New Jersey Medical Marijuana Update: If You Thought the Summer Was Busy, Just Wait for the Fall Part 1: A Recap

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Authored by Brian P. Sharkey

Now that Labor Day has passed, we thought it would be a good opportunity to recap the flurry of activity that took place over the summer relating to the status of medical and adult use marijuana in New Jersey. And although the last few months have been quite busy for those involved in the cannabis industry in New Jersey, as well as those hoping to become involved, the next few months should see even more activity. In part one of this two-part update, we will highlight some of the key developments from over the summer, and in part two we will examine what is likely to occur over the next several months.

Here are some of the key developments from the past several months:

- A Sixth Alternative Treatment Center ("ATC"): In June, the Department of Health ("DOH") issued a permit to Harmony Foundation in Secaucus to operate and to dispense medical marijuana. Harmony Foundation became the sixth ATC in the State.
- Proposed Regulatory Changes: In June, the DOH proposed re-adoption of the State's medical marijuana rules, with certain amendments that would implement Governor Murphy's Executive Order 6. Among other things, the proposed regulations would: reduce the registration fee for qualifying patients; authorize manufacturing and dispensing of medical marijuana in non-topical forms; and allow physicians to opt out of inclusion on the public list of participating physicians. The comment period for the proposed regulations closed on August 17.
- Patient Increase: The number of patients participating in the State's medical marijuana program continued to expand. In July, the DOH announced that 10,000 patients had joined the program since Governor Murphy took office in January 2018, bringing the total to approximately 25,000 patients at that time. Of the 10,000 new patients, 6,300 had one of the six new medical conditions that the DOH added to the program in March 2018. Those conditions are: anxiety; migraines; Tourette's syndrome; chronic pain related to muscoskeletal disorders; and chronic visceral pain. In August, the Commissioner of the DOH provided an update to the number of patients in the program, as the number of participants increased to 30,000.
- RFA for New Licenses: In July, the DOH issued a Request for Applications ("RFA") for up to six new vertically integrated ATCs in the State, with two in the northern region, two in the central region, and two in the southern region.

According to the RFA, the DOH's "goal is equal division of the new [ATCs] between each region; however, awards made pursuant to this RFA shall not be delayed in the event of unequal division between the regions." The northern region includes the counties of Bergen, Essex, Hudson, Morris, Passaic, Sussex, and Warren; the central region includes the counties of Hunterdon, Middlesex, Mercer, Monmouth, Ocean, Somerset and Union; and the southern region includes the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem. Hundreds of interested individuals attended the DOH's mandatory pre-application conference on August 9. The application period closed on August 31 and it was reported that 146 applications were received. The DOH stated that November 1 is the date for the anticipated announcement of successful applicants.

- Municipal Prosecutions: In July, Attorney General Gurbur S. Grewal requested that all municipal prosecutors in New Jersey pause marijuana-related prosecutions in municipal court until September 4. During that time, Attorney General Grewal obtained advice and input on the issue from a twenty-person working group, representing prosecutors, defense attorneys, police, civil rights organizations, and other community leaders. On August 29, Attorney General Grewal issued new guidance on municipal court prosecutions of marijuana offenses and other crimes. In his memo, Attorney General Grewal stated that "[a] municipal prosecutor may not adopt a categorical policy or practice of refusing to seek convictions for statutory offenses related to marijuana." In addition, he stated that "municipal prosecutors must exercise prosecutorial discretion on a case-by-case basis, considering the particular facts and applicable law in each situation." Although recognizing that the Legislature may change the current state of the law, the Attorney General stressed that municipal prosecutors could not decriminalize conduct that the Legislature had criminalized.

- Legislative Activity: Throughout the summer, Governor Murphy, members of the legislative leadership, and legislators who have been advocates for marijuana reform legislation for years publicly commented on their efforts to reach agreement on legislation that would legalize marijuana for adult use (S2703) and would statutorily expand the medical marijuana program (S10). This team of legislators has been meeting regularly to hammer amendments to the two pieces of the legislation that address ongoing concerns of racial and social justice advocates, the various facets of the cannabis industry, and on-the-fence legislators.