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New Jersey Cannabis Reform Takes Major Step Forward...But Where Do We Go From Here?

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November 26, 2018 was “Cyber Monday 2018” for the online retail sector, but for interested parties here in New Jersey it may well become known as “Cannabis Monday 2018” with approvals on that date by the State Senate Budget and Appropriations Committee (SBA) and Assembly Appropriations Committee (AAC) of multiple cannabis-related bills. This recent action had initially set the stage for full legislative passage as early as December 17, 2018, however State lawmakers have now indicated that a vote on adult-use cannabis will not take place in 2018.

The SBA and AAC approved S2703/A4497, the adult-use cannabis legalization bill some refer to as the New Jersey Cannabis Regulatory and Expungement Aid Modernization Act (NJCREMA). Also approved were two medical marijuana expansion bills (via a combined S10/A10 and S2426/A3740), and S3205/A3205, a bill revising procedures surrounding the expungement of records of certain convictions, including those related to cannabis. The medical marijuana expansion bills were also approved by the Senate Health, Human Services and Senior Citizens Committee.

Under NJCREMA, four classes of licenses will be created: Class 1 (Cannabis Grower License); Class 2 (Cannabis Processor License); Class 3 (Cannabis Wholesaler License); Class 4 (Cannabis Retail License). NJCREMA also provides for a certified cannabis handler to deliver certain cannabis products on behalf of a licensed Class 4 cannabis retailer, as well as certain licensing measures established by the Office of Minority, Disabled Veterans and Women Cannabis Business Development to promote the licensing of “persons from socially and economically disadvantaged communities, and minority owned and women’s owned businesses.” Other NJCREMA highlights include a proposed 12% excise tax on cannabis products and the creation of the Cannabis Regulatory

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Commission, to be tasked with certain action items such as adopting rules to regulate and prohibit advertising and marketing that appeals to minors, and instituting strict packaging and labeling requirements.

The medical bills mirror the licensing classes promulgated under NJCREMA and amend the definition of an “alternative treatment center” to be “an organization issued a permit by the commission to operate as a (i) medical cannabis cultivator, (ii) medical cannabis manufacturer, (iii) medical cannabis dispensary, or (iv) clinical registrant.” Previously, the alternative treatment centers were required to be vertically integrated, performing all facets of cultivation, processing and dispensing. The medical bills raise the amount of dried cannabis that patients are permitted to purchase each month (from 2 ounces to 2.5 ounces commencing January 1, 2019 and ending July 1, 2019, before ramping up to 3 ounces on or after July 1, 2019). Additionally, the 6.625% sales tax will be phased out after five years and provides certain job-related protections for employee-patients.

While December 17, 2018 was the first date that these bills could have been brought to the full Senate and Assembly to vote on full passage (which would then require Governor Murphy’s signature), full passage will most likely take place in the first or second quarter of 2019. It is likely that the State will release the additional medical cannabis Requests for Applications (RFAs) upon the passage of the medical expansion bills. These additional RFAs were initially intended to be released in Fall 2018 and Winter 2019, following modifications to the medical bill, however the delay in awarding the six alternative treatment center licenses (from the August 2018 applications), and the delay in passing such modifications, have pushed the release dates back. The permits for the August 2018 RFA are expected to be announced early in the week of December 17 (after the State pushed back its initial award date indefinitely from November 1).

Please contact the co-authors of this Alert, **Jack Fersko** and **Mitchel S. Kay**, with any questions or for additional information.

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