



MEMORANDUM

TO: Cannabis Regulatory Commission Board

FROM: Jeff Brown, Executive Director

SUBJECT: CANNABIS CONSUMPTION AREAS RULE ADOPTION

DATE: [JANUARY 17, 2024](#)

Background: The New Jersey Cannabis Regulatory Commission (“the Commission”), established pursuant to P.L.2019, c.153, known and cited as the “Jake Honig Compassionate Use Medical Cannabis Act,”(the “Honig Act”) is charged with implementing the provisions of the Honig Act as well as P.L.2021, c.16, known and cited as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “CREAMM Act”). The Commission is responsible for applying the values of public safety and equity in establishing and regulating a responsible medicinal and personal-use cannabis industry, and the Commission is tasked with adopting initial rules and regulations which are necessary and proper to enable the Commission to carry out its duties, functions, and powers under the Honig Act and CREAMM Act. N.J.S.A. 24:6I-34(d)(1)(a).

With respect to cannabis consumption areas, the Honig Act and CREAMM Act provide that a medical cannabis dispensary or a cannabis retailer may, after receiving an endorsement from the Commission and the municipality, operate a cannabis consumption area where a person may consume cannabis items obtained from the retailer or brought by the person to the consumption area. N.J.S.A. 24:6I-21 and -42. Applications for endorsements shall be made to the Commission in a form and manner prescribed by the Commission. N.J.S.A. 24:6I-21.

Accordingly, the Commission proposed new rules on cannabis consumption areas, consistent with N.J.S.A. 24:6I-21, which was published in the New Jersey Register on January 17, 2023, at 55 N.J.R. 100(a). The Commission found that these additional regulations were necessary to define the requirements and qualifications to operate a cannabis consumption area, as well as to protect the health and safety of medicinal cannabis patients, consumers, employees of the medical cannabis dispensary or cannabis retailer, and the public.

The proposed regulations provide guidance for licensees, permittees, municipalities, as well as the general public, regarding cannabis consumption areas. It provides, for example, that licensed dispensaries wanting to establish cannabis consumption areas must be approved by the NJ-CRC



and the municipality in which the dispensary is located. A cannabis business is limited to operating only one (1) cannabis consumption area, regardless of the number of Class 5 cannabis retailer licenses or Alternative Treatment Center (“ATC”) dispensary permits the entity holds. Cannabis consumption areas may be indoors or outdoors.

Additionally, pursuant to the proposed regulations, a dispensary will be prohibited from selling tobacco products, alcohol, and food in consumption areas. However, patrons may bring their own food into the cannabis consumption area or have food delivered to the cannabis consumption area if the business allows, and where not prohibited by the municipality. Additionally, a dispensary must allow medicinal cannabis patients to bring in cannabis items from other retailers for their own use into consumption areas. Patrons must be 21 years or older and must present valid photo identification in order to enter a cannabis consumption area. The proposed regulations are silent in some respects, therefore allowing flexibility for Class 5 cannabis retailers, ATC dispensaries, and municipalities, to determine certain operational aspects of a cannabis consumption area, including but not limited to setting the hours of operation and fees to enter a consumption area, allowing priority access to medical patients, and authorizing paid events in the consumption area.

The proposed consumption area regulations also provide a framework for the fees associated with cannabis consumption area endorsements. The initial or renewal licensing fee for a microbusiness cannabis consumption area endorsement will be \$1,000. For a standard cannabis consumption area endorsement, the initial and renewal licensing fee will be \$5,000. Cannabis consumption area endorsements are valid for one (1) year and may be renewed annually.

The Commission received timely comments from 229 public commenters on the proposed rules on cannabis consumption areas during the 60-day public comment period, which ended on March 18, 2023. Pursuant to N.J.A.C 1:30-6.1, the Commission prepared its notice of adoption, which includes a summary of the public comments received and its reasons for either amending or not amending the proposed adoption on cannabis consumption areas in response to the public comments.

RECOMMENDATION: Staff recommends that the Board approve the notice of adoption of the consumption area rules for filing with the Office of Administrative Law.



AUTHORITY:

N.J.S.A. 24:6I-34 Cannabis Regulatory Commission; powers and duties; power to purchase, seize, possess, and dispose of cannabis; adoption of rules and regulations

Commission Activities Associated with the Personal Use of Cannabis.

- a. The Cannabis Regulatory Commission shall have all powers necessary or proper to enable it to carry out the commission's duties, functions, and powers under P.L.2021, c. 16 (C.24:6I-31 et al.). The jurisdiction, supervision, duties, functions, and powers of the commission extend to any person who buys, sells, cultivates, produces, manufactures, transports, or delivers any cannabis or cannabis items within this State.
- b. The duties, functions and powers of the commission shall include the following:
 - (1) To regulate the purchase, sale, cultivation, production, manufacturing, transportation, and delivery of cannabis or cannabis items in accordance with the provisions of P.L.2021, c. 16 (C.24:6I-31 et al.);
 - (2) To grant, refuse, suspend, revoke, cancel, or take actions otherwise limiting licenses or conditional licenses for the sale, cultivation, production, or manufacturing of cannabis items, or other licenses in regard to cannabis items, and to permit, in the commission's discretion, the transfer of a license between persons;
 - (3) To investigate and aid in the prosecution of every violation of the statutory laws of this State relating to cannabis and cannabis items and to cooperate in the prosecution of offenders before any State court of competent jurisdiction;
 - (4) To adopt, amend, or repeal regulations as necessary to carry out the intent and provisions of P.L.2021, c. 16 (C.24:6I-31 et al.);
 - (5) To exercise all powers incidental, convenient, or necessary to enable the commission to administer or carry out the provisions of P.L.2021, c. 16 (C.24:6I-31 et al.), or any other law of this State that charges the commission with a duty, function, or power related to personal use cannabis. Powers described in this paragraph include, but are not limited to:
 - (a) Issuing subpoenas;
 - (b) Compelling attendance of witnesses;
 - (c) Administering oaths;
 - (d) Certifying official acts;
 - (e) Taking depositions as provided by law;
 - (f) Compelling the production of books, payrolls, accounts, papers, records, documents, and testimony; and
 - (g) Establishing fees in addition to the application, licensing, and renewal fees, provided that any fee established by the commission is reasonably calculated not to exceed the cost of the activity for which the fee is charged;



(6) To adopt rules regulating and prohibiting the advertising of cannabis items in a manner that is appealing to minors; that promotes excessive use; that promotes illegal activity; or that otherwise presents a significant risk to public health and safety; and

(7) To regulate the use of cannabis and cannabis items for scientific, pharmaceutical, manufacturing, mechanical, industrial, and other purposes.

c. The powers of the commission further include the power to purchase, seize, possess, and dispose of cannabis and cannabis items. The commission may purchase, possess, seize, or dispose of cannabis and cannabis items as is necessary to ensure compliance with and enforcement of the provisions of P.L.2021, c. 16 (C.24:6I-31 et al.), and any rule adopted pursuant thereto. Any State officer, board, commission, corporation, institution, department, or other State body, and any local officer, board, commission, institution, department, or other local government body, that is permitted by the statutory laws of this State to perform a duty, function, or power with respect to cannabis or a cannabis item, may purchase, possess, seize, or dispose of the cannabis or cannabis item as the State officer, board, commission, corporation, institution, department or other State body, or the local officer, board, commission, institution, department, or other local government body, considers necessary to ensure compliance with and enforce the applicable statutory law or any rule adopted under the applicable statutory law.

d. (1)(a) Within 180 days after the effective date of this section¹, which takes effect immediately upon enactment of P.L.2021, c. 16 (C.24:6I-31 et al.), or within 45 days of all five members of the commission being duly appointed in accordance with the appointment process set forth in paragraph (2) of subsection b. of section 31 of P.L.2019, c. 153 (C.24:6I-24), whichever date is later, and notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), to the contrary, the commission, after consultation with the Attorney General, State Treasurer, Commissioner of Health, and Commissioner of Banking and Insurance, shall, immediately upon filing proper notice with the Office of Administrative Law, adopt rules and regulations prepared by the commission necessary or proper to enable it to carry out the commission's duties, functions, and powers with respect to overseeing the development, regulation, and enforcement of activities associated with the personal use of cannabis pursuant to P.L.2021, c. 16 (C.24:6I-31 et al.).

(b) The initial rules and regulations adopted pursuant to subparagraph (a) of this paragraph shall be in effect for a period not to exceed one year after the date of filing with the Office of Administrative Law. These rules and regulations shall thereafter be adopted, amended, or readopted, and any subsequent rules and regulations adopted, amended, or readopted, by the commission in accordance with the requirements of the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), after consultation with other department heads, as the commission deems appropriate.

(2) On the date of adoption of the initial rules and regulations pursuant to subparagraph (a) of paragraph (1) of this subsection, the provisions of P.L.2021, c. 16 (C.24:6I-31 et al.) shall become operative, other than those provisions which were operative immediately upon enactment. Subsequent to the date of adoption of the initial rules and regulations, the commission shall



determine the first date thereafter on which cannabis retailers issued licenses and conditional licenses may begin retail sales of personal use cannabis items, which latter date shall not be more than 180 days after the commission's adoption of its initial rules and regulations. The commission shall provide every person or entity issued licenses or conditional licenses by the commission with at least 30 days' notice of this date, and shall also provide this notice to every alternative treatment center deemed to be licensed for personal use cannabis activities pursuant to section 7 of P.L.2009, c. 307 (C.24:6I-7), as amended by P.L.2021, c. 16 (C.24:6I-31 et al.), whether or not already engaged in retail sales of personal use cannabis items as permitted prior to the retail sales date established pursuant to this paragraph, as set forth in paragraph (3) of subsection a. of section 33 of P.L.2021, c. 16 (C.24:6I-46).

N.J.S.A. 24:6I-21 Authorization of locally endorsed cannabis consumption areas; application; conditions; term; restrictions

a. A municipality may authorize, through the enactment of an ordinance, the operation of locally endorsed cannabis consumption areas:

(1) operated by medical cannabis dispensaries, including any alternative treatment centers deemed to hold a medical cannabis dispensary permit pursuant to section 7 of P.L.2009, c. 307 (C.24:6I-7), and clinical registrants within its jurisdiction, at which areas the on-premises consumption of medical cannabis may occur;

(2) operated by cannabis retailers within its jurisdiction, at which areas the on-premises consumption of personal use cannabis may occur; and

(3) operated by medical cannabis dispensaries, including any alternative treatment centers deemed to hold a medical cannabis dispensary permit pursuant to section 7 of P.L.2009, c. 307 (C.24:6I-7), within its jurisdiction that are also deemed to have, pursuant to that section, one or more Class 5 Cannabis Retailer licenses and for which the commission has correspondingly issued one or more licenses following receipt of the municipality's and commission's approval to operate as a cannabis retailer pursuant to subparagraph (a) of paragraph (3) of subsection a. of section 33 of P.L.2021, c. 16 (C.24:6I-46), or medical cannabis dispensaries and alternative treatment centers otherwise issued a license by the commission pursuant to P.L.2021, c. 16 (C.24:6I-31 et al.), to simultaneously operate as a cannabis retailer, at which areas the on-premises consumption of both medical cannabis and personal use cannabis items may occur.

b. Applications for an endorsement pursuant to this section shall be made to the commission in a form and manner as shall be prescribed by the commission and shall set forth such information as the commission may require. Each application shall be verified by the oath or affirmation of such persons as the commission may prescribe. The endorsement shall be conditioned upon approval by a municipality. An applicant is prohibited from operating a cannabis consumption area without State and local approval. If the applicant does not receive approval from the municipality within one year after the date of State approval, the State endorsement shall expire and may not be



renewed. If an application is denied by the municipality or the approval of the municipality is revoked, the commission shall revoke the State endorsement. Any person aggrieved by the local denial of an endorsement application may request a hearing in the Superior Court of the county in which the application was filed. The request for a hearing shall be filed within 30 days after the date the application was denied. The person shall serve a copy of the person's request for a hearing upon the appropriate officer for the municipality that denied the application. The hearing shall be held and a record made thereof within 30 days after the receipt of the application for a hearing. No formal pleading and no filing fee shall be required for the hearing.

c. (1) The commission shall deny a State endorsement if the premises on which the applicant proposes to conduct its business does not meet the requirements of P.L.2009, c. 307 (C.24:6I-1 et al.) or P.L.2021, c. 16 (C.24:6I-31 et al.), as applicable, or for reasons set forth in this section. The commission may revoke or deny an initial endorsement, an endorsement renewal, or reinstatement, for good cause.

(2) For purposes of this subsection “good cause” means:

(a) the endorsed permit holder, license holder, or applicant has violated, does not meet, or has failed to comply with, any of the terms, conditions, or provisions of this section, any rules or regulations promulgated pursuant to this section, or any supplemental local laws, rules, or regulations;

(b) the endorsed permit holder, license holder, or applicant has failed to comply with any special terms or conditions that were placed on its endorsement by the commission or municipality; or

(c) the premises have been operated in a manner that adversely affects the public health or the safety of the immediate neighborhood in which the consumption area is located.

(3) Any commission decision made pursuant to this subsection shall be considered a final agency decision for the purposes of the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.) and may be subject to judicial review as provided in the Rules of Court.

d. A cannabis consumption area endorsement shall be valid for one year and may be renewed annually, subject to the approval of the commission and the municipality as set forth in this section. The commission shall establish by regulation the amount of the application fee and renewal fee for the endorsement, which shall not exceed the administrative cost for processing and reviewing the application.

e. The commission shall maintain a list of all cannabis consumption areas in the State and shall make the list available on its Internet website.

f. A cannabis consumption area shall be located on the premises of a medical cannabis dispensary, clinical registrant, or cannabis retailer, may be indoors or outdoors, and shall be designated by conspicuous signage. The signage shall also indicate whether the cannabis consumption area may be used for the on-premises consumption of medical cannabis, personal use cannabis items, or both.



(1)(a) An indoor cannabis consumption area in which medical cannabis may be consumed, or both medical cannabis and personal use cannabis may be consumed, shall be a structurally enclosed area within a medical cannabis dispensary or clinical registrant facility that is separated by solid walls or windows from the area in which medical cannabis is dispensed, or in which retail sales of cannabis items occur if the dispensary or facility is also licensed as a cannabis retailer, shall only be accessible through an interior door after first entering the dispensary or facility, and for a dispensary or facility that is also licensed as a cannabis retailer, with respect to any smoking, vaping, or aerosolizing of personal use cannabis items, the consumption area shall comply with all ventilation requirements applicable to cigar lounges, as that term is defined in section 3 of P.L.2005, c. 383 (C.26:3D-57), in order to permit indoor smoking, vaping, or aerosolizing that is the equivalent of smoking tobacco not in violation of the “New Jersey Smoke-Free Air Act,” P.L.2005, c. 383 (C.26:3D-55 et seq.). Nothing in this subparagraph shall be construed to authorize the consumption of medical cannabis by smoking, vaping, or aerosolizing in this or any other indoor public place or workplace, as those terms are defined in section 3 of P.L.2005, c. 383 (C.26:3D-57).

(b) An indoor cannabis consumption area in which only personal use cannabis items may be consumed shall be a structurally enclosed area within a cannabis retailer that is separated by solid walls or windows from the area in which retail sales of cannabis items occur, shall only be accessible through an interior door after first entering the retailer, and shall comply with all ventilation requirements applicable to cigar lounges, as that term is defined in section 3 of P.L.2005, c. 383 (C.26:3D-57), in order to permit indoor smoking, vaping, or aerosolizing that is the equivalent of smoking tobacco not in violation of the “New Jersey Smoke-Free Air Act,” P.L.2005, c. 383 (C.26:3D-55 et seq.).

(2) An outdoor cannabis consumption area shall be an exterior structure on the same premises as the medical cannabis dispensary, clinical registrant facility, or cannabis retailer, that is either separate from or connected to the dispensary, facility, or retailer, and that is not required to be completely enclosed, but shall have sufficient walls, fences, or other barriers to prevent any view of patients consuming medical cannabis or persons consuming personal use cannabis items within the consumption area from any sidewalk or other pedestrian or non-motorist right-of-way, as the case may be.

A medical cannabis dispensary, clinical registrant, or cannabis retailer operating a consumption area shall ensure that any smoking, vaping, or aerosolizing of medical cannabis or personal use cannabis items that occurs in an outdoor cannabis consumption area does not result in migration, seepage, or recirculation of smoke or other exhaled material to any indoor public place or workplace as those terms are defined in section 3 of P.L.2005, c. 383 (C.26:3D-57). The commission may require an outdoor consumption area to include any ventilation features as the commission deems necessary and appropriate.

g. (1) A medical cannabis dispensary, clinical registrant, or cannabis retailer holding a cannabis consumption area endorsement, and the employees thereof, subject to any regulations for cannabis consumption areas promulgated by the commission, may permit a person to bring medical



cannabis or personal use cannabis items into a cannabis consumption area, so long as the on-premises consumption of that cannabis is authorized by the endorsement.

(2) A medical cannabis dispensary, clinical registrant, or cannabis retailer holding a cannabis consumption area endorsement shall not sell alcohol, including fermented malt beverages or malt, vinous, or spirituous liquor, sell tobacco or nicotine products, or allow the consumption of alcohol, tobacco, or nicotine products on the premises, or operate as a retail food establishment.

(3) A medical cannabis dispensary, clinical registrant, or cannabis retailer holding a cannabis consumption area endorsement shall not allow on-duty employees of the establishment to consume any medical cannabis or personal use cannabis items in the consumption area, other than an on-duty employee who is a registered qualifying patient with a valid authorization for the use of medical cannabis, if the medical cannabis dispensary, clinical registrant, or cannabis retailer does not otherwise provide a private area, that is separate from the area in which medical cannabis is dispensed or in which retail sales of cannabis items occur, for that employee to use medical cannabis.

(4)(a) A cannabis retailer, or medical cannabis dispensary or clinical registrant that is also licensed to simultaneously operate as a cannabis retailer, shall limit the amount of personal use cannabis items sold to a person to be consumed in its consumption area, or brought into its consumption area if permitted pursuant to paragraph (1) of this subsection, to no more than the sales limit set by the commission. The cannabis retailer, medical cannabis dispensary, or clinical registrant shall not engage in multiple sales transactions of personal use cannabis items to the same person during the same business day when a retailer's, dispensary's, or registrant's employee knows or reasonably should have known that the sales transaction would result in the person possessing more than the sales limit established by the commission. The cannabis retailer, medical cannabis dispensary, or clinical registrant shall provide, if required by the commission, information regarding the safe consumption of personal use cannabis items at the point of sale to all persons who make a purchase.

(b) All employees of a cannabis retailer, or medical cannabis dispensary or clinical registrant that is also licensed to simultaneously operate as a cannabis retailer, shall complete any responsible vendor training program established in regulation by the commission concerning consumption areas in which personal use cannabis items may be consumed.

h. (1) Access to a cannabis consumption area in which medical cannabis may be consumed shall be restricted to employees of the medical cannabis dispensary or clinical registrant and to registered qualifying patients and their designated caregivers.

(2) Access to a cannabis consumption area in which personal use cannabis items may be consumed, or both medical cannabis and personal use cannabis items may be consumed, shall be restricted to employees of the cannabis retailer, or medical cannabis dispensary or clinical registrant that is also licensed to simultaneously operate as a cannabis retailer, and to registered qualifying patients, their designated caregivers, and other persons who are at least 21 years of age. Each person shall be required to produce a form of government-issued identification that may be



accepted, pursuant to subparagraph (a) of paragraph (6) of subsection a. of section 18 of P.L.2021, c. 16 (C.24:6I-35), in order to enter the consumption area for purposes of consuming any medical cannabis or personal use cannabis items.

i. When a patient or other person leaves a cannabis consumption area, the medical cannabis dispensary, clinical registrant, or cannabis retailer shall ensure any remaining unconsumed medical cannabis or personal use cannabis item that is not taken by the patient, the patient's designated caregiver, or other person is destroyed.

j. A medical cannabis dispensary, clinical registrant, or cannabis retailer operating a cannabis consumption area and its employees:

(1) shall operate the dispensary, registrant, or retailer in a decent, orderly, and respectable manner;

(2) may remove an individual from its premises for any reason;

(3) shall not knowingly permit any activity or acts of disorderly conduct; and

(4) shall not permit rowdiness, undue noise, or other disturbances or activity offensive to the average citizen or to the residents of the neighborhood in which the consumption area is located.

k. If an emergency requires law enforcement, firefighters, emergency medical services providers, or other public safety personnel to enter a cannabis consumption area, employees of the medical cannabis dispensary, clinical registrant, or cannabis retailer shall prohibit on-site consumption of medical cannabis, personal use cannabis items, or both, as the case may be, until such personnel have completed their investigation or services and have left the premises.

N.J.S.A. 24:6I-42

Class 5 Cannabis Retailer license.

A cannabis retailer shall have a Class 5 Cannabis Retailer license issued by the commission for the premises at which cannabis items are retailed, which may include purchase orders for off-premises delivery by a certified cannabis handler working for or on behalf of the cannabis retailer, or consumer purchases to be fulfilled from the retail premises that are presented by a cannabis delivery service with a Class 6 Cannabis Delivery Service license and which will be delivered by the cannabis delivery service to that consumer. The commission shall determine the maximum number of licenses, of which at least 35 percent shall be conditional licenses issued pursuant to subparagraph (a) of paragraph (2) of subsection b. of section 19 of P.L.2021, c. 16 (C.24:6I-36), and at least 10 percent of the total number of licenses and conditional licenses shall be designated for and only issued to microbusinesses pursuant subsection f. of that section. Providing there exist qualified applicants, the commission shall issue a sufficient number of licenses to meet the market demands of the State, and may, as authorized by paragraph (1) of subsection a. of section 18 of P.L.2021, c. 16 (C.24:6I-35), accept new applications for additional licenses as it deems necessary to meet those demands.



a. To hold a Class 5 Cannabis Retailer license under this section, a cannabis retailer:

(1) Shall apply for a license in the manner described in section 18 of P.L.2021, c. 16 (C.24:6I-35);

(2) Shall have at least one significantly involved person who has resided in this State for at least two years as of the date of the application, and provide proof that this person and any other person with a financial interest who also has decision making authority for the cannabis retailer listed on an application submitted under section 18 of P.L.2021, c. 16 (C.24:6I-35) is 21 years of age or older;

(3) Shall meet the requirements of any rule adopted by the commission under subsection b. of this section; and

(4) Shall provide for each of the following persons to undergo a criminal history record background check: any owner, other than an owner who holds less than a five percent investment interest in the cannabis retailer or who is a member of a group that holds less than a 20 percent investment interest in the cannabis retailer and no member of that group holds more than a five percent interest in the total group investment, and who lacks the authority to make controlling decisions regarding the cannabis retailer's operations; any director; any officer; and any employee.

(a) Pursuant to this provision, the commission is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable State and federal laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the commission in a timely manner when requested pursuant to the provisions of this section;

(b) Each person shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless a person has furnished his written consent to that check. A person who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for licensure as a retailer. Each person shall bear the cost for the criminal history record background check, including all costs of administering and processing the check;

(c)(i) With respect to determining whether any conviction of a person contained in the criminal history record background check should disqualify an applicant for a Class 5 Cannabis Retailer license, the commission shall not take into consideration any conviction for a crime or offense that occurred prior to the effective date of P.L.2021, c. 16 (C.24:6I-31 et al.)¹ involving a controlled dangerous substance or controlled substance analog as set forth in paragraph (11) or (12) of subsection b., or subparagraph (b) of paragraph (10) of subsection b. of N.J.S.2C:35-5, or paragraph (3) or (4) of subsection a. of N.J.S.2C:35-10, or any similar indictable offense under federal law, this State's law, or any other state's law, or for any conviction under federal law for conduct involving cannabis or a cannabis item that is authorized by P.L.2021, c. 16 (C.24:6I-31 et al.). Additionally, the commission



shall not take into consideration any other prior conviction, unless that conviction is for an indictable offense under federal law, other than a conviction for conduct involving cannabis or a cannabis item that is authorized by P.L.2021, c. 16 (C.24:6I-31 et al.), or under this State's law, or any other state's law that is substantially related to the qualifications, functions, or duties for which the license is required, and not more than five years have passed since the date of that conviction, satisfactory completion of probation or parole, or release from incarceration, whichever is later. In determining which indictable offenses are substantially related to the qualifications, functions, or duties for which the license is required, the commission shall at least consider any conviction involving fraud, deceit, or embezzlement, and any conviction for N.J.S.2C:35-6, employing a minor in a drug distribution scheme, or similar indictable offense in this or another jurisdiction involving the use of a minor to dispense or distribute a controlled dangerous substance or controlled substance analog;

(ii) The commission may approve an applicant for a Class 5 Cannabis Retailer license after conducting a thorough review of any previous conviction of a person that substantially related to the qualifications, functions, or duties for which the license is required that is contained in the criminal history record background information, and this review shall include examining the nature of the indictable offense, the circumstances at the time of committing the offense, and evidence of rehabilitation since conviction. If the commission determines that the reviewed conviction should not disqualify the applicant, the applicant may be approved so long as the applicant is otherwise qualified to be issued the license; and

(d) Upon receipt and review of the criminal history record background information from the Division of State Police and the Federal Bureau of Investigation, the commission shall provide written notification to the applicant of the qualification or disqualification for a Class 5 Cannabis Retailer license.

If the applicant is disqualified because the commission determined that a person has a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(e) The Division of State Police shall promptly notify the commission in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of that notification, the commission shall make a determination regarding the continued eligibility for the applicant, or following application, for the licensee, to hold a Class 5 Cannabis Retailer license.

b. The commission shall adopt rules that:

(1) Provide for the annual renewal of the Class 5 Cannabis Retailer license;

(2) Establish application, licensure, and renewal of licensure fees for a cannabis retailer in accordance with paragraph (2) of subsection a. of section 18 of P.L.2021, c. 16 (C.24:6I-35); and



(3) Require a cannabis retailer to meet any public health and safety standards, industry best practices, and all applicable regulations established by the commission related to the retailing of cannabis items.

c. Fees adopted under subsection b. of this section:

(1) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage; and

(2) Shall be deposited in the “Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund” established under section 41 of P.L.2021, c. 16 (C.24:6I-50).

d. (1) The commission shall issue or deny issuance of a Class 5 Cannabis Retailer license or conditional license in accordance with the procedures set forth in section 18 of P.L.2021, c. 16 (C.24:6I-35).

(2) The commission may suspend or revoke a Class 5 Cannabis Retailer license or conditional license to operate as a cannabis retailer for cause, which shall be considered a final agency action for the purposes of the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.) and shall be subject only to judicial review as provided in the Rules of Court.

e. A person who has been issued a license or conditional license shall display the license or conditional license at the premises at all times when cannabis is being retailed.

f. As required by the commission in regulation, a licensee or conditional licensee shall report required changes in information about the licensee to the commission within the time specified by the commission.

g. Subject to receiving an endorsement pursuant to section 28 of P.L.2019, c. 153 (C.24:6I-21):

(1) A licensed cannabis retailer may operate a cannabis consumption area at which the on-premises consumption of cannabis items either obtained from the retailer, or brought by a person to the consumption area, may occur.

(2) Each licensed cannabis retailer may operate only one cannabis consumption area.

(3) The cannabis consumption area shall be either (a) an indoor, structurally enclosed area of the licensed cannabis retailer that is separate from the area in which retail sales of cannabis items occur or (b) an exterior structure on the same premises as the retailer, either separate from or connected to the retailer.

(4) A Class 5 Cannabis Retailer licensee that has been approved for a cannabis consumption area endorsement may transfer cannabis items purchased by a consumer in its retail establishment to that consumer in its cannabis consumption area. The Class 5 Cannabis Retailer licensee shall not transfer to the consumption area an amount of cannabis items that exceed the limits established by the commission.

N.J.A.C 1:30-6.1 Notice of adoption



(a) When an agency adopts a proposed rule, the agency shall prepare a “notice of adoption” and submit the notice to the OAL. The notice of adoption shall comply with the requirements of this section.

(b) The notice of adoption shall contain, in the following order:

1. The heading of the Administrative Code Title affected (for example, the heading of Title 19 is “Other Agencies”);

2. The element within the adopting agency (for example, the Division or Bureau) originating the notice;

3. A caption describing the subject matter of what is adopted;

4. The N.J.A.C. citation for any adopted new rule and the existing citation for any rule(s) amended, repealed, or readopted;

5. After “Proposed:”, the publication date of the notice of proposal and the New Jersey Register citation of that notice;

6. After “Adopted:”, the date of adoption and the name, title, and signature of the adopting agency head or any other person authorized by statute to adopt agency rules;

7. After “Filed:”, the date the notice of adoption is filed with the OAL and whether the proposed rulemaking is adopted “without change” from the proposal, with “non-substantial changes not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3),” with “substantial changes to proposal after additional notice and public comment, pursuant to N.J.S.A. 52:14B-4.1,” or some combination thereof;

8. After “Authority:”, a citation to the specific N.J.S.A. statutory authority for the rulemaking or the public law number if an N.J.S.A. citation is unavailable. An agency may not cite its general statutory authority, unless specific legal authority is unavailable and the agency is relying on its general or residual powers, in which case a statement to that effect must have been made in the proposal Summary;

9. After “Effective Date:”, the effective date of the notice of adoption;

10. If applicable, after “Operative Date:”, the operative date of the notice of adoption, if later than the date of Register publication;

11. After “Expiration Date:”, the expiration date(s) of the rule(s) adopted, amended, repealed, or readopted established in accordance with N.J.A.C. 1:30-6.4. If the rule(s) affected is exempt from having an expiration date, a statement of that exemption, including its basis, shall be provided;

12. If appropriate, a Summary of Hearing Officer's Recommendations and Agency Responses pursuant to N.J.A.C. 1:30–5.5;

13. A Summary of Public Comments and Agency Responses, that shall include a summary of the comments, arguments, data and views received, and points of controversy developed during the rulemaking proceeding; the reasons for adopting the public comments accepted; and the reasons for rejecting the public comments rejected.

i. Except for commenters requesting confidentiality or commenters whose confidentiality is protected by law, this summary shall include the names of all persons



who submitted oral or written comments, arguments, data, and views concerning the notice of proposal. If the person is commenting on behalf of an entity, the adopting agency shall list as the commenter either the person and the entity for which the person is commenting, or the entity alone;

14. Summary of Changes Upon Adoption, describing any changes between the rules as proposed and adopted, and the reasons for the changes. Changes upon adoption described and explained in the notice of adoption in response to a comment need not be included in this summary, in which case this portion of the notice would be a Summary of Agency-Initiated Changes;

15. A Federal Standards Statement (or a Federal Standards Analysis and agency head certification) as required by N.J.A.C. 1:30-5.1(c)4.

i. If there are no changes upon adoption, the statement or analysis published as part of the notice of proposal may be included;

ii. If there are changes upon adoption that affect whether or not the rule exceeds Federal standards or requirements or that require reproposal, the changes shall be evaluated and a new statement or analysis prepared pursuant to N.J.A.C. 1:30-5.1(c)4iii; and

16. The text of any changes between the rules as proposed and as adopted, specifically indicating additions and deletions.

(c) Along with a notice of adoption pursuant to (a) and (b) above, the agency shall also complete and submit to the OAL a Certificate of Proposal, Adoption, and Promulgation (form OAL APF-(year)-(version) (for example, Form OAL APF-17-1)) signed by the adopting agency head, or other person authorized by statute to adopt rules, that the rule was duly adopted according to law and in compliance with the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and of this chapter.

(d) An agency shall also publish the notice of adoption on the agency's Internet website, no later than the date of publication of the notice in the New Jersey Register.