

THE NATIONAL LAW REVIEW

High Times in New Jersey: The Search for New Operators and Expansion of the Medical Marijuana Program

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On September 5, 2018, New Jersey Governor Phil Murphy announced that the NJ Department of Health (DOH) had received [146 applications from 106 different organizations](#) to operate vertically integrated medical marijuana dispensary operations in the state. The application window closed on August 31, 2018 and the winners of the six for-profit licenses will be announced on November 1, 2018.

Each applicant had to identify in which of the three regions of New Jersey – North, Central, and South – the applicant was interested in operating an Alternative Treatment Center (ATC). Fifty applicants identified the northern region, 45 selected the central region, and 51 the southern region.

In accordance with the [New Jersey Compassionate Use Medical Marijuana Act \(CUMMA\)](#) passed in January 2010, an Alternative Treatment Center is “an organization approved by the [DOH] to perform activities necessary to provide registered qualifying patients with usable marijuana and related paraphernalia.” The term ATC includes “the organization’s officers, directors, board members, and employees.”

A patient must be written a prescription for medical marijuana by a physician and obtain a registry identification card in order to be dispensed medical marijuana. A registry identification card is a document issued by the DOH which identifies a person as a registered qualifying patient or caregiver to be dispensed medical marijuana by an ATC.

In July, the DOH had released a Request for Applications for up to six new licensees to operate additional medical marijuana dispensaries. The DOH established a specific independent and unbiased process and publicly disclosed the selection criteria in its publication of the Request for Applications. The completed applications will be evaluated and scored by a selection committee.

In order to apply as an ATC, the applicant must have submitted various documentation and criteria to the DOH before the deadline. This included the ATC’s proposed legal name and address of the facility, the applicant’s legal status, the Certificate and Articles of Incorporation, any and all By-Laws for the corporation, any and all organizing documents for the association, and a certificate of good standing issued by the New Jersey Secretary of State.

As part of the overall permitting process, every member of ATC staff must undergo fingerprinting and a full criminal history background check. Anyone who has been convicted of a crime involving “any controlled dangerous substance or controlled substance analog” in the state of the New Jersey or under any similar law of the U.S. or any other state shall not be permitted to operate as an owner, director, officer, or employee of an ATC.

The cost to submit an ATC application was \$20,000 to be delivered to the New Jersey Department of the Treasury; if an application is rejected, \$18,000 of the original \$20,000 would be refunded and the DOT would retain the \$2,000 fee.

Each application will be reviewed and scored by the DOH based on three categories of criteria, and an application can receive a total score out of 1,000 points. The three categories include:

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- Ability to meet overall health and safety needs of qualified patients, and safety of the public;
- Community support and participation; and,
- Ability to provide appropriate research data.

The health and safety category has the largest number of available points of the three criterion at 800. One particular measure that must be met under this criterion includes a detailed description related specifically to “cultivation, manufacturing, and dispensing operations, and ensuring an adequate supply of medicinal marijuana to qualified patients,” which is worth up to 300 points.

Other measures under Criterion 1 require the applicant to describe:

- Past business experience;
- Business operations and compliance;
- Security, financial suitability, and sustainability;
- Value and affordability to patients; and,
- Market diversification.

The community and support section, includes three measures:

- A description of community support and local participation;
- Corporate social responsibility; and
- Diversity.

The ability to provide appropriate research data criterion, requires the applicant to include a description of its commitment to research.

Currently, there are [six non-profit ATCs](#) operating in New Jersey: Compassionate Care Foundation, Inc. in Egg Harbor Township; Greenleaf Compassion Center in Montclair; Garden State Dispensary in Woodbridge; Breakwater Alternative Treatment Center in Cranbury; Harmony Dispensary in Secaucus; and Curaleaf NJ, Inc. in Bellmawr.

These operating ATCs were not eligible to apply for the new dispensary slots, however, they have the opportunity to add additional sites for cultivating, manufacturing, and dispensing. Nevertheless, current license holders and those who will soon be granted licenses will have the opportunity to expand their operations through additional licenses in growing, manufacturing, and dispensing as the medical marijuana program continues to grow and adult-use comes online.

According to the DOH, over 30,000 individuals have participated in the medical marijuana program to date, with hundreds of new patients joining every week. There are currently 709 doctors across the state participating in the program and over 1,100 caregivers.

Under CUMMA, a “caregiver” is defined as a resident of the state of New Jersey who is over the age of 18, has never been convicted for the possession or sale of a controlled dangerous substance, has registered with the Department of Health & Senior Services and satisfied the criminal background check requirement, has agreed to assist with the registered qualifying patient’s medical use of marijuana, and is designated as the patient’s primary caregiver on their application or renewal for a medical marijuana registry identification card.

[Any patient certified for medicinal marijuana](#) may elect to have up to two caregivers. A caregiver can be utilized by the patient if their condition is too severe to the point where they cannot physically go to an ATC by themselves. An approved caregiver is authorized to purchase medical marijuana from an ATC without the patient being present.

At this time, a caregiver is not authorized to administer medical marijuana to a patient; only the patient is allowed to administer medical marijuana to him or herself.

“We need more Alternative Treatment Centers to keep pace with the demand for a therapy that has been unjustly restricted for so long,” stated New Jersey Health Commissioner Dr. Shareef Elnahal.

Anyone applying for a new ATC license would be required to operate a dispensary as well as cultivating and manufacturing facilities. While locations for the new operations are yet to be unveiled, various townships and

municipalities around the state have already come out with positions on cannabis within their borders.

Currently, nearly [30 municipalities](#) in New Jersey have formally voiced either support or opposition of legalizing marijuana, with some towns already implementing bans on marijuana businesses ahead of a passed bill. Towns against selling legalized marijuana include Wall, Parsippany, Old Bridge, and Point Pleasant Beach; towns in support include Asbury Park, Atlantic City, and Jersey City.

It remains to be seen where the new license winners will focus their operations and what that means in terms of local tax revenues and social ramifications.

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