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N.J.S.A. 24:6I-7; N.J.A.C. 8:64-7.2: Temporary Guidance for ATC Employee Criminal Background Checks during COVID-19 Public Health Emergency

To All Alternative Treatment Centers (ATCs):

During the COVID-19 Public Health Emergency, the Division of Medicinal Marijuana is releasing the following temporary guidance to enable faster on-boarding of new employees at ATCs. This guidance does not supersede any statute or regulation, and does not discharge ATCs or their employees from any statute or regulation, most notably the requirements at N.J.S.A. 24:6I-7 to submit to be fingerprinted in accordance with applicable State and federal laws, rules and regulations, and the corresponding disqualifying offenses.

For clarity, and pursuant to N.J.S.A. 24:6I-24, the “Department” has been substituted in references to statute that include the “Commission” as the Cannabis Regulatory Commission has not yet been appointed.

N.J.S.A. 24:6I-7 states:

“d. (1) The [Department] shall require each applicant seeking a permit to operate as, to be a director, officer, or employee of, or to be a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant to undergo a criminal history record background check....

An applicant who is required to undergo a criminal history record background check pursuant to this section 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 the applicant has furnished the applicant’s written consent to that check. An applicant who is required to undergo a criminal history record background check pursuant to this section who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a permit to operate, or authorization to be employed at or to be a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check....

(5) Notwithstanding the provisions of subsection c. of this section to the contrary, the commission may offer provisional authority for an applicant to be an owner, director, officer, or employee of, or a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant for a period not to exceed three months if the applicant submits to the commission a sworn statement attesting that the person has not been convicted of any disqualifying conviction pursuant to this section.”

Pursuant to the authority in N.J.S.A. 24:6I-7, the Department shall offer provisional authority for applicants to be employees of Alternative Treatment Centers for a period of up to three months provided the following conditions are met:

- The ATC has conducted a background check of the employee through a credible, third party service and supplied the results to the Department;
- The employee submits an attestation to the Department that he/she/they have not been convicted of any disqualifying conviction, that the background check results obtained by the ATC are accurate, and that the employee will submit fingerprints pursuant to N.J.S.A. 24:6I-7 and N.J.A.C. 8:64-7.2 as soon as it is practicable;
- The employee is scheduled with MorphoTrak/IdentiGo to be fingerprinted.
 - In the event an employee is unable to obtain a fingerprint appointment due to COVID-19 related business closures, the employee or ATC shall notify the Department about the delay and comply with this requirement as soon as it is practicable.

Failure to comply with the requirements of N.J.S.A. 24:6I-7, or the submission of false information to the Department, shall result in disqualification and revocation of an employee’s ATC identification card, their provisional status, and may result in ineligibility for a permanent and/or new ATC identification card.

Attestations submitted in accordance with this guidance shall contain the following information/provisions:

- ATC Name
- Employee’s name, title, and signature
- Date
- Statement affirming the employee has not been convicted of a crime of the first, second, or third degree under New Jersey law or 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 (11) or (12) 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 law of the United States
- Statement affirming that the employee authorized the ATC to conduct a private background investigation and that the results obtained pursuant to that investigation are accurate and truthful.
- Statement affirming that the employee will submit fingerprints pursuant to N.J.S.A. 24:6I-7 and N.J.A.C. 8:64-7.2 as soon as it is practicable

The attestations do not need to be notarized.

ATCs shall submit requests for provisional employee status to their respective Field Monitor with all the information outlined in this guidance.

Any applications for provisional employee status accepted by the Department prior to this guidance shall be considered compliant with its provisions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Brown", is positioned above the typed name.

Jeff Brown
Assistant Commissioner, Medicinal Marijuana