

The FinCEN guidance emphasizes that financial institutions' exercise of thorough due diligence is critical to their assessment of the risk of providing services to marijuana-related businesses, and specifies tasks financial institutions should perform as part of their due diligence, noting that as "part of its customer due diligence, a financial institution should consider whether a marijuana-related business implicates one of the [eight Federal enforcement] priorities or violates state law." *Id.* at 2-3. The FinCEN Guidance identifies the types of required "Suspicious Activity Report" and "Currency Transaction Report" filings that financial institutions are to make attendant to their engagement with marijuana-related businesses, and provides a non-exhaustive list of "red flags" or indicia that could give rise to a financial institution's suspicion, or actual or constructive knowledge, "that a marijuana-related business may be engaged in activity that implicates one of the [eight Federal enforcement] priorities or violates state law," thereby triggering the financial institution's obligations to perform additional due diligence investigation and/or file a "Marijuana Priority" Suspicious Activity Report. *Id.* at 3-7.

On January 4, 2018, the Justice Department issued a memorandum to all United States Attorneys, instructing them that, in "deciding which marijuana activities to prosecute under [applicable Federal] laws with the [Justice] Department's finite resources[, to] follow the well-established principles that govern all [Federal] prosecutions ... as reflected in ...the United States Attorneys' Manual. These principles require [Federal] prosecutors deciding which cases to prosecute to weigh all relevant considerations, including [Federal] law enforcement priorities set by the Attorney General, the seriousness of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on the community. Given the Department's well-established general principles, previous nationwide guidance specific to marijuana enforcement is unnecessary and is rescinded, effective immediately." Jefferson B. Sessions, III, Att'y Gen., Memorandum for All United States Attorneys: Marijuana Enforcement (January 4, 2018) (Sessions Memorandum) (specifically listing, at n.1, the 2009 through 2014 Justice Department Memoranda, discussed above, as rescinded).

The Sessions Memorandum neither identified the "law enforcement priorities set by the Attorney General" that United States Attorneys were to consider instead of the eight Federal enforcement priorities announced in the rescinded Justice Department Memoranda, nor explained whether and how those sets of priorities might differ. However, the press release accompanying its issuance characterized the Sessions Memorandum as, "announcing a return to the rule of law," and quoted Attorney General Sessions as saying that the Sessions Memorandum, "simply directs all [United States] Attorneys to use previously established prosecutorial principles that provide them all the necessary tools to disrupt criminal organizations, tackle the growing drug crisis, and thwart violent crime across our country." Office of Public Affairs, Justice Department, "Press Release No. 18-8: Justice Department Issues Memo on Marijuana Enforcement" (January 4, 2018).

The Treasury Department did not issue guidance, concurrent with the issuance of the Sessions Memoranda or thereafter, rescinding its FinCEN Guidance. Therefore, the FinCEN Guidance appears to remain extant.

Despite the Sessions Memoranda guidance, existing Federal statutes protect and safeguard state-administered legal medicinal marijuana programs. The Rohrabacher-Blumenauer amendment (previously known as the Rohrabacher-Farr amendment), most recently sponsored by United States Representatives Dana Rohrabacher (R-CA) and Earl Blumenauer (D-OR), prevents the Justice Department from using Federal funds to prosecute state-compliant medical marijuana operators in states that have legal cannabis programs. It was first approved in 2014, approved or renewed by Congress 11 times since, and most recently renewed on March 23, 2018, as part of the most recent omnibus spending bill, the Consolidated Appropriations Act (Pub. L. 115-141), which is in effect through September 30, 2018.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 8:64.

**Full text** of the adopted amendments and new rule follows (additions to proposal indicated in boldface with asterisks \*thus\*; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

## CHAPTER 64 MEDICINAL MARIJUANA

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 8:64-1.1 Purpose and scope

(a) This chapter implements the New Jersey Compassionate Use Medical Marijuana Act, N.J.S.A. 24:6I-1 et seq. (Act).

(b) This chapter is applicable to:

- Persons seeking to register and/or who register with the Department of Health (Department) as qualifying patients and/or primary caregivers;
- 2.-4. (No change.)

#### 8:64-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise\*,\* or another subchapter defines one of the following words or terms differently for the purposes of that subchapter:

"Act" means the New Jersey Compassionate Use Medical Marijuana Act, N.J.S.A. 24:6I-1 et seq.

"Adequate supply" means not more than is reasonably necessary to ensure the uninterrupted availability of marijuana, in all forms, to meet the needs of registered patients at a given ATC.

...

"Alternative treatment center" or "ATC" means the permitted alternative treatment center authorized by endorsements described at N.J.A.C. 8:64-7.1 to cultivate, manufacture, and/or dispense medicinal marijuana and related paraphernalia to registered qualifying patients in accordance with the provisions of the Act. This term includes the ATC's officers, directors, board members, and employees.

...

"Business day" means any day other than Saturday, Sunday, or a State-recognized holiday.

"Cannabinoid" means a nonpsychoactive constituent of marijuana, C<sub>21</sub>H<sub>30</sub>O<sub>2</sub>.

...

"Commissioner" means the Commissioner of the Department of Health.

"Cultivation" includes the planting, propagating, cultivating, growing, harvesting, labeling, or storing of medicinal marijuana for the limited purpose of the Act and this chapter.

"Debilitating medical condition" means:

- 1.-3. (No change.)

4. Anxiety, chronic pain associated with a musculoskeletal disorder, chronic pain of a visceral origin, migraines, Tourette syndrome, and post-traumatic stress disorder (PTSD);

**\*5. Opioid use disorder, provided the qualifying patient is participating in, and compliant with, medication-assisted treatment for the opioid use disorder;\***

Recodify existing 4.-5. as \*6.-7.\* (No change in text.)

"Department" means the Department of Health.

...

"Division of Medicinal Marijuana" or "Division" means the division within the Department of Health responsible for the administration and implementation of activities related to the Act.

...

"Endorsement" means a designation set forth on the permit of an ATC that authorizes the ATC to cultivate, manufacture, or dispense medicinal marijuana for the benefit of qualifying patients.

"Lozenge" means a solid oral dosage form that is designed to dissolve or disintegrate slowly in the mouth.

"Manufacturing" means compounding, making, and processing medicinal marijuana in all forms.

...

"Medical advisory board" means a five-member panel appointed by an ATC to provide advice to the ATC on all aspects of its business. The medical advisory board shall:

- 1.-2. (No change.)

...

**\*\*"Medication-assisted treatment" means "Medication-Assisted Treatment (MAT)" as 42 CFR Part 8—Medication Assisted**

**Treatment of Opioid Use Disorders, defines that term, particularly at § 8.2, as amended and supplemented.\***

“Military veteran” means a person who served in any branch of the active or reserve component of the United States military and/or the National Guard of any state military service and who was discharged or released under conditions other than dishonorable.

“Oil” means a viscous liquid substance containing cannabinoids, such as THC and cannabidiol, which are extracted from the marijuana plant.

1. An ATC may manufacture oil for use in preloaded cartridges, or in topical or oral formulations.

\*[“Original ATC” means one of the first six ATCs to which the Department issued a permit pursuant to the Act.]\*

“Permitting authority” means the Division of Medicinal Marijuana within the Department, of which the mailing address is PO Box 360, Trenton, NJ 08625-0360.

“Primary caregiver” or “caregiver” means a resident of the State who:

1.-4. (No change.)

5. Has been designated as one of the primary caregivers on the qualifying patient’s application or renewal for a registry identification card or in other written notification to the Department.

“Proof of New Jersey residency” means one or more of the following:

1. A New Jersey driver’s license that is in effect and good standing;

2. A Federal, State, or local government-issued identification card that shows the applicant’s name and New Jersey address;

3. A utility bill issued within the 90 days preceding the application date that shows the applicant’s name and New Jersey address;

4. Correspondence from the Internal Revenue Service or the New Jersey Division of Taxation issued within the year preceding the application date that shows the applicant’s name and New Jersey address;

5. A non-driver identification card issued by the New Jersey Motor Vehicle Commission that is in effect and good standing;

6. Federal, State, or local government correspondence issued to the applicant within the 90 days preceding the application date that shows the applicant’s name and New Jersey address; or

7. Bank statements issued within each of the three months preceding the application date that show the applicant’s name and New Jersey address.

“Reduced-fee eligible” means a person is:

1. A senior citizen or a military veteran; or

2. A beneficiary or recipient of:

i. New Jersey Medicaid;

\*ii. **NJ Family Care**;

\*[ii.]\* \*iii.\* Supplemental Nutrition Assistance Program (SNAP);

\*[iii.]\* \*iv.\* New Jersey Temporary Disability Insurance (TDI);

\*[iv.]\* \*v.\* Supplemental Security Income (SSI); or

\*[v.]\* \*vi.\* Social Security Disability (SSD).

“Review panel” means a panel of health care professionals appointed by the Commissioner to review petitions and make recommendations about the medicinal use of marijuana.

\*[“Satellite” means an additional site that an original ATC operates to conduct one of the following activities: the cultivation, manufacturing, or dispensing of usable marijuana to qualifying patients.]\*

“Senior citizen” means a person age 65 and older.

“Utility bill” means a bill for one or more of the following services: gas, electric, water, sewer, cellular or landline telephone, internet, or cable or satellite television.

“Vertical integration” means the co-location or combination of two or more of the following activities related to the production of usable marijuana for qualifying patients in one location: cultivation, manufacturing, and dispensing.

**SUBCHAPTER 2. REGISTRATION REQUIREMENTS FOR QUALIFYING PATIENTS AND PRIMARY CAREGIVERS**

8:64-2.1 Fees for issuance and renewal of registration of qualifying patients and primary caregivers

(a) (No change.)

(b) An applicant for issuance of registration and registration renewal as either a qualifying patient or a primary caregiver shall transmit to the Division a check or money order, or any other form of payment the Division approves, that is made payable to the “Treasurer, State of New Jersey,” in the amount of the required payment.

1. (No change.)

(c) The fee to apply for issuance or renewal of a registry identification card as either a qualifying patient or a primary caregiver is \$100.00, unless the applicant is reduced-fee eligible, in which case, the fee to apply for issuance or renewal of a registry identification card is \$20.00.

2. A minor who applies for issuance or renewal of a registry identification card as a qualifying patient is reduced-fee eligible, if the minor’s designated primary caregiver is:

i. The minor’s parent, guardian, or custodian; and

ii. Reduced-fee eligible.

(d) The Department shall not refund an application fee if an applicant demonstrates reduced-fee eligibility on or after the date of issuance of the applicant’s registry identification card.

(e) The Department shall notify an applicant who submits a reduced fee without demonstrating reduced-fee eligibility, that the applicant has 30 days from the date of such notice to either:

1. (No change.)

2. Demonstrate reduced-fee eligibility.

8:64-2.2 Application for registration as a qualifying patient

(a) A person applying for issuance or renewal of registration as a qualifying patient shall provide the following to the Department:

1.-5. (No change.)

6. Proof \*[that the applicant is a]\* \*of\* New Jersey \*[resident, consisting of one or more of the following:

i. A New Jersey driver’s license;

ii. A government-issued identification card that shows the applicant’s name and address; or

iii. A utility bill issued within the previous two months that shows the applicant’s name and address]\* \*residency\*; and

7. (No change.)

(b)-(d) (No change.)

(e) A qualifying patient may designate up to two primary caregivers, either on the application for issuance or renewal of a registry identification card or in another written notification to the Department.

1. (No change.)

(f) (No change.)

8:64-2.3 Primary caregiver registration

(a) A person whom a qualifying patient designates as a primary caregiver pursuant to N.J.A.C. 8:64-2.2(e) shall submit the following to the Department to apply for issuance or renewal of primary caregiver registration:

1.-4. (No change.)

5. Proof of New Jersey residency; and

6. (No change.)

(b)-(h) (No change.)

(i) If a qualifying patient proposes to designate more than one person as a primary caregiver, each applicant for registration as the qualifying patient’s primary caregiver is subject to this section.

8:64-2.4 Physician \*[registration]\* \*enrollment\*

(a) To be eligible to submit a certification pursuant to N.J.A.C. 8:64-2.5, a physician shall enroll to participate as an authorizing physician through the website at <http://www.nj.gov/health>, thereby creating a portal account.

(b) Physicians who enroll or who have previously enrolled, can opt out of inclusion in the public list of participating physicians that the Department maintains at any time by contacting the Division.

## 8:64-2.5 Physician certification

(a) A physician who is licensed and in good standing to practice medicine in this State and who enrolls pursuant to N.J.A.C. 8:64-2.4 is eligible to authorize the medical use of marijuana by a qualifying patient pursuant to a certification the physician issues pursuant to N.J.A.C. 13:35-7A that contains:

1.-9. (No change.)

(b) Prior to complying with (a) above, an enrolled physician seeking to authorize the medicinal use of marijuana by a patient who is a minor shall:

1. Obtain written confirmation from a physician trained in the care of pediatric patients establishing, in the physician's professional opinion, following review of the minor patient's medical record or examination of the minor patient, that the minor patient is likely to receive therapeutic or palliative benefits from the medical use of marijuana to treat or alleviate symptoms associated with the minor's debilitating medical condition; and

2. (No change.)

(c)-(d) (No change.)

### SUBCHAPTER 3. REGISTRY IDENTIFICATION CARDS FOR QUALIFYING PATIENTS AND PRIMARY CAREGIVERS

## 8:64-3.1 Registry identification cards

(a)-(b) (No change.)

(c) Registry identification cards shall contain:

1.-6. (No change.)

7. The telephone number and web address of the Division, so that the authenticity of the registry identification card can be validated.

(d)-(e) (No change.)

(f) Registry identification cards are the property of the Department and shall be surrendered to Department staff upon issuance of a new registry identification card or following the revocation or denial of renewal of registration of the registrant.

1. The temporary registry identification card may be surrendered by United States mail to the Division or in person.

(g) (No change.)

## 8:64-3.2 Provisional approval of primary caregiver and temporary registry identification card

(a)-(b) (No change.)

(c) The primary caregiver shall surrender the temporary registry identification card to the Department within 10 days following the date that the Department approves or denies the primary caregiver's application.

1. The temporary registry identification card may be surrendered by United States mail to the Division or in person pursuant to N.J.A.C. 8:64-3.1(f)1.

## 8:64-3.3 Registry identification card replacement

(a) If a qualifying registered patient or registered primary caregiver becomes aware of the theft, loss, or destruction of his or her registry identification card, he or she shall notify the Division in writing or by telephone within 24 hours after the discovery of the occurrence of the theft, loss, or destruction.

(b) (No change.)

(c) An applicant for issuance of a replacement registry identification card shall transmit to the Division a check or money order, or any other form of payment approved by the Division, that is made payable to the "Treasurer, State of New Jersey," in the amount of the required payment.

1. (No change.)

(d) The fee to apply for issuance of a replacement registry identification card is \$10.00, unless the applicant is reduced-fee eligible, in which case the fee to apply for issuance of a replacement registry identification card is \$5.00.

### SUBCHAPTER 4. REPORTING REQUIREMENTS

## 8:64-4.4 Confidentiality

(a) (No change.)

(b) Individual names and other identifying information on the list, and information contained in any application form, or accompanying or

supporting document shall be confidential, and shall not be considered a public record under N.J.S.A. 47:1A-1 et seq., and shall not be disclosed except to:

1. Authorized employees of the Department and the Division of Consumer Affairs in the Department of Law and Public Safety as necessary to perform official duties; and

2. Authorized employees of State agencies or local law enforcement agencies, only as necessary to verify that a person who is engaged in the suspected or alleged medicinal use of marijuana is lawfully in possession of a registry identification card.

### SUBCHAPTER 5. ESTABLISHMENT OF ADDITIONAL DEBILITATING MEDICAL CONDITIONS

## 8:64-5.1 Review cycle for accepting petitions for additional qualifying debilitating medical conditions

(a) The Department shall announce the establishment of review cycles during which, and procedures by which, it will accept petitions to approve other medical conditions or the treatment thereof as "debilitating medical conditions," pursuant to paragraph 5 of the definition of that term at N.J.S.A. 24:6I-3, by publishing a notice in the New Jersey Register.

(b) Nothing in this section shall prevent the Commissioner from establishing, pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., additional "debilitating medical conditions," notwithstanding the absence or existence of a pending review cycle announced pursuant to (a) above.

1. The Commissioner may consult with a review panel established pursuant to N.J.A.C. 8:64-5.2 in determining to establish additional "debilitating medical conditions."

## 8:64-5.2 Advisory review panel; membership; responsibilities

(a) The Commissioner shall appoint an advisory review panel (panel) to make recommendations to the Commissioner regarding the addition of debilitating medical conditions that should qualify for medicinal marijuana and, upon the Commissioner's request, to provide guidance and recommendations regarding the medicinal use of marijuana.

1. In response to the Commissioner's request for its guidance and recommendations, the advisory review panel may examine scientific and medical evidence and research and may gather information, in person or in writing, from persons and entities who are knowledgeable about the medicinal use of marijuana.

(b) The panel shall consist of not more than 15 health care professionals, among whom shall be:

1. (No change.)

2. Other physicians and non-physicians who are knowledgeable about the medicinal use of marijuana;

i. (No change.)

ii. (No change in text.)

3. Physicians shall comprise the majority of the panel.

## 8:64-5.3 Addition of qualifying debilitating medical condition

(a) For a petition to be accepted for processing, a petitioner shall send a letter by certified mail to the Division that contains the following information:

1.-6. (No change.)

(b) (No change.)

(c) If the petition is accepted, the Department may refer the written petition to the review panel established pursuant to N.J.A.C. 8:64-5.2.

(d) The Commissioner will make a final determination on the petition within 180 days of receipt of the petition.

### SUBCHAPTER 6. ALTERNATIVE TREATMENT CENTER; PROCESS FOR DEPARTMENT REQUEST FOR APPLICATIONS

## 8:64-6.1 Notice of request for applications

(a)-(d) (No change.)

(e) The Department, in its published notice of request for applications, shall announce the number of permits and endorsements it intends to issue.

## 8:64-6.2 Criteria for identifying alternative treatment centers

(a) A selection committee shall evaluate applications on the following general criteria:

1. (No change.)
2. (No change in text.)
3. Experience in cultivating, processing, or dispensing marijuana in compliance with government-regulated marijuana programs;
4. History of compliance with regulations and policies governing government-regulated marijuana programs;
5. Ability and experience of the applicant in ensuring adequate supply of marijuana;
6. Workforce and job creation plan, including plan to involve women, minorities, and military veterans in ATC ownership\*[,] \*and\* management\*[,] and experience with collective bargaining in the cannabis and other industries;

Recodify existing 4. and 5. as 7. and 8. (No change in text.)

(b) (No change.)

## 8:64-6.4 Award decisions

(a) The Department shall convene a selection committee to evaluate and score each application.

1. The members of the selection committee shall have no personal, financial, or familial interest in any of the applicants, or principals thereof, to be evaluated.

2. (No change in text.)

(b)-(c) (No change.)

## 8:64-6.5 Request for application; fee

(a) As a condition of Department consideration of an application submitted in response to a request for applications issued pursuant to N.J.A.C. 8:64-6.1, applicants shall submit a fee of \$20,000 for each endorsement sought in the application.

1. The applicant shall submit the fee for each endorsement sought with the application, in the form of two checks payable to the "Treasurer, State of New Jersey," one of which is for \$2,000 and the other of which is for \$18,000.

2. (No change.)

3. Application fees for endorsements sought and awarded are non-refundable.

(b) Applicants may apply for an ATC permit for one or more endorsements or regions, but must submit a separate application for each region.

1. An applicant for an ATC permit for more than one endorsement in the same region may submit a single application.

## SUBCHAPTER 7. GENERAL PROCEDURES AND STANDARDS APPLICABLE TO ALTERNATIVE TREATMENT CENTERS

## 8:64-7.1 Permit application procedures and requirements for alternative treatment centers

(a) An applicant for an ATC permit shall submit an application form and the fees required by N.J.A.C. 8:64-6.5, as well as all other required documentation on forms obtained from the permitting authority or on the Department's website at <http://www.nj.gov/health>.

(b) In addition to the application, the documentation shall include the following:

1. The legal name of the business entity applying for a permit, a copy of the entity's organizational documents and by-laws, evidence that the business entity is in good standing with the New Jersey Department of the Treasury, and a certificate certified under the seal of the New Jersey State Treasurer as to the legal status of the business entity; and

2. Each applicant, including the information for each subcontractor or affiliate to the entity named in the application shall submit:

i. Documentation of a valid Business Registration Certificate on file with the New Jersey Department of the Treasury, Division of Revenue and Enterprise Services;

ii.-iv. (No change.)

v. The identities of all creditors holding a security interest in the applicant or premises, if any;

vi.-xi. (No change.)

xii. Evidence of community engagement or participation in the ATC's operations through ownership, management, and local hiring plans, and support of community organizations;

xiii. Evidence of minority, women, and veteran participation in ATC operations through ownership, management, and local hiring plans;

xiv. Evidence of experience and ability related to the activities associated with the endorsement(s) sought, determined by proposed operations, workforce, capital, management systems, business plan, safety, and security;

Recodify existing xii.-xiii. as new xv.-xvi. (No change in text.)

(c) (No change.)

(d) An entity seeking to engage in one or more of the following activities, associated with providing registered qualifying patients with usable marijuana and related supplies, shall apply for a permit endorsement authorizing it to:

1. Cultivate usable marijuana;
2. Manufacture usable marijuana; and/or
3. Dispense usable marijuana.

(e) The endorsements issued by the Department shall authorize the following specific activities:

1. A cultivation endorsement allows an ATC to possess, cultivate, plant, grow, harvest, and package usable marijuana (including in prerolled forms); and display, transfer, transport, distribute, supply, or sell marijuana to other ATCs, but not directly to registered qualifying patients.

2. A manufacturing endorsement allows an ATC to possess and process usable marijuana; purchase usable marijuana from other ATCs possessing a cultivating endorsement; manufacture products containing marijuana approved by the Department; conduct research and develop products containing marijuana for approval by the Department; and to display, transfer, transport, distribute, supply, or sell marijuana and products containing marijuana to other ATCs, but not directly to registered qualifying patients.

3. A dispensary endorsement allows an ATC to purchase usable marijuana and products containing marijuana from other ATCs authorized to cultivate or manufacture usable marijuana or products containing marijuana; and possess, display, supply, sell, and dispense, usable marijuana and/or products containing marijuana, to registered qualifying patients.

(f) The Department shall issue endorsements in a manner that ensures adequate patient access to medicinal marijuana.

## 8:64-7.4 Submission to the jurisdiction of the State

(a) Prior to the issuance of any permit to an ATC, every principal officer, owner, director, and board member of the ATC must execute a certification stating that he or she submits to the jurisdiction of the courts of the State of New Jersey and agrees to comply with all the requirements of the laws of the State of New Jersey pertaining to the Division. An ATC shall maintain copies of such certifications at the ATC's principal office, which shall be located within the State of New Jersey.

(b) (No change.)

## 8:64-7.10 Fees

(a) The following fees apply:

1. (No change.)

2. The fee to apply for a change of location of the alternative treatment center \*[or the addition or renewal of a satellite location]\* is \$10,000;

3. The fee to apply for a change of capacity or any physical modification or addition to the facility is \$2,000; and

4. The fee to apply for the transfer of ownership of a permit is \$20,000.

(b) Fees shall be paid by certified check, money order, or any other form of payment approved by the Division, and made payable to the "Treasurer, State of New Jersey."

SUBCHAPTER 9. ALTERNATIVE TREATMENT CENTER  
GENERAL ADMINISTRATIVE  
REQUIREMENTS FOR ORGANIZATION AND  
RECORDKEEPING

8:64-9.4 Personnel records

(a) Each ATC shall maintain a personnel record for each employee, principal officer, director, board member, agent, or volunteer that includes, at a minimum, the following:

1.-2. (No change.)

3. Documentation of the certification of each principal officer, director, or board member stating that he or she submits to the jurisdiction of the courts of the State of New Jersey and agrees to comply with all the requirements of the laws of the State of New Jersey pertaining to the Division;

4.-10. (No change.)

(b) (No change.)

8:64-9.7 Security

(a) (No change.)

(b) At minimum, each ATC shall:

1.-9. (No change)

10. Equip interior and exterior premises with electronic monitoring, video cameras, and panic buttons.

i. A video surveillance system shall be installed and operated to clearly monitor all critical control activities of the ATC and shall be in working order and operating at all times. The ATC shall provide two monitors for remote viewing via telephone lines in State offices. This system shall be approved by the Division prior to permit issuance.

ii. (No change.)

11.-13. (No change.)

SUBCHAPTER 10. PLANT CULTIVATION AUTHORIZED  
CONDUCT

8:64-10.7 Processing and packaging of marijuana

(a)-(b) (No change.)

(c) Each package of usable marijuana, at a minimum, shall:

1.-2. (No change.)

3. Be in a closed container that holds no more than 1/4 ounce and \*is\* sealed, so that the package cannot be opened, and the contents consumed, without the seal being broken.

(d) (No change.)

(e) An ATC shall package, manufacture, or dispense medicinal marijuana only in:

1. Dried form;

2. Oral lozenges;

3. Topical formulations; or

4. Oil formulations.

(f) The ATC shall submit the label to the Division for approval and \*record\* \*recording\*.

\*1.\* The Division shall provide a copy of the label to authorized employees of State agencies or local law enforcement agencies, as necessary \*for these agencies\* to perform their official duties.

Recodify existing N.J.A.C. 8:64-10.9, 10.10, and 10.11 as 8:64-10.8, 10.9, and 10.10 (No change in text.)

SUBCHAPTER 13. MONITORING, ENFORCEMENT ACTIONS,  
APPEAL RIGHTS, AND EXEMPTION FROM  
STATE CRIMINAL AND CIVIL PENALTIES  
FOR THE MEDICINAL USE OF MARIJUANA

8:64-13.6 Prohibitions, restrictions, and limitations on the cultivation  
or dispensing of medicinal marijuana and criminal penalties

(a) The holding of an ATC permit or employment at an ATC does not relieve the ATC or its employees from criminal prosecution or civil penalties for activities not authorized by the Act, this chapter, or the ATC permit.

(b) (No change.)

(c) Any person who makes a fraudulent representation to a law enforcement officer about the person's status as a qualifying patient to

avoid arrest or prosecution for a marijuana-related offense is guilty of a petty disorderly persons offense and shall be sentenced in accordance with applicable law.

(d)-(e) (No change.)

8:64-13.8 Onsite inspection and corrective actions

(a) Any failure to adhere to the Act and this chapter documented by the Department may result in sanctions, including suspension, revocation, non-renewal, or denial of permit and referral to State or local law enforcement.

1. (No change.)

(b) An ATC shall maintain detailed confidential sales records in a manner and format approved by the Department pursuant to N.J.A.C. 8:64-9.

1. (No change.)

2. The Department may, within its sole discretion, periodically require the audit of an ATC's financial records by an independent certified public accountant approved by the Department.

i. If the Department requires an audit of an ATC's financial records, the ATC shall bear all costs related to such audit. A requested audit shall be concluded within a reasonable period, as determined by the Department. Results of a required audit shall be forwarded to the Division.

3. (No change.)

(c)-(i) (No change.)

8:64-13.11 Exemption from State criminal and civil penalties for the  
medicinal use of marijuana

(a)-(f) (No change.)

INSURANCE

(a)

DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF INSURANCE

Administration

Readoption with Amendments: N.J.A.C. 11:1

Proposed: December 3, 2018, at 50 N.J.R. 2407(a).

Adopted: April 22, 2019, by Marlene Caride, Commissioner,  
Department of Banking and Insurance.

Filed: April 22, 2019, as R.2019 d.041, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:17-1 et seq., 17B:17-1 et  
seq., and 34:15-103 et seq.

Effective Dates: April 22, 2019, Readoption;  
May 20, 2019, Amendments.

Expiration Date: April 22, 2026.

Summary of Public Comment and Agency Response:

**No comments were received.**

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments are not subject to any Federal requirements or standards, with the exception of surplus lines insurance. Aspects of surplus lines insurance are subject to the Federal Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203 (Act). The following rules are affected:

N.J.A.C. 11:1-31, governing surplus eligibility, and N.J.A.C. 11:1-33, governing surplus procurement procedures. Section 524 of the Act provides that a state may not impose eligibility requirements on, or establish eligibility criteria for, nonadmitted insurers domiciled in the United States, except in conformance with sections 5A(2) and 5C(2)(a) of the NAIC Non-Admitted Insurance Model Act, unless the state has adopted nationwide uniform procedures developed in accordance with the Act. In addition, no state may prohibit a surplus lines producer from placing nonadmitted insurance with, or procuring nonadmitted insurance from, a nonadmitted insurer domiciled outside of the United States that is listed on the Quarterly Listing of Alien Insurers maintained by the