64-14.1 Monitoring

(a) The Department may request information from physicians, ATCs, registered qualifying patients, primary caregivers, the parents, guardians, or custodians of registered qualifying patients who are minors in order to assess the impact and

effectiveness of the New Jersey Compassionate Use Medical Marijuana Act, N.J.S.A. 24:6I.

8:64-14.2 Inspections

(a) When a permit application is approved and an ATC is ready for operation, representatives of the Department or any other State agency, as applicable, shall conduct an inspection to determine if the facility complies with applicable laws and rules.

8:64-14.3 Onsite assessment

(a) An ATC is subject to onsite assessment by the Department at any time.

(b) The Department may enter an ATC without notice to carry out an inspection in accordance with the Act and this chapter.

1. All ATCs shall provide the Department or the Department's designee immediate access to any material and information.

(c) Submission of an application for an ATC permit constitutes permission for entry and onsite assessment of an ATC.

(d) Failure to cooperate with an onsite assessment and or to provide the Department access to the premises or information may be grounds to revoke the permit of the ATC and to refer the matter to State law enforcement agencies

(e) An onsite assessment may include, but not be limited to,

1. The review of all ATC documents and records and conferences with qualifying patients and primary caregivers, and other persons with information, and the making and retaining of copies and/or extracts;
2. The use of any computer system at the ATC to examine electronic data;
3. The reproduction and retention of any document and/or electronic data in the form of a printout or other output;
4. The examination and collection of samples of any marijuana found at the ATC; and
5. The seizure and detention of any marijuana or thing believed to contain marijuana found at the ATC;
 - i. If the Department makes a seizure, it shall take such measures as are reasonable in the circumstances to give to the owner or other person in charge of the place where the seizure occurs notice of the seizure;
 - ii. If the Department determines that the detention of the substance or thing seized is no longer necessary to ensure compliance with applicable law and the ATC permit, the Department shall notify in writing the ATC permit holder of that determination and shall return the substance or thing to the permit holder, upon the permit holder issuing a receipt to the Department for the return of the substance or thing;
 - iii. the Department shall maintain documentation of the chain of custody of seized substances or things, in accordance with N.J.A.C. 8:64-14.4.

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(f) During an onsite assessment, if the Department identifies violations of the Act and this chapter, the Department shall provide written notice of the nature of the violations to the ATC.

1. The ATC shall notify the Department in writing, with a postmark date that is within 20 business days of the date of the notice of violations, of the corrective actions the ATC has taken to correct the violations and the date of implementation of the corrective action.

8:64-14.4 Quality control; sample collection; chain of custody

(a) To ensure the safety of registered qualifying patients, an ATC shall provide samples to the Department during announced and unannounced inspections for product quality control.

(b) To implement this requirement, the Department shall:

1. Collect soil and plant samples, and samples of products containing marijuana cultivated and/or dispensed, as applicable, by the ATC;
2. Place the permit number of the ATC on each sample container;
3. Label the sample containers with a description and the quantity of its content;
4. Seal the sample containers; and
5. Have ATC and Department staff initial each sample container.

(c) The Department shall maintain documentation of the chain of custody of samples taken;

1. The Department shall provide a receipt for the collected samples to the ATC's authorized representative;
2. The Department shall maintain an accounting of all collected sample containers for control purposes;
3. The Department shall test samples:
 - i. Sample testing may include tests for, among other things, the presence of pests, mold, mildew, heavy metals, and pesticides, and the accuracy of labeling;
4. The Department shall issue written reports of the results of its testing to the ATC—plant cultivation and the ATC—dispensary.
5. The ATC shall pay the expenses for the testing.

8:64-14.5 Notice of violations and enforcement actions

The Department shall issue a written notice to an ATC permit holder of a proposed assessment of civil monetary penalties, suspension or revocation of a permit, setting forth the specific violations, charges or reasons for the action, by transmitting the notice by certified mail to the ATC.

8:64-14.6 Prohibitions, restrictions and limitations on the cultivation or dispensing of medical marijuana and criminal penalties

(a) Participation in the medical marijuana program by an ATC, or the employees of an ATC, does not relieve the ATC or its employees from criminal prosecution or civil penalties for activities not authorized by the Act, this chapter, or the ATC permit.

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(b) Distribution of medical marijuana to qualified patients or their primary caregivers shall take place at locations described in the ATC's distribution plan approved by the Department, and shall not take place at locations that are within a drug free school zone.

(c) Any person who makes a fraudulent representation to a law enforcement officer about the person's participation in the medical marijuana program to avoid arrest or prosecution for a marijuana-related offense is guilty of a petty misdemeanor and shall be sentenced in accordance with applicable law.

(d) A person who knowingly sells, offers, or exposes for sale, or otherwise transfers, or possesses with the intent to sell, offer or expose for sale or transfer a document that falsely purports to be a registry identification card or an ATC identification card issued pursuant to the Act, or a registry identification card or an ATC identification card issued pursuant to the Act that has been altered, is guilty of a crime of the third degree. A person who knowingly presents to a law enforcement officer a document that falsely purports to be a registry identification card or an ATC identification card issued pursuant to the Act, or a registry identification card or an ATC identification card that has been issued pursuant to the Act that has been altered, is guilty of a crime of the fourth degree. The provisions of this section are intended to supplement current law and shall not limit prosecution or conviction for any other offense.

(e) If an ATC or employee of an ATC sells, distributes, dispenses or transfers marijuana to a person not approved by the Department pursuant to the Act and this chapter, or obtains or transports marijuana outside New Jersey in violation of Federal

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law, the ATC or employee of the ATC shall be subject to arrest, prosecution and civil or criminal penalties pursuant to State law.

8:64-14.7 Revocation of registry identification card, ATC identification card, ATC permit

Violation of any provision of this chapter may result in the immediate revocation of any privilege granted under the Act and this chapter.

8:6-14.8 Onsite inspection, and corrective actions

(a) Any failure to adhere to the Act and this chapter documented by the Department during monitoring may result in sanctions, including suspension, revocation, non-renewal or denial of permit and referral to State or law enforcement.

1. The Department shall refer non-frivolous complaints involving alleged criminal activity made against an ATC to the appropriate New Jersey State or local authorities.

(b) An ATC shall maintain detailed confidential sales records in a manner and format approved by the Department pursuant to N.J.A.C. 8:64-9;

1. The Department or its agents shall have complete access to the sales and other financial records of an ATC and shall be granted immediate access to those records upon request.

2. The Department may, within its sole discretion, periodically require the audit of an ATC's financial records by an independent certified public accountant approved by the Department.

i. An ATC that is required to be audited shall bear all costs related to such audit. A requested audit shall be concluded within a reasonable period, as determined by the Department. Results of a required audit shall be forwarded to the Medicinal Marijuana Program coordinator or designee.

3. An ATC shall submit reports on at least a quarterly basis, or as otherwise requested, by the Department.

(c) If violations of requirements of the Act or this chapter are cited as a result of inspection or review of financial records, the ATC shall be provided with an official written report of the findings within seven business days following the inspection.

1. Unless otherwise specified by the Department, the ATC shall correct the violation within twenty calendar days of receipt of the official written report citing the violation(s).

2. The violation shall not be deemed corrected until the Department verifies in writing within seven calendar days of receiving notice of the corrective action that the corrective action is satisfactory.

3. If the violation has not been corrected, the Department may issue a notice of contemplated action to revoke the ATC permit.

(d) Pursuant to N.J.S.A. 26:2H-14, the Commissioner may order the summary suspension of a ATC permit upon a finding that violations pose an immediate threat to the health, safety, and welfare of the public, qualified patients or primary caregivers including, but not limited to:

1. Failure to comply with or satisfy any provision of this chapter;

2. Failure to allow a monitoring visit by authorized representatives of the Department;

3. Falsification of any material or information submitted to the Department;

4. Diversion of marijuana, as determined by the Department;

5. Threatening or harming a patient, a medical practitioner, or an employee of the Department.

(e) Upon a finding described in (d) above, the Commissioner or the Commissioner's authorized representative shall serve notice by certified mail to the ATC or its registered agent of the nature of the findings and violations and the proposed order of suspension.

1. Except in the case of a life-threatening emergency, the notice shall provide the ATC with a 72-hour period from receipt to correct the violations and provide proof to the Department of such correction.

(f) If the Department determines the violations have not been corrected, and the facility has not filed notice requesting a hearing to contest the notice of suspension within 48 hours of receipt of the Commissioner's notice pursuant to (g) below, then the ATC permit shall be deemed suspended.

1. Upon the effective date of the suspension, the ATC shall cease and desist the operations and cooperate with the Department as necessary in the orderly transfer of registrations of qualifying patients and primary caregivers to another ATC.

(g) If the facility requests a hearing within 48 hours of receipt of a notice of proposed suspension of permit, the Department shall arrange for an immediate hearing

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to be conducted by the Commissioner and a final agency decision shall be issued within 48 hours by the Commissioner. If the Commissioner shall affirm the proposed suspension of the permit, the order shall become final. The ATC may apply for injunctive relief against the Commissioner's order in the New Jersey Superior Court, Appellate Division.

(h) Notwithstanding the issuance of an order for proposed suspension of a permit, the Department may concurrently or subsequently impose other enforcement actions pursuant to the Act and this chapter.

(i) The Department may rescind the order for suspension upon a finding that the ATC has corrected the conditions that were the basis for the action.

8:64-14.7 Revocation of a permit

(a) The Department may issue a notice of the proposed revocation of an ATC permit in the following circumstances:

1. The ATC has failed to comply with administrative requirements related to ATC permit, posing an immediate and serious risk of harm or actual harm to the health, safety, and welfare of qualifying patients, primary residents, or employees and the ATC has not corrected such violations in accordance with an approved plan of correction or subsequent to imposition of other enforcement remedies issued pursuant to these rules;

2. The ATC has exhibited a pattern and practice of violating permit requirements, posing a serious risk of harm to the health, safety and welfare of qualifying patients, primary residents, or employees. A pattern and practice may

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be demonstrated by the repeated violation of identical or substantially-related permit standards during three consecutive inspections, or the issuance of civil monetary penalties pursuant to the Act or other enforcement actions for unrelated violations on three or more consecutive onsite assessments;

3. Failure of an ATC to correct identified violations that led to the issuance of an order for suspension of a permit; or

4. Continuance of an ATC on conditional permit status for a period of 12 months or more.

(b) The notice shall be served in accordance with this subchapter.

(c) The ATC has a right to request a hearing pursuant to this subchapter.

8:64-14.8 Appeal rights

(a) Denial of an application or revocation of a registry identification card shall constitute a final agency decision subject to review by the Superior Court, Appellate Division.

1. An individual has the right to appeal a final agency decision within 45 days to the New Jersey Superior Court, Appellate Division, Richard J. Hughes Justice Complex, P.O. Box 006, Trenton, NJ 08625-0006.

8:64- 15.9 Exemption from State criminal and civil penalties for the medical use of marijuana:

(a) No qualifying patient, primary caregiver, alternative treatment center, physician or any other person acting in accordance with the provisions of the Act or this

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chapter shall be subject to any civil or administrative penalty, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a professional licensing board, shall be subject to arrest, prosecution or penalty, in a manner for the production, possession, distribution or dispensation of marijuana in accordance with this rule and the Act.

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