



## CRIMINAL HISTORY REVIEW AND REHABILITATION DETERMINATION PROCESS\*

### Overview of criminal history review process

Anyone wishing to participate in the recreational or medicinal cannabis industry as an owner, principal, director, manager, management services contractor, employee, or other significantly involved person, must be issued a Cannabis Business Identification Card (for recreational) or an ATC Identification Card (for medicinal). Each of these individuals is also required to submit to a criminal history background check before they may participate in either industry. The New Jersey Cannabis Regulatory Commission ("NJ-CRC" or "Commission") will not approve an individual for a Cannabis Business Identification Card or an ATC Identification Card if the results of the individual's criminal history report identify a disqualifying conviction.

Whether an offense is disqualifying depends, in part, on whether the person is seeking to participate in the recreational or medicinal cannabis industry.<sup>1</sup> If the Commission determines that a conviction is disqualifying under the applicable law and regulations, the individual will receive a formal notice ("Notice") advising them of this determination and listing any and all disqualifying convictions. The Notice will also provide information on the next steps, including what to do if the individual believes there is an error with the convictions listed, or if the individual wants to demonstrate that they are rehabilitated.

### Challenging accuracy of criminal history and/or requesting determination of rehabilitation

Anyone who has been disqualified from participating in the recreational or medicinal cannabis industry has the option to challenge the results of their criminal history background check or demonstrate rehabilitation.

### Challenging a Conviction

If an applicant believes that a conviction has been misreported or should not be considered disqualifying, they must submit a certified copy of the **Judgment of Conviction** issued by the

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<sup>1</sup> A disqualifying conviction for recreational is defined under N.J.A.C. 17:30-7.12(d) and Sections 20, 22, 23, 24, 25, 26 of P.L. 2021, c.16. A disqualifying conviction for medicinal is defined under N.J.S.A. 24:6I-7.



court that convicted them to the Commission. They may also provide any other evidence that supports their claim that the conviction was reported in error or should not be disqualifying.

If after review, the Commission determines that the conviction is inaccurate or should not be disqualifying, the applicant will be advised that they are no longer disqualified from participating in the recreational and/or medicinal cannabis industry.

If after review, the Commission determines that the conviction is accurate and properly determined to be disqualifying, the applicant will still be given an opportunity to demonstrate rehabilitation.

## Establishing Rehabilitation

An individual can also submit evidence to the Commission to demonstrate that, despite their criminal history, they are rehabilitated. The applicant must provide enough information to show the Commission “clear and convincing” evidence of rehabilitation. In determining whether clear and convincing evidence of rehabilitation exists, the Commission considers the following factors:

- The nature and responsibility of the position which the individual will hold or has held
- The nature and seriousness of the crime or offense
- The circumstances under which the crime or offense occurred
- The date of the crime or offense
- The age of the person when the crime or offense was committed
- Whether the crime or offense was an isolated or repeated incident
- Any social conditions that may have contributed to the commission of the crime or offense
- Any evidence of rehabilitation, including good conduct while incarcerated 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 person under their supervision.

Applicants requesting a determination of rehabilitation **must** submit the following:

1. **Personal Statement:** This must give the details for each offense listed in the Notice, including personal and social circumstances that existed at that time. Please provide as much information as possible or you may be disqualified.



2. **All Arrest Reports**
3. **Certified Court Dispositions.** These include:
  - a. Charging Affidavit(s)
  - b. Notice to Appear
  - c. Verdict or Judgment of Conviction
  - d. Sentencing Order
4. **Completion of Sanctions.** These include:
  - a. **Non-monetary sanctions:**
    - i. A report from your probation or parole office indicating that you have been discharged from probation or parole along with the date of discharge
    - ii. Proof of drug counseling and/or treatment, if applicable
  - b. **Monetary sanctions:**
    - i. Incarceration discharge portfolio documents: discharge paperwork, a copy of current criminal charges, the remaining account balance
    - ii. A report from your collection's enforcement officer indicating you have been discharged from all fees and restitution assessed

Applicants may also submit the following optional documents:

1. **Letters of recommendation:** Signed and notarized letters of recommendation/letters of reference that will attest to your good moral character. These may be from anyone (for example, professionals, prior employers, educators, counselors, etc.) that is familiar with your past and present character
2. **Certificates of training and schooling:** Including vocational training, other certifications and/or licenses, and GEDs
3. **Special recognition or awards received**
4. Any other documents which help demonstrate that the individual can work safely in the industry

Please note that rehabilitation must be demonstrated by “clear and convincing” evidence, a high standard that we take seriously. To strengthen your application, we strongly encourage you to provide as much relevant information as possible.

Once the Commission receives an applicant's rehabilitation documents, the applications are reviewed in the order in which they are received. If the Commission requires clarification or additional information, the applicant will be contacted via email (if email is available), or by mail to the address listed on the Notice. Please ensure that any requested clarification or information is provided as soon as possible to avoid any delays in processing the application.



If an application is found to be complete, it will be presented to the NJ-CRC's Board for consideration during a regularly scheduled public meeting. A schedule of public meetings can be found at <https://www.nj.gov/cannabis/about/meetings/>.

If the Board approves an applicant's rehabilitation request, the applicant will receive a Final Agency Decision, which formalizes the Board's decision, via email or mail.

## FREQUENTLY ASKED QUESTIONS

***1. What if I cannot obtain all the arrest reports, court disposition, probation information or other required information?***

You must attempt to obtain this documentation from the Clerk of Courts office of probations, or arresting agency. If documentation from either the Clerk of Court or the arresting agency is unavailable, the agency must provide a letter on their official letterhead confirming that the documents are no longer accessible. You must also provide a notarized statement explaining the details of the arrest and the outcome, including probation or sentencing information, court fees/fines and restitution for each offense for which you are unable to obtain complete documentation.

***2. Can I apply for the rehabilitation while I am paying off my court ordered fines or fees on a payment plan?***

Yes, you may apply for a determination of rehabilitation. While the existence of unpaid fines would be part of the basis for disqualification initially, it would not prohibit you from applying for rehabilitation.

***3. I received my provisional employment card; do I still have to submit criminal history documentation?***

Yes. Provisional cards are granted as a courtesy by the NJ-CRC while your background information is being processed. However, you must still submit the required documentation to be found eligible for employment. As all provisional cards are revoked after 90 days, it is your responsibility to ensure all documentation is submitted promptly.

**Failure to undergo a required criminal history record background check or to cooperate with the Commission in its investigation of the license applicant, failing to provide all requested**



**documentation, failing to reveal any material fact pertaining to qualification, or supplying information that is untrue or misleading as to a material fact pertaining to the qualification criteria, will result in delays for processing your criminal history information and may result in disqualification from employment.**

\*The information in this document is meant to be a general guide on the Commission's criminal history review and rehabilitation determination processes. Please be aware that this guide is provided for informational purposes only and should not be construed as legal or business advice. It is not meant to subvert, replace, or amend the Jake Honig Compassionate Use Medical Cannabis Act ("Honig Act"), the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act ("CREAMM Act"), and their implementing regulations, in any way. Where there is disagreement between this guide and the provisions in the Honig Act, CREAMM Act, and the implementing regulations, the statutory and regulatory language controls.