

## Cannabis Law Practice

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# New Jersey Cannabis Program Off to the Races - Cannabis Regulatory Commission Holds First Meeting and the Clock Starts for Adult-Use Cannabis Sales

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On Monday, April 12, 2021, New Jersey's newly formed and seated Cannabis Regulatory Commission ("CRC" or "the Commission") – the body that will oversee New Jersey's medical and adult-use cannabis programs – held its first official meeting. Pursuant to New Jersey's medical and adult-use cannabis laws, authority for oversight of New Jersey's cannabis program was officially moved from the New Jersey Department of Health to the CRC. Now, the CRC's work begins to structure the Garden State's expanding cannabis industry which includes, among other things, issuing regulations and handling all aspects of licensing.

### Background

The "Jake Honig Compassionate Use Medical Cannabis Act" – a law aimed at expanding the State's medical cannabis program – established the CRC in 2019. The Commission was created by statute to take over the New Jersey Department of Health's role in regulating and overseeing the State's medical cannabis program. However, there was some time between enactment of the law and when the CRC actually took shape, with significant developments occurring in the intervening period. On November 3, 2020, New Jersey voters approved a referendum to authorize adult-use cannabis in the State beginning on January 1, 2021. Months later, on February 22, 2021, Governor Murphy signed several cannabis reform bills into law, including the State's adult-use law (titled "The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act"), which authorized cannabis use and possession for adults 21 years of age and older in the Garden State. The adult-use law provides that the CRC will "oversee the development, regulation, and enforcement of activities associated with the personal use of cannabis." This authority includes promulgating rules and regulations to govern the adult-use cannabis industry and overseeing the licensure of cannabis businesses.

Despite the creation of the CRC nearly two years ago, it was not until April 8th that Governor Murphy's office announced that all five seats on the Commission had been officially filled. These CRC members and Executive Director are:

- *Dianna Houenou, Chair:* Senior policy advisor, Office of Governor Murphy; previously worked at the ACLU of New Jersey;
- *Sam Delgado, Vice Chair:* former Verizon executive and a Marine veteran;
- *Maria Del Cid, Commissioner:* Director, Office of Policy and Legislative Services, New Jersey Department of Health;
- *Krista Nash, Commissioner:* Social worker;
- *Charles Barker, Commissioner:* Staffer, Office of U.S. Sen. Cory Booker (D – N.J.); member, National Action Network; and
- *Jeff Brown, Executive Director:* Deputy Commissioner, New Jersey Department of Health; headed the State's medical marijuana program.

### CRC's First Meeting

The CRC's first meeting included various administrative matters, such as:

- Nominating and electing Commissioner Delgado as Vice Chair of the CRC;
- Formally transferring authority over the State's medical cannabis program from the Department of Health to the CRC;

- Establishing an organizational structure; and
- Adopting the CRC's official logo.

The CRC postponed its adoption of an annual meeting schedule until the Commission's next meeting, which is currently scheduled for April 22nd. Additionally, the meeting included introductions and remarks from the CRC members and Executive Director. While the CRC being operational is welcome news for the State's cannabis industry, as the new Chair Dianna Houenou cautioned, "this will take time," and "[i]t will take us several weeks before we develop procedures to guide our operations and hire full-time staff."

### **Timetable for Adult-Use Cannabis in New Jersey**

Now that adult-use cannabis is permitted in New Jersey and the CRC has commenced its work, the biggest question from many is: When will adult-use sales begin? Under New Jersey's adult-use cannabis law, the CRC has 180 days (i.e., six months) from the enactment of the adult-use law (or within 45 days of the five CRC members being duly appointed, whichever is later) to adopt rules and regulations for New Jersey's adult-use cannabis program. N.J. Stat. § 24:6I-34(d)(1)(a). This means the CRC has until **August 21, 2021** to establish such rules. Whether that deadline will be met remains to be seen.

Those initial rules will be in effect for up to one year, after which they will need to be "adopted, amended, or readopted, and any subsequent rules and regulations adopted, amended, or readopted, by the [CRC] in accordance with the requirements of the "Administrative Procedure Act[.]" N.J. Stat. § 24:6I-34(d)(1)(b). After the initial rules and regulations for the adult-use program are adopted, the CRC then must begin accepting and processing license applications within 30 days. N.J. Stat. § 24:6I-36(b). Within 90 days of receipt of an application, the CRC is required to make a determination as to whether the application is approved, denied, or whether the CRC requires more time for review. *Id.*

Additionally, the CRC must set the date on which cannabis retailers who are issued licenses or conditional licenses may begin adult-use retail sales. That date is not to be "more than 180 days after the commission's adoption of its initial rules and regulations." N.J. Stat. § 24:6I-34(d)(2). Therefore, *assuming* the statutory deadlines are met, the Garden State will see adult-use sales by **February 17, 2022**, at the latest. The CRC is to provide at least 30 days' notice of this date to licensees. *Id.* It is worth noting, as we saw in relation to the deadlines for the CRC in the medical cannabis law, that there is no guarantee that those statutory deadlines will be met.

Notwithstanding the above, it is anticipated that currently permitted medical cannabis alternative treatment centers ("ATC") may begin adult-use sales even sooner. Under the adult-use law, current ATCs will receive access to adult-use licensure endorsements upon approval from the CRC, if an ATC certifies that it has municipality approval and that it has sufficient quantities of medical cannabis available to meet both medical and adult-use sales demands. See N.J. Stat. § 24:6I-46. The CRC is to "begin accepting municipal approvals" from ATCs as soon as the adult-use rules and regulations are adopted. *Id.* A medical ATC that receives approval from the CRC to sell adult-use cannabis "may begin to engage in the retail sale of cannabis items on any date after the date that the commission adopts its initial rules and regulations." N.J. Stat. § 24:6I-46. Thus, **it is possible that adult-use sales could begin by this summer.**

However, for medical ATCs to begin adult-use sales, they will need to overcome the current supply and demand issues already plaguing the medical cannabis program. Notably, the CRC should be approving more medical ATC licensees soon, particularly in light of the fact that two months ago the Superior Court of New Jersey, Appellate Division lifted the stay on the last round of medical cannabis license applications from 2019, which allows the CRC to award licenses in response to previously submitted applications.

We are continuing to monitor New Jersey's medical and adult-use cannabis program rollouts, and will issue further analyses regarding the same, as appropriate. In the meantime, if you have questions regarding an issue raised in this alert, please contact the authors or the attorney at the Firm with whom you are regularly in contact.

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