

7347--A

2011-2012 Regular Sessions

I N A S S E M B L Y

May 2, 2011

Introduced by M. of A. GOTTFRIED, ARROYO, CAHILL, CALHOUN, CLARK, COOK, CYMBROWITZ, DenDEKKER, DINOWITZ, JAFFEE, KAVANAGH, LAVINE, LIFTON, O'DONNELL, PAULIN, PEOPLES-STOKES, ROSENTHAL, BOYLAND, WEPRIN, BRONSON, CRESPO, LUPARDO, TITONE, SKARTADOS -- Multi-Sponsored by -- M. of A. ABINANTI, AUBRY, BRENNAN, BROOK-KRASNY, BURLING, FARRELL, GALEF, GLICK, HIKIND, JACOBS, KELLNER, V. LOPEZ, MAGEE, MAISEL, MARKEY, McENENY, J. MILLER, MILLMAN, PRETLOW, N. RIVERA, ROBINSON, RODRIGUEZ, SCARBOROUGH, SCHIMEL, SWEENEY, WEISENBERG, WRIGHT -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the general business law, in relation to medical use of marihuana

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings and intent. The legislature finds that
2 thousands of New Yorkers have serious medical conditions that can be
3 improved by medically-approved use of marihuana. The law should not
4 stand between them and treatment necessary for life and health. This
5 legislation follows the well-established public policy that a controlled
6 substance can have a legitimate medical use. Many controlled substances
7 that are legal for medical use (such as morphine and steroids) are ille-
8 gal for any other use. The purposes of article 33 of the public health
9 law include allowing legitimate use of controlled substances in health
10 care, including palliative care. This policy and this legislation do not
11 in any way diminish New York state's strong public policy and laws
12 against illegal drug use, nor should it be deemed in any manner to advo-
13 cate, authorize, promote, or legally or socially accept the use of mari-
14 huana for children or adults, for any non-medical use. This legislation
15 is an appropriate exercise of the state's legislative power to protect
16 the health of its people under article 17 of the state constitution and
17 the tenth amendment of the United States constitution.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD02415-02-2

1 It is the legislative intent that this act be implemented consistently
2 with these findings and principles, through a reasonable and workable
3 system with appropriate oversight, evaluation and continuing research.
4 S 2. Article 33 of the public health law is amended by adding a new
5 title 5-A to read as follows:

TITLE V-A

MEDICAL USE OF MARIHUANA

SECTION 3360. DEFINITIONS.

3361. CERTIFICATION OF PATIENTS.

3362. LAWFUL MEDICAL USE.

3363. REGISTRY IDENTIFICATION CARDS AND HARDSHIP REGISTRA-
TIONS.

3364. REGISTERED ORGANIZATIONS.

3365. REGISTERING OF REGISTERED ORGANIZATIONS.

3366. REPORTS BY REGISTERED ORGANIZATIONS.

3367. EVALUATION; RESEARCH PROGRAMS; REPORT BY DEPARTMENT.

3368. REGISTERED ORGANIZATION ASSESSMENTS.

3369. RELATION TO OTHER LAWS.

3369-A. PROTECTIONS FOR THE MEDICAL USE OF MARIHUANA.

3369-B. SEVERABILITY.

S 3360. DEFINITIONS. AS USED IN THIS TITLE, THE FOLLOWING TERMS SHALL
HAVE THE FOLLOWING MEANINGS, UNLESS THE CONTEXT CLEARLY REQUIRES OTHER-
WISE:

1. "CERTIFIED MEDICAL USE" MEANS THE ACQUISITION, POSSESSION, USE,
DELIVERY, TRANSFER, TRANSPORTATION, OR ADMINISTRATION OF MEDICAL MARI-
HUANA BY A CERTIFIED PATIENT OR DESIGNATED CAREGIVER FOR USE AS PART OF
THE TREATMENT OF THE PATIENT'S SERIOUS CONDITION SPECIFIED IN A CERTIF-
ICATION UNDER SECTION THIRTY-THREE HUNDRED SIXTY-ONE OF THIS TITLE,
INCLUDING ENABLING THE PATIENT TO TOLERATE TREATMENT FOR THE SERIOUS
CONDITION.

2. "CARING FOR" MEANS TREATING OR COUNSELING A PATIENT, IN THE COURSE
OF WHICH THE PRACTITIONER HAS COMPLETED A FULL ASSESSMENT OF THE
PATIENT'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION.

3. "CERTIFIED PATIENT" MEANS A PATIENT WHO IS CERTIFIED UNDER SECTION
THIRTY-THREE HUNDRED SIXTY-ONE OF THIS TITLE.

4. "CERTIFICATION" MEANS A CERTIFICATION, MADE UNDER SECTION
THIRTY-THREE HUNDRED SIXTY-ONE OF THIS TITLE.

5. "DESIGNATED CAREGIVER" MEANS THE INDIVIDUAL DESIGNATED BY A CERTI-
FIED PATIENT IN A REGISTRY APPLICATION.

6. "HARDSHIP REGISTRATION" MEANS A HARDSHIP REGISTRATION ISSUED UNDER
SECTION THIRTY-THREE HUNDRED SIXTY-THREE OF THIS TITLE.

7. "PUBLIC PLACE" MEANS A PUBLIC PLACE AS DEFINED IN SECTION 240.00 OF
THE PENAL LAW, A MOTOR VEHICLE AS DEFINED IN SECTION ONE HUNDRED TWEN-
TY-FIVE OF THE VEHICLE AND TRAFFIC LAW, AN AIRCRAFT AS DEFINED IN
SECTION TWO HUNDRED FORTY OF THE GENERAL BUSINESS LAW OR A VESSEL AS
DEFINED IN SECTION TWO OF THE NAVIGATION LAW.

8. "SERIOUS CONDITION" MEANS A SEVERE DEBILITATING OR LIFE-THREATENING
CONDITION, OR A CONDITION ASSOCIATED WITH OR A COMPLICATION OF SUCH A
CONDITION OR ITS TREATMENT (INCLUDING BUT NOT LIMITED TO INABILITY TO
TOLERATE FOOD, NAUSEA, VOMITING, DYSPHORIA OR PAIN).

9. "MEDICAL MARIHUANA" MEANS MARIHUANA AS DEFINED IN SUBDIVISION TWEN-
TY-ONE OF SECTION THIRTY-THREE HUNDRED TWO OF THIS ARTICLE INTENDED FOR
A CERTIFIED MEDICAL USE.

10. "REGISTERED ORGANIZATION" MEANS A REGISTERED ORGANIZATION UNDER
SECTIONS THIRTY-THREE HUNDRED SIXTY-FOUR AND THIRTY-THREE HUNDRED
SIXTY-FIVE OF THIS TITLE.

11. "REGISTRY APPLICATION" MEANS AN APPLICATION PROPERLY COMPLETED AND FILED WITH THE DEPARTMENT BY A CERTIFIED PATIENT UNDER SECTION THIRTY-THREE HUNDRED SIXTY-THREE OF THIS TITLE.

12. "REGISTRY IDENTIFICATION CARD" MEANS A DOCUMENT THAT IDENTIFIES A CERTIFIED PATIENT OR DESIGNATED CAREGIVER, AS PROVIDED UNDER SECTION THIRTY-THREE HUNDRED SIXTY-THREE OF THIS TITLE.

13. "PRACTITIONER" MEANS A PRACTITIONER WHO IS A PHYSICIAN, PHYSICIAN ASSISTANT, OR NURSE PRACTITIONER, ACTING WITHIN THE PRACTITIONER'S LAWFUL SCOPE OF PRACTICE.

S 3361. CERTIFICATION OF PATIENTS. 1. A PATIENT CERTIFICATION MAY ONLY BE ISSUED IF A PRACTITIONER WHO IS CARING FOR THE PATIENT FOR A SERIOUS CONDITION CERTIFIES THAT: (A) THE PATIENT HAS A SERIOUS CONDITION, WHICH SHALL BE SPECIFIED IN THE PATIENT'S HEALTH CARE RECORD; (B) THE PATIENT IS UNDER THE PRACTITIONER'S CARE FOR THE SERIOUS CONDITION; AND (C) IN THE PRACTITIONER'S PROFESSIONAL OPINION, THE PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE PRIMARY OR ADJUNCTIVE TREATMENT WITH MEDICAL USE OF MARIHUANA FOR THE SERIOUS CONDITION.

2. THE CERTIFICATION SHALL BE IN WRITING AND INCLUDE (A) THE NAME, DATE OF BIRTH AND ADDRESS OF THE PATIENT; (B) A STATEMENT THAT THE PATIENT HAS A SERIOUS CONDITION; THE PATIENT IS UNDER THE PRACTITIONER'S CARE FOR THE SERIOUS CONDITION AND, IN THE PRACTITIONER'S PROFESSIONAL OPINION, THE PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE PRIMARY OR ADJUNCTIVE TREATMENT WITH MEDICAL USE OF MARIHUANA FOR THE SERIOUS CONDITION; (C) THE DATE; AND (D) THE NAME, ADDRESS, FEDERAL REGISTRATION NUMBER, TELEPHONE NUMBER, AND THE HANDWRITTEN SIGNATURE OF THE CERTIFYING PRACTITIONER. THE COMMISSIONER MAY REQUIRE BY REGULATION THAT THE CERTIFICATION SHALL BE ON A FORM PROVIDED BY THE DEPARTMENT IF THE COMMISSIONER DETERMINES THAT THE DEPARTMENT IS MAKING CERTIFICATION FORMS ADEQUATELY AVAILABLE.

3. THE PRACTITIONER SHALL GIVE THE CERTIFICATION TO THE CERTIFIED PATIENT, AND PLACE A COPY IN THE PATIENT'S HEALTH CARE RECORD.

4. NO PRACTITIONER SHALL ISSUE A CERTIFICATION UNDER THIS SECTION FOR HIMSELF OR HERSELF.

5. A REGISTRY IDENTIFICATION CARD BASED ON A CERTIFICATION SHALL EXPIRE ONE YEAR AFTER THE DATE THE CERTIFICATION IS SIGNED BY THE PRACTITIONER; EXCEPT THAT WHERE A CERTIFIED PATIENT HAS A REGISTRY IDENTIFICATION CARD BASED ON A CURRENT VALID CERTIFICATION, A NEW REGISTRY IDENTIFICATION CARD BASED ON A NEW CERTIFICATION SHALL EXPIRE ONE YEAR AFTER THE EXPIRATION OF THE REGISTRY IDENTIFICATION CARD BASED ON THE CURRENT VALID CERTIFICATION. HOWEVER, IF THE PRACTITIONER STATES IN THE CERTIFICATION THAT HE OR SHE BELIEVES THE PATIENT WOULD BENEFIT FROM MEDICAL MARIHUANA ONLY UNTIL A SPECIFIED EARLIER DATE, THEN THE REGISTRY IDENTIFICATION CARD SHALL EXPIRE ON THAT DATE.

S 3362. LAWFUL MEDICAL USE. 1. THE POSSESSION, ACQUISITION, USE, DELIVERY, TRANSFER, TRANSPORTATION, OR ADMINISTRATION OF MEDICAL MARIHUANA BY A CERTIFIED PATIENT OR DESIGNATED CAREGIVER POSSESSING A VALID REGISTRY IDENTIFICATION CARD, FOR CERTIFIED MEDICAL USE, SHALL BE LAWFUL UNDER THIS TITLE; PROVIDED THAT:

(A) THE MARIHUANA THAT MAY BE POSSESSED BY A CERTIFIED PATIENT DOES NOT EXCEED A TOTAL AGGREGATE WEIGHT OF TWO AND ONE-HALF OUNCES OF MARIHUANA, IN ADDITION TO ANY AMOUNT LAWFULLY POSSESSED UNDER SUBDIVISION TWO OF THIS SECTION; AND

(B) THE MARIHUANA THAT MAY BE POSSESSED BY A DESIGNATED CAREGIVER DOES NOT EXCEED THE QUANTITIES REFERRED TO IN PARAGRAPH (A) OF THIS SUBDIVISION FOR EACH CERTIFIED PATIENT FOR WHOM THE CAREGIVER POSSESSES A VALID REGISTRY IDENTIFICATION CARD, UP TO FIVE CERTIFIED PATIENTS.

1 2. (A) THIS SUBDIVISION APPLIES WHERE THE CERTIFIED PATIENT (I) LIVES
2 MORE THAN TWENTY MILES FROM A REGISTERED ORGANIZATION THAT IS ABLE TO
3 PROVIDE MEDICAL MARIHUANA TO THE CERTIFIED PATIENT OR (II) IS ISSUED A
4 HARDSHIP REGISTRATION.

5 (B) IT SHALL BE LAWFUL FOR A CERTIFIED PATIENT OR DESIGNATED CAREGIVER
6 POSSESSING A VALID REGISTRY IDENTIFICATION CARD TO MANUFACTURE AND
7 POSSESS MEDICAL MARIHUANA FOR USE BY THE CERTIFIED PATIENT UNDER THIS
8 SUBDIVISION. THE MARIHUANA MANUFACTURED BY A CERTIFIED PATIENT AT ANY
9 TIME SHALL NOT EXCEED A TOTAL AGGREGATE OF TWELVE PLANTS. IT SHALL BE
10 LAWFUL FOR A CERTIFIED PATIENT TO POSSESS THE MARIHUANA PRODUCED BY AND
11 HARVESTED FROM THE PLANTS POSSESSED BY THE CERTIFIED PATIENT OR THE
12 PATIENT'S DESIGNATED CAREGIVER UNDER THIS SUBDIVISION. A DESIGNATED
13 CAREGIVER MAY MANUFACTURE AND POSSESS THE QUANTITIES REFERRED TO IN THIS
14 SUBDIVISION FOR EACH CERTIFIED PATIENT UNDER THIS SUBDIVISION FOR WHOM
15 THE CAREGIVER POSSESSES A VALID REGISTRY IDENTIFICATION CARD OR HARDSHIP
16 REGISTRATION, AS THE CASE MAY BE, UP TO THREE CERTIFIED PATIENTS.

17 3. NOTWITHSTANDING SUBDIVISION ONE OR TWO OF THIS SECTION: (A)
18 POSSESSION OR MANUFACTURE OF MARIHUANA SHALL NOT BE LAWFUL UNDER THIS
19 TITLE IF IT IS CONSUMED, GROWN OR DISPLAYED IN A PUBLIC PLACE; (B)
20 MEDICAL MARIHUANA MAY NOT BE SMOKED IN ANY PLACE WHERE TOBACCO MAY NOT
21 BE SMOKED UNDER ARTICLE THIRTEEN-E OF THIS CHAPTER; (C) EXCEPT THAT IN A
22 HEALTH CARE FACILITY, MEDICAL MARIHUANA MAY BE SMOKED BY A PATIENT OF
23 THE FACILITY, SUBJECT TO OTHER PROVISIONS OF THIS TITLE, IN AN AREA, AND
24 UNDER CIRCUMSTANCES, PERMITTED BY THE FACILITY, PROVIDED THAT THE
25 PATIENT DOES NOT SMOKE IN THE PRESENCE OF PATIENTS WHO ARE NOT CERTIFIED
26 UNDER THIS TITLE.

27 4. IT SHALL BE LAWFUL UNDER THIS ARTICLE TO GIVE OR DISPOSE OF MARI-
28 HUANA, OBTAINED UNDER THIS TITLE, FOR CERTIFIED MEDICAL USE, BETWEEN
29 CERTIFIED PATIENTS AND OTHER CERTIFIED PATIENTS, AND BETWEEN A DESIG-
30 NATED CAREGIVER AND THE DESIGNATED CAREGIVER'S CERTIFIED PATIENT WHERE
31 NOTHING OF VALUE IS TRANSFERRED IN RETURN, OR TO OFFER TO DO THE SAME.
32 THIS PROHIBITION ON TRANSFERRING OR OFFERING TO TRANSFER A THING OF
33 VALUE SHALL NOT (A) APPLY TO SALE OF MEDICAL MARIHUANA TO OR BY A REGIS-
34 TERED ORGANIZATION UNDER THIS ARTICLE; NOR (B) PREVENT A DESIGNATED
35 CAREGIVER FROM BEING REIMBURSED FOR REASONABLE COSTS OR ACTIVITIES
36 RELATING TO CARING FOR A CERTIFIED PATIENT, INCLUDING, BUT NOT LIMITED
37 TO, REIMBURSEMENT FOR LEGITIMATE EXPENSES RELATING TO THE MANUFACTURE OF
38 MEDICAL MARIHUANA OR THE PURCHASE OF MEDICAL MARIHUANA FROM A REGISTERED
39 ORGANIZATION UNDER SECTION THIRTY-THREE HUNDRED SIXTY-SIX OF THIS TITLE.

40 S 3363. REGISTRY IDENTIFICATION CARDS AND HARDSHIP REGISTRATIONS. 1.
41 THE DEPARTMENT SHALL ISSUE REGISTRY IDENTIFICATION CARDS AND HARDSHIP
42 REGISTRATIONS FOR CERTIFIED PATIENTS AND DESIGNATED CAREGIVERS. A REGIS-
43 TRY IDENTIFICATION CARD AND HARDSHIP REGISTRATION SHALL EXPIRE AS
44 PROVIDED IN SECTION THIRTY-THREE HUNDRED SIXTY-ONE OF THIS TITLE OR AS
45 OTHERWISE PROVIDED IN THIS SECTION. THE DEPARTMENT SHALL BEGIN ISSUING
46 REGISTRY IDENTIFICATION CARDS AND HARDSHIP REGISTRATIONS NO LATER THAN
47 ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION. THE DEPARTMENT MAY
48 SPECIFY A FORM FOR A REGISTRY OR HARDSHIP APPLICATION, IN WHICH CASE THE
49 DEPARTMENT SHALL PROVIDE THE FORM ON REQUEST, REPRODUCTIONS OF THE FORM
50 MAY BE USED, AND THE FORM SHALL BE AVAILABLE FOR DOWNLOADING FROM THE
51 DEPARTMENT'S WEBSITE.

52 2. TO OBTAIN OR RENEW A REGISTRY IDENTIFICATION CARD, A CERTIFIED
53 PATIENT SHALL FILE A REGISTRY APPLICATION WITH THE DEPARTMENT. THE
54 REGISTRY APPLICATION OR RENEWAL APPLICATION SHALL INCLUDE:

55 (A) THE ORIGINAL PATIENT'S CERTIFICATION (A NEW WRITTEN CERTIFICATION
56 SHALL BE PROVIDED WITH A RENEWAL APPLICATION);

(B) (I) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE PATIENT; (II) THE DATE OF THE CERTIFICATION; (III) IF THE PATIENT HAS A REGISTRY IDENTIFICATION CARD BASED ON A CURRENT VALID CERTIFICATION, THE REGISTRY IDENTIFICATION NUMBER AND EXPIRATION DATE OF THAT REGISTRY IDENTIFICATION CARD; (IV) THE SPECIFIED DATE UNTIL WHICH THE PATIENT WOULD BENEFIT FROM MEDICAL MARIHUANA, IF THE CERTIFICATION STATES SUCH A DATE; (V) THE NAME, ADDRESS, FEDERAL REGISTRATION NUMBER, AND TELEPHONE NUMBER OF THE CERTIFYING PRACTITIONER; AND (VI) OTHER INDIVIDUAL IDENTIFYING INFORMATION REQUIRED BY THE DEPARTMENT;

(C) IF THE PATIENT DESIGNATES A DESIGNATED CAREGIVER, THE NAME, ADDRESS, AND DATE OF BIRTH OF THE DESIGNATED CAREGIVER, AND OTHER INDIVIDUAL IDENTIFYING INFORMATION REQUIRED BY THE DEPARTMENT; A CERTIFIED PATIENT MAY DESIGNATE UP TO TWO DESIGNATED CAREGIVERS;

(D) A STATEMENT THAT A FALSE STATEMENT MADE IN THE APPLICATION IS PUNISHABLE UNDER SECTION 210.45 OF THE PENAL LAW;

(E) THE DATE OF THE APPLICATION AND THE SIGNATURE OF THE CERTIFIED PATIENT; AND

(F) A REASONABLE APPLICATION FEE, AS DETERMINED BY THE DEPARTMENT; PROVIDED, THAT THE DEPARTMENT MAY WAIVE OR REDUCE THE FEE IN CASES OF FINANCIAL HARDSHIP.

3. WHERE A CERTIFIED PATIENT IS UNDER THE AGE OF EIGHTEEN:

(A) THE APPLICATION FOR A REGISTRY IDENTIFICATION CARD SHALL BE MADE BY AN APPROPRIATE PERSON OVER TWENTY-ONE YEARS OF AGE. THE APPLICATION SHALL STATE FACTS DEMONSTRATING THAT THE PERSON IS APPROPRIATE.

(B) THE DESIGNATED CAREGIVER SHALL BE (I) A PARENT OR LEGAL GUARDIAN OF THE CERTIFIED PATIENT, (II) A PERSON DESIGNATED BY A PARENT OR LEGAL GUARDIAN, OR (III) AN APPROPRIATE PERSON APPROVED BY THE DEPARTMENT UPON A SUFFICIENT SHOWING THAT NO PARENT OR LEGAL GUARDIAN IS APPROPRIATE OR AVAILABLE.

4. NO PERSON MAY BE A DESIGNATED CAREGIVER IF THE PERSON IS UNDER TWENTY-ONE YEARS OF AGE UNLESS A SUFFICIENT SHOWING IS MADE TO THE DEPARTMENT THAT THE PERSON SHOULD BE PERMITTED TO SERVE AS A DESIGNATED CAREGIVER.

5. NO PERSON MAY BE A DESIGNATED CAREGIVER FOR MORE THAN FIVE CERTIFIED PATIENTS AT ONE TIME. A DESIGNATED CAREGIVER SHALL CARRY A SEPARATE REGISTRY IDENTIFICATION CARD FOR EACH CERTIFIED PATIENT FOR WHOM HE OR SHE IS A DESIGNATED CAREGIVER. EACH REGISTRY IDENTIFICATION CARD SHALL CONTAIN THE SAME REGISTRY IDENTIFICATION NUMBER SPECIFIED IN THIS SECTION.

6. THE DEPARTMENT SHALL ISSUE SEPARATE REGISTRY IDENTIFICATION CARDS FOR THE CERTIFIED PATIENT AND THE DESIGNATED CAREGIVER (IF ONE IS DESIGNATED IN THE REGISTRY APPLICATION) WITHIN THIRTY DAYS OF RECEIVING A COMPLETE APPLICATION UNDER THIS SECTION, UNLESS IT DETERMINES THAT THE APPLICATION IS INCOMPLETE OR FACIALLY INACCURATE, IN WHICH CASE IT SHALL PROMPTLY NOTIFY THE APPLICANT.

7. IF THE DEPARTMENT DOES NOT APPROVE THE DESIGNATION OF AN INDIVIDUAL AS A DESIGNATED CAREGIVER, THAT SHALL NOT AFFECT THE APPROVAL OF THE APPLICATION AS TO THE CERTIFIED PATIENT.

8. A REGISTRY IDENTIFICATION CARD SHALL CONTAIN:

(A) THE NAME OF THE CERTIFIED PATIENT AND THE DESIGNATED CAREGIVER (IF ONE IS DESIGNATED IN THE REGISTRY APPLICATION);

(B) THE DATE OF ISSUANCE AND EXPIRATION DATE OF THE REGISTRY IDENTIFICATION CARD;

(C) A REGISTRY IDENTIFICATION NUMBER FOR THE CERTIFIED PATIENT AND A REGISTRY IDENTIFICATION NUMBER FOR THE DESIGNATED CAREGIVER (IF ONE IS DESIGNATED IN THE REGISTRY APPLICATION); AND

(D) A PHOTOGRAPH OF THE INDIVIDUAL TO WHOM THE REGISTRY IDENTIFICATION CARD IS BEING ISSUED, WHICH SHALL BE OBTAINED BY THE DEPARTMENT IN A MANNER SPECIFIED BY THE COMMISSIONER IN REGULATIONS; PROVIDED, HOWEVER, THAT IF THE DEPARTMENT REQUIRED CERTIFIED PATIENTS TO SUBMIT PHOTOGRAPHS FOR THIS PURPOSE, THERE SHALL BE A REASONABLE ACCOMMODATION OF CERTIFIED PATIENTS WHO ARE CONFINED TO THEIR HOMES DUE TO THEIR MEDICAL CONDITIONS AND MAY THEREFORE HAVE DIFFICULTY PROCURING PHOTOGRAPHS.

9. THE DEPARTMENT SHALL ISSUE HARDSHIP REGISTRATIONS TO CERTIFIED PATIENTS AND THEIR DESIGNATED CAREGIVERS IN CIRCUMSTANCES WHERE IT PRESENTS A SIGNIFICANT HARDSHIP FOR THE CERTIFIED PATIENT TO OBTAIN MARIHUANA FROM A REGISTERED ORGANIZATION, INCLUDING, BUT NOT LIMITED TO, FINANCIAL HARDSHIP, PHYSICAL DISABILITY, OR INABILITY TO OBTAIN REASONABLE TRANSPORTATION. A HARDSHIP REGISTRATION SHALL ALLOW THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER TO MANUFACTURE MARIHUANA PURSUANT TO THE LIMITATIONS SET FORTH IN SECTION THIRTY-THREE HUNDRED SIXTY-TWO OF THIS TITLE. THE PROCEDURE FOR OBTAINING AND RENEWING A HARDSHIP REGISTRATION SHALL BE THE SAME AS FOR A REGISTRY IDENTIFICATION CARD, PROVIDED THAT THE APPLICATION SHALL STATE FACTS ESTABLISHING THE SIGNIFICANT HARDSHIP UNDER THIS SUBDIVISION.

10. A CERTIFIED PATIENT OR DESIGNATED CAREGIVER WHO HAS BEEN ISSUED A REGISTRY IDENTIFICATION OR HARDSHIP REGISTRATION CARD SHALL NOTIFY THE DEPARTMENT OF ANY CHANGE IN HIS OR HER NAME OR ADDRESS OR, WITH RESPECT TO THE PATIENT, OR IF HE OR SHE CEASES TO HAVE THE SERIOUS CONDITION NOTED ON THE CERTIFICATION, OR, IN THE CASE OF A HARDSHIP REGISTRATION, THEN CEASES TO BE A SIGNIFICANT HARDSHIP, WITHIN TEN DAYS OF SUCH CHANGE.

11. IF A CERTIFIED PATIENT OR DESIGNATED CAREGIVER LOSES HIS OR HER REGISTRY IDENTIFICATION CARD OR HARDSHIP REGISTRATION, HE OR SHE SHALL NOTIFY THE DEPARTMENT AND SUBMIT A TEN DOLLAR FEE WITHIN TEN DAYS OF LOSING THE CARD OR HARDSHIP REGISTRATION TO MAINTAIN THE REGISTRATION. THE DEPARTMENT MAY ESTABLISH HIGHER FEES FOR ISSUING A NEW REGISTRY IDENTIFICATION OR HARDSHIP REGISTRATION CARD FOR SECOND AND SUBSEQUENT REPLACEMENTS FOR A LOST CARD OR HARDSHIP REGISTRATION, PROVIDED, THAT THE DEPARTMENT MAY WAIVE OR REDUCE THE FEE IN CASES OF FINANCIAL HARDSHIP. WITHIN FIVE DAYS AFTER SUCH NOTIFICATION AND PAYMENT, THE DEPARTMENT SHALL ISSUE A NEW REGISTRY IDENTIFICATION CARD OR HARDSHIP REGISTRATION, WHICH MAY CONTAIN A NEW REGISTRY IDENTIFICATION NUMBER, TO THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER, AS THE CASE MAY BE.

12. THE DEPARTMENT SHALL MAINTAIN A CONFIDENTIAL LIST OF THE PERSONS TO WHOM IT HAS ISSUED REGISTRY IDENTIFICATION CARDS AND HARDSHIP REGISTRATIONS. INDIVIDUAL IDENTIFYING INFORMATION OBTAINED BY THE DEPARTMENT UNDER THIS TITLE SHALL BE CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW. NOTWITHSTANDING THIS SUBDIVISION, THE DEPARTMENT MAY NOTIFY ANY APPROPRIATE LAW ENFORCEMENT AGENCY OF INFORMATION RELATING TO ANY VIOLATION OR SUSPECTED VIOLATION OF THIS TITLE.

13. THE DEPARTMENT SHALL VERIFY TO LAW ENFORCEMENT PERSONNEL IN AN APPROPRIATE CASE WHETHER A REGISTRY IDENTIFICATION CARD OR HARDSHIP REGISTRATION IS VALID.

14. IF A CERTIFIED PATIENT OR DESIGNATED CAREGIVER WILLFULLY VIOLATES ANY PROVISION OF THIS TITLE AS DETERMINED BY THE DEPARTMENT, HIS OR HER REGISTRY IDENTIFICATION CARD MAY BE REVOKED. THIS IS IN ADDITION TO ANY OTHER PENALTY THAT MAY APPLY.

15. (A) REGISTRY IMPLEMENTATION DATE. AS USED IN THIS SUBDIVISION, THE "REGISTRY IMPLEMENTATION DATE" IS THE DATE DETERMINED BY THE COMMISSION-

ER WHEN THE DEPARTMENT IS READY TO RECEIVE AND EXPEDITIOUSLY ACT ON APPLICATIONS FOR REGISTRY IDENTIFICATION CARDS UNDER THIS SECTION.

(B) ON AND AFTER THE REGISTRY IMPLEMENTATION DATE, UPON RECEIPT OF AN APPLICATION FOR A REGISTRY IDENTIFICATION CARD, THE DEPARTMENT SHALL SEND TO THE APPLICANT A LETTER ACKNOWLEDGING SUCH RECEIPT. WHILE THE APPLICATION FOR A REGISTRY IDENTIFICATION CARD IS PENDING, A COPY OF THE REGISTRY APPLICATION, TOGETHER WITH A COPY OF THE CERTIFICATION AND A COPY OF THE LETTER OF RECEIPT FROM THE DEPARTMENT, SHALL SERVE AS AND HAVE THE SAME EFFECT AS A REGISTRY IDENTIFICATION CARD FOR THE CERTIFIED PATIENT AND DESIGNATED CAREGIVER IF ANY, PROVIDED THAT A CERTIFICATION AND APPLICATION SHALL NOT SERVE AS A VALID REGISTRY IDENTIFICATION CARD AFTER THE INITIAL THIRTY DAY PERIOD UNDER SUBDIVISION SIX OF THIS SECTION. THIS PARAGRAPH SHALL EXPIRE AND HAVE NO EFFECT ONE YEAR AFTER THE REGISTRY IMPLEMENTATION DATE.

16. IF THE DEPARTMENT FAILS TO BEGIN ISSUING REGISTRY IDENTIFICATION CARDS OR HARDSHIP REGISTRATIONS NO LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, A PATIENT'S CERTIFICATION SHALL SERVE AS THE REGISTRY IDENTIFICATION CARD AND HARDSHIP REGISTRATION FOR BOTH THE PATIENT AND THE PATIENT'S DESIGNATED CAREGIVER.

S 3364. REGISTERED ORGANIZATIONS. 1. A REGISTERED ORGANIZATION SHALL BE:

- (A) A PHARMACY;
- (B) A FACILITY LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER;
- (C) A NOT-FOR-PROFIT CORPORATION ORGANIZED FOR THE PURPOSE OF ACQUIRING, POSSESSING, MANUFACTURING, SELLING, DELIVERING, TRANSPORTING OR DISTRIBUTING MARIHUANA FOR CERTIFIED MEDICAL USE; OR
- (D) A REGISTERED PRODUCER, WHICH SHALL BE A PERSON OR ENTITY, WITH APPROPRIATE EXPERTISE IN AGRICULTURE, REGISTERED FOR THE PURPOSE OF ACQUIRING OR MANUFACTURING MARIHUANA AND SELLING, DELIVERING, TRANSPORTING, OR DISTRIBUTING IT TO ANOTHER REGISTERED ORGANIZATION; A CERTIFIED PRODUCER SHALL NOT SELL, DELIVER OR DISTRIBUTE MARIHUANA TO A CERTIFIED PATIENT OR DESIGNATED CAREGIVER FOR THAT PERSON'S USE.

2. THE ACQUIRING, POSSESSION, MANUFACTURE, SALE, DELIVERY, TRANSPORTING OR DISTRIBUTING OF MARIHUANA BY A REGISTERED ORGANIZATION UNDER THIS TITLE IN ACCORDANCE WITH ITS REGISTRATION UNDER SECTION THIRTY-THREE HUNDRED SIXTY-FIVE OF THIS TITLE OR A RENEWAL THEREOF SHALL BE LAWFUL UNDER THIS TITLE.

3. A REGISTERED ORGANIZATION (OTHER THAN A REGISTERED PRODUCER) MAY LAWFULLY, IN GOOD FAITH, SELL, DELIVER OR DISTRIBUTE MEDICAL MARIHUANA TO A CERTIFIED PATIENT OR DESIGNATED CAREGIVER UPON PRESENTATION TO THE REGISTERED ORGANIZATION OF A VALID REGISTRY IDENTIFICATION CARD FOR THAT CERTIFIED PATIENT OR DESIGNATED CAREGIVER. WHEN PRESENTED WITH THE REGISTRY IDENTIFICATION CARD, THE REGISTERED ORGANIZATION SHALL PROVIDE TO THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER A RECEIPT, WHICH SHALL STATE: THE NAME, ADDRESS, AND REGISTRY IDENTIFICATION NUMBER OF THE REGISTERED ORGANIZATION; THE REGISTRY IDENTIFICATION NUMBER OF THE CERTIFIED PATIENT AND THE DESIGNATED CAREGIVER (IF ANY); AND THE QUANTITY OF MARIHUANA SOLD. THE REGISTERED ORGANIZATION SHALL RETAIN A COPY OF THE REGISTRY IDENTIFICATION CARD AND THE RECEIPT FOR ONE YEAR.

4. NO REGISTERED ORGANIZATION MAY SELL, DELIVER OR DISTRIBUTE TO ANY CERTIFIED PATIENT OR DESIGNATED CAREGIVER A QUANTITY OF MEDICAL MARIHUANA LARGER THAN THAT INDIVIDUAL WOULD BE ALLOWED TO POSSESS UNDER THIS TITLE.

5. WHEN A REGISTERED ORGANIZATION SELLS, DELIVERS OR DISTRIBUTES MEDICAL MARIHUANA TO A CERTIFIED PATIENT OR DESIGNATED CAREGIVER, IT SHALL PROVIDE TO THAT INDIVIDUAL A SAFETY INSERT, WHICH WILL BE DEVELOP-

1 OPED AND APPROVED BY THE COMMISSIONER AND INCLUDE, BUT NOT BE LIMITED
2 TO, INFORMATION ON: (A) METHODS FOR ADMINISTERING MEDICAL MARIHUANA, (B)
3 ANY POTENTIAL DANGERS STEMMING FROM THE USE OF MEDICAL MARIHUANA, AND
4 (C) HOW TO RECOGNIZE WHAT MAY BE PROBLEMATIC USAGE OF MEDICAL MARIHUANA
5 AND OBTAIN APPROPRIATE SERVICES OR TREATMENT FOR PROBLEMATIC USAGE.

6 S 3365. REGISTERING OF REGISTERED ORGANIZATIONS. 1. APPLICATION FOR
7 INITIAL REGISTRATION. (A) AN APPLICANT FOR REGISTRATION AS A REGISTERED
8 ORGANIZATION UNDER SECTION THIRTY-THREE HUNDRED SIXTY-FOUR OF THIS TITLE
9 SHALL FURNISH TO THE DEPARTMENT A DESCRIPTION OF THE ACTIVITIES IN WHICH
10 IT INTENDS TO ENGAGE AS A REGISTERED ORGANIZATION AND ANY INFORMATION
11 THE DEPARTMENT SHALL REASONABLY REQUIRE AND EVIDENCE THAT THE APPLICANT:

12 (I) AND ITS MANAGING OFFICERS ARE OF GOOD MORAL CHARACTER;

13 (II) POSSESSES OR HAS THE RIGHT TO USE SUFFICIENT LAND, BUILDINGS AND
14 EQUIPMENT TO PROPERLY CARRY ON THE ACTIVITY DESCRIBED IN THE APPLICA-
15 TION;

16 (III) IS ABLE TO MAINTAIN EFFECTIVE CONTROL AGAINST DIVERSION OF THE
17 MARIHUANA; AND

18 (IV) IS ABLE TO COMPLY WITH ALL APPLICABLE STATE LAWS AND REGULATIONS
19 RELATING TO THE ACTIVITIES IN WHICH IT INTENDS TO ENGAGE UNDER THE
20 REGISTRATION.

21 (B) THE APPLICATION SHALL ESTABLISH THE APPLICANT'S STATUS UNDER PARA-
22 GRAPH (A), (B), (C) OR (D) OF SUBDIVISION ONE OF SECTION THIRTY-THREE
23 HUNDRED SIXTY-FOUR OF THIS TITLE, OR ITS INTENTION TO QUALIFY UNDER
24 PARAGRAPH (C) OR (D) OF SUBDIVISION ONE OF SECTION THIRTY-THREE HUNDRED
25 SIXTY-FOUR OF THIS TITLE.

26 (C) THE APPLICATION SHALL INCLUDE THE NAME, RESIDENCE ADDRESS AND
27 TITLE OF EACH OF THE OFFICERS AND DIRECTORS AND THE NAME AND RESIDENCE
28 ADDRESS OF ANY PERSON OR ENTITY THAT IS A MEMBER OF THE APPLICANT. EACH
29 SUCH PERSON, IF AN INDIVIDUAL, OR LAWFUL REPRESENTATIVE IF A LEGAL ENTI-
30 TY, SHALL SUBMIT AN AFFIDAVIT WITH THE APPLICATION SETTING FORTH:

31 (I) ANY POSITION OF MANAGEMENT OR OWNERSHIP DURING THE PRECEDING TEN
32 YEARS OF A TEN PER CENTUM OR GREATER INTEREST IN ANY OTHER BUSINESS,
33 LOCATED IN OR OUTSIDE THIS STATE, MANUFACTURING OR DISTRIBUTING DRUGS;

34 (II) WHETHER SUCH PERSON OR ANY SUCH BUSINESS HAS BEEN CONVICTED,
35 FINED, CENSURED OR HAD A REGISTRATION SUSPENDED OR REVOKED IN ANY ADMIN-
36 ISTRATIVE OR JUDICIAL PROCEEDING RELATING TO OR ARISING OUT OF THE MANU-
37 FACTURE, DISTRIBUTION, SALE, OR POSSESSION OF DRUGS; AND

38 (III) SUCH OTHER INFORMATION AS THE COMMISSIONER MAY REASONABLY
39 REQUIRE.

40 (D) THE APPLICANT SHALL BE UNDER A CONTINUING DUTY TO REPORT TO THE
41 DEPARTMENT ANY CHANGE IN FACTS OR CIRCUMSTANCES REFLECTED IN THE APPLI-
42 CATION OR ANY NEWLY DISCOVERED OR OCCURRING FACT OR CIRCUMSTANCE WHICH
43 IS REQUIRED TO BE INCLUDED IN THE APPLICATION.

44 2. GRANTING OF REGISTRATION. (A) THE COMMISSIONER SHALL GRANT A REGIS-
45 TRATION OR AMENDMENT TO A REGISTRATION UNDER THIS SECTION IF HE OR SHE
46 IS SATISFIED THAT:

47 (I) THE APPLICANT WILL BE ABLE TO MAINTAIN EFFECTIVE CONTROL AGAINST
48 DIVERSION OF MARIHUANA;

49 (II) THE APPLICANT WILL BE ABLE TO COMPLY WITH ALL APPLICABLE STATE
50 LAWS;

51 (III) THE APPLICANT AND ITS OFFICERS ARE READY, WILLING AND ABLE TO
52 PROPERLY CARRY ON THE MANUFACTURING OR DISTRIBUTING ACTIVITY FOR WHICH A
53 REGISTRATION IS SOUGHT;

54 (IV) THE APPLICANT POSSESSES OR HAS THE RIGHT TO USE SUFFICIENT LAND,
55 BUILDINGS AND EQUIPMENT TO PROPERLY CARRY ON THE ACTIVITY DESCRIBED IN
56 THE APPLICATION;

(V) IT IS IN THE PUBLIC INTEREST THAT SUCH REGISTRATION BE GRANTED; IN THE CASE OF AN APPLICANT UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-THREE HUNDRED SIXTY-FOUR OF THIS TITLE, THE COMMISSIONER MAY CONSIDER WHETHER THE NUMBER OF REGISTERED ORGANIZATIONS IN AN AREA WILL BE ADEQUATE OR EXCESSIVE TO REASONABLY SERVE THE AREA; AND

(VI) THE APPLICANT AND ITS MANAGING OFFICERS ARE OF GOOD MORAL CHARACTER.

(B) IF THE COMMISSIONER IS NOT SATISFIED THAT THE APPLICANT SHOULD BE ISSUED A REGISTRATION, HE OR SHE SHALL NOTIFY THE APPLICANT IN WRITING OF THOSE FACTORS UPON WHICH FURTHER EVIDENCE IS REQUIRED. WITHIN THIRTY DAYS OF THE RECEIPT OF SUCH NOTIFICATION, THE APPLICANT MAY SUBMIT ADDITIONAL MATERIAL TO THE COMMISSIONER OR DEMAND A HEARING, OR BOTH.

(C) THE FEE FOR A REGISTRATION UNDER THIS SECTION SHALL BE A REASONABLE AMOUNT DETERMINED BY THE DEPARTMENT IN REGULATIONS; PROVIDED HOWEVER, IF THE REGISTRATION IS ISSUED FOR A PERIOD GREATER THAN TWO YEARS THE FEE SHALL BE INCREASED, PRO RATA, FOR EACH ADDITIONAL MONTH OF VALIDITY.

(D) REGISTRATIONS ISSUED UNDER THIS SECTION SHALL BE EFFECTIVE ONLY FOR AND SHALL SPECIFY:

(I) THE NAME AND ADDRESS OF THE REGISTERED ORGANIZATION; AND

(II) WHICH ACTIVITIES OF A REGISTERED ORGANIZATION ARE PERMITTED BY THE REGISTRATION.

(E) UPON APPLICATION OF A REGISTERED ORGANIZATION, A REGISTRATION MAY BE AMENDED TO ALLOW THE REGISTERED ORGANIZATION TO RELOCATE WITHIN THE STATE OR TO ADD OR DELETE PERMITTED REGISTERED ORGANIZATION ACTIVITIES. THE FEE FOR SUCH AMENDMENT SHALL BE TWO HUNDRED FIFTY DOLLARS.

3. A REGISTRATION ISSUED UNDER THIS SECTION SHALL BE VALID FOR TWO YEARS FROM THE DATE OF ISSUE, EXCEPT THAT IN ORDER TO FACILITATE THE RENEWALS OF SUCH REGISTRATIONS, THE COMMISSIONER MAY UPON THE INITIAL APPLICATION FOR A REGISTRATION, ISSUE SOME REGISTRATIONS WHICH MAY REMAIN VALID FOR A PERIOD OF TIME GREATER THAN TWO YEARS BUT NOT EXCEEDING AN ADDITIONAL ELEVEN MONTHS.

4. APPLICATIONS FOR RENEWAL OF REGISTRATIONS. (A) AN APPLICATION FOR THE RENEWAL OF ANY REGISTRATION ISSUED UNDER THIS SECTION SHALL BE FILED WITH THE DEPARTMENT NOT MORE THAN SIX MONTHS NOR LESS THAN FOUR MONTHS PRIOR TO THE EXPIRATION THEREOF. A LATE-FILED APPLICATION FOR THE RENEWAL OF A REGISTRATION MAY, IN THE DISCRETION OF THE COMMISSIONER, BE TREATED AS AN APPLICATION FOR AN INITIAL LICENSE.

(B) THE APPLICATION FOR RENEWAL SHALL INCLUDE SUCH INFORMATION PREPARED IN THE MANNER AND DETAIL AS THE COMMISSIONER MAY REQUIRE, INCLUDING BUT NOT LIMITED TO:

(I) ANY MATERIAL CHANGE IN THE CIRCUMSTANCES OR FACTORS LISTED IN SUBDIVISION ONE OF THIS SECTION; AND

(II) EVERY KNOWN CHARGE OR INVESTIGATION, PENDING OR CONCLUDED DURING THE PERIOD OF THE REGISTRATION, BY ANY GOVERNMENTAL AGENCY WITH RESPECT TO:

(A) EACH INCIDENT OR ALLEGED INCIDENT INVOLVING THE THEFT, LOSS, OR POSSIBLE DIVERSION OF MARIHUANA MANUFACTURED OR DISTRIBUTED BY THE APPLICANT; AND

(B) COMPLIANCE BY THE APPLICANT WITH THE LAWS OF THE STATE WITH RESPECT TO ANY SUBSTANCE LISTED IN SECTION THIRTY-THREE HUNDRED SIX OF THIS ARTICLE.

(C) AN APPLICANT FOR RENEWAL SHALL BE UNDER A CONTINUING DUTY TO REPORT TO THE DEPARTMENT ANY CHANGE IN FACTS OR CIRCUMSTANCES REFLECTED IN THE APPLICATION OR ANY NEWLY DISCOVERED OR OCCURRING FACT OR CIRCUMSTANCE WHICH IS REQUIRED TO BE INCLUDED IN THE APPLICATION.

(D) IF THE COMMISSIONER IS NOT SATISFIED THAT THE APPLICANT IS ENTITLED TO A RENEWAL OF THE REGISTRATION, HE OR SHE SHALL WITHIN FORTY-FIVE DAYS AFTER THE FILING OF THE APPLICATION SERVE UPON THE APPLICANT OR HIS OR HER ATTORNEY OF RECORD IN PERSON OR BY REGISTERED OR CERTIFIED MAIL AN ORDER DIRECTING THE APPLICANT TO SHOW CAUSE WHY HIS OR HER APPLICATION FOR RENEWAL SHOULD NOT BE DENIED. THE ORDER SHALL SPECIFY IN DETAIL THE RESPECTS IN WHICH THE APPLICANT HAS NOT SATISFIED THE COMMISSIONER THAT THE REGISTRATION SHOULD BE RENEWED.

(E) WITHIN THIRTY DAYS OF SERVICE OF SUCH ORDER, THE APPLICANT MAY SUBMIT ADDITIONAL MATERIAL TO THE COMMISSIONER OR DEMAND A HEARING OR BOTH. IF A HEARING IS DEMANDED THE COMMISSIONER SHALL FIX A DATE FOR HEARING NOT SOONER THAN FIFTEEN DAYS NOR LATER THAN THIRTY DAYS AFTER RECEIPT OF THE DEMAND, UNLESS SUCH TIME LIMITATION IS WAIVED BY THE APPLICANT.

5. GRANTING OF RENEWAL OF REGISTRATIONS. (A) THE COMMISSIONER SHALL RENEW A REGISTRATION UNLESS HE OR SHE DETERMINES AND FINDS THAT THE APPLICANT:

(I) IS UNLIKELY TO MAINTAIN OR BE ABLE TO MAINTAIN EFFECTIVE CONTROL AGAINST DIVERSION; OR

(II) IS UNLIKELY TO COMPLY WITH ALL STATE LAWS APPLICABLE TO THE ACTIVITIES IN WHICH IT MAY ENGAGE UNDER THE REGISTRATION; OR

(III) IS AN APPLICANT UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-THREE HUNDRED SIXTY-FOUR OF THIS TITLE, IN WHICH CASE THE COMMISSIONER MAY CONSIDER WHETHER THE NUMBER OF REGISTERED ORGANIZATIONS IN AN AREA IS ADEQUATE OR EXCESSIVE TO REASONABLY SERVE THE AREA.

(B) FOR PURPOSES OF THIS SECTION, PROOF THAT A REGISTERED ORGANIZATION, DURING THE PERIOD OF ITS REGISTRATION, HAS FAILED TO MAINTAIN EFFECTIVE CONTROL AGAINST DIVERSION OR HAS KNOWINGLY OR NEGLIGENTLY FAILED TO COMPLY WITH APPLICABLE STATE LAWS RELATING TO THE ACTIVITIES IN WHICH IT ENGAGES UNDER THE REGISTRATION, SHALL CONSTITUTE SUBSTANTIAL EVIDENCE THAT THE APPLICANT WILL BE UNLIKELY TO MAINTAIN EFFECTIVE CONTROL AGAINST DIVERSION OR WILL BE UNLIKELY TO COMPLY WITH THE APPLICABLE STATE STATUTES DURING THE PERIOD OF PROPOSED RENEWAL.

6. THE DEPARTMENT MAY SUSPEND OR TERMINATE THE REGISTRATION OF A REGISTERED ORGANIZATION, ON GROUNDS AND USING PROCEDURES UNDER THIS ARTICLE RELATING TO A LICENSE, TO THE EXTENT CONSISTENT WITH THIS TITLE. CONDUCT IN COMPLIANCE WITH THIS TITLE, BUT WHICH MAY VIOLATE CONFLICTING FEDERAL LAW, SHALL NOT BE GROUNDS TO SUSPEND OR TERMINATE A REGISTRATION.

7. A REGISTERED ORGANIZATION IS ENTITLED TO ALL OF THE RIGHTS, PROTECTIONS, AND PROCEDURES PROVIDED TO A LICENSEE UNDER THIS ARTICLE.

8. THE DEPARTMENT SHALL BEGIN ISSUING REGISTRATIONS FOR REGISTERED ORGANIZATIONS NO LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION.

S 3366. REPORTS BY REGISTERED ORGANIZATIONS. 1. THE COMMISSIONER SHALL, BY REGULATION, REQUIRE EACH REGISTERED ORGANIZATION THAT SELLS, DELIVERS OR DISTRIBUTES MEDICAL MARIHUANA TO A CERTIFIED PATIENT OR DESIGNATED CAREGIVER TO FILE REPORTS OF ALL SUCH SALES, DELIVERIES OR DISTRIBUTIONS BY THE REGISTERED ORGANIZATION DURING A PARTICULAR PERIOD, ON FORMS PROVIDED BY THE DEPARTMENT. REPORTS SHALL BE NOT MORE FREQUENTLY THAN EVERY SIX MONTHS. EACH REPORT SHALL INCLUDE FOR EACH SUCH SALE, DELIVERY OR DISTRIBUTION: THE DATE, THE QUANTITY SOLD, DELIVERED OR DISTRIBUTED; AND THE NAME, ADDRESS AND REGISTRY IDENTIFICATION NUMBER OF THE CERTIFIED PATIENT AND THE DESIGNATED CAREGIVER (IF ANY).

2. THE COMMISSIONER SHALL, BY REGULATION, REQUIRE EACH REGISTERED PRODUCER TO FILE REPORTS OF ALL SALES, DELIVERIES OR DISTRIBUTIONS OF

MEDICAL MARIHUANA BY THE REGISTERED PRODUCER DURING A PARTICULAR PERIOD, ON FORMS PROVIDED BY THE DEPARTMENT. REPORTS SHALL BE NOT MORE FREQUENTLY THAN EVERY MONTH. EACH REPORT SHALL INCLUDE FOR EACH SUCH SALE, DELIVERY OR DISTRIBUTION: THE DATE, THE QUANTITY SOLD, DELIVERED OR DISTRIBUTED; AND THE NAME AND ADDRESS OF THE REGISTERED ORGANIZATION TO WHICH THE SALE, DELIVERY OR DISTRIBUTION WAS MADE.

S 3367. EVALUATION; RESEARCH PROGRAMS; REPORT BY DEPARTMENT. 1. THE COMMISSIONER MAY PROVIDE FOR THE ANALYSIS AND EVALUATION OF THE OPERATION OF THIS TITLE. THE COMMISSIONER MAY ENTER INTO AGREEMENTS WITH ONE OR MORE PERSONS, NOT-FOR-PROFIT CORPORATIONS OR OTHER ORGANIZATIONS, FOR THE PERFORMANCE OF AN EVALUATION OF THE IMPLEMENTATION AND EFFECTIVENESS OF THIS TITLE.

2. THE DEPARTMENT MAY DEVELOP, SEEK ANY NECESSARY FEDERAL APPROVAL FOR, AND CARRY OUT RESEARCH PROGRAMS RELATING TO MEDICAL USE OF MARIHUANA. PARTICIPATION IN ANY SUCH RESEARCH PROGRAM SHALL BE VOLUNTARY ON THE PART OF PRACTITIONERS, PATIENTS, AND DESIGNATED CAREGIVERS.

3. THE DEPARTMENT SHALL REPORT EVERY TWO YEARS, BEGINNING TWO YEARS AFTER THE EFFECTIVE DATE OF THIS TITLE, TO THE GOVERNOR AND THE LEGISLATURE ON THE MEDICAL USE OF MARIHUANA UNDER THIS TITLE AND MAKE APPROPRIATE RECOMMENDATIONS.

S 3368. REGISTERED ORGANIZATION ASSESSMENTS. 1. EACH REGISTERED ORGANIZATION SHALL BE CHARGED AN ASSESSMENT IN THE AMOUNT OF SEVEN AND ONE-TENTH PERCENT OF ITS GROSS RECEIPTS RECEIVED FROM ALL MEDICAL MARIHUANA SOLD, DELIVERED OR DISTRIBUTED, LESS REFUNDS, ON A CASH BASIS. THE ASSESSMENT SHALL BE SUBMITTED BY OR ON BEHALF OF THE REGISTERED ORGANIZATION TO THE COMMISSIONER OR HIS OR HER DESIGNEE ON A SCHEDULE TO BE DETERMINED BY THE COMMISSIONER.

2. THE GROSS RECEIPTS TAX OWED BY A REGISTERED ORGANIZATION UNDER SECTION TWENTY-EIGHT HUNDRED SEVEN-D OF THIS CHAPTER, ATTRIBUTABLE TO THE SALE, DELIVERY OR DISTRIBUTION OF MEDICAL MARIHUANA UNDER THIS TITLE, SHALL BE DEDUCTIBLE BY THE REGISTERED ORGANIZATION FROM ANY GROSS RECEIPTS ASSESSMENT OWED BY IT UNDER THIS TITLE.

3. THE REGISTERED ORGANIZATION SHALL MAINTAIN THE DOCUMENTATION NECESSARY TO ESTABLISH WHAT AMOUNT IS OWED PURSUANT TO THIS SECTION AND SUCH RECORDS SHALL BE SUBJECT TO AUDIT BY THE COMMISSIONER OR HIS OR HER DESIGNEE.

S 3369. RELATION TO OTHER LAWS. 1. THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO THIS TITLE, EXCEPT THAT WHERE A PROVISION OF THIS TITLE CONFLICTS WITH ANOTHER PROVISION OF THIS ARTICLE, THIS TITLE SHALL APPLY.

2. NOTHING IN THIS TITLE SHALL BE CONSTRUED TO REQUIRE OR PROHIBIT AN INSURER OR HEALTH PLAN UNDER THIS CHAPTER OR THE INSURANCE LAW TO PROVIDE COVERAGE FOR MEDICAL MARIHUANA. NOTHING IN THIS TITLE SHALL BE CONSTRUED TO REQUIRE COVERAGE FOR MEDICAL MARIHUANA UNDER ARTICLE TWENTY-FIVE OF THIS CHAPTER OR ARTICLE FIVE OF THE SOCIAL SERVICES LAW.

3. A PERSON OR ENTITY SHALL NOT BE SUBJECT TO CRIMINAL OR CIVIL LIABILITY OR PROFESSIONAL DISCIPLINE FOR ACTING REASONABLY AND IN GOOD FAITH PURSUANT TO THIS TITLE.

S 3369-A. PROTECTIONS FOR THE MEDICAL USE OF MARIHUANA. 1. CERTIFIED PATIENTS, DESIGNATED CAREGIVERS, PRACTITIONERS, REGISTERED ORGANIZATIONS AND THE EMPLOYEES OF REGISTERED ORGANIZATIONS SHALL NOT BE SUBJECT TO ARREST, PROSECUTION, OR PENALTY IN ANY MANNER, OR DENIED ANY RIGHT OR PRIVILEGE, INCLUDING BUT NOT LIMITED TO CIVIL PENALTY OR DISCIPLINARY ACTION BY A BUSINESS OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU, SOLELY FOR THE CERTIFIED MEDICAL USE OR MANUFACTURE OF MARIHUANA, OR FOR ANY OTHER ACTION OR CONDUCT IN ACCORDANCE WITH THIS TITLE.

1 STATE OR LOCAL LAW ENFORCEMENT AGENCIES SHALL NOT COOPERATE WITH OR
2 PROVIDE ASSISTANCE TO THE GOVERNMENT OF THE UNITED STATES OR ANY AGENCY
3 THEREOF IN ENFORCING THE CONTROLLED SUBSTANCES ACT, 21 U.S.C. S 801 ET.
4 SEQ., SOLELY FOR ACTIONS AND CONDUCT CONSISTENT WITH THIS TITLE, EXCEPT
5 AS PURSUANT TO A VALID COURT ORDER.

6 2. AFFIRMATIVE DEFENSE. A PATIENT AND A PATIENT'S CAREGIVER WHO HAVE
7 FAILED TO OBTAIN A REGISTRY IDENTIFICATION CARD MAY ASSERT AN AFFIRMA-
8 TIVE DEFENSE TO ANY PROSECUTION UNDER STATE LAW FOR ACTIONS AND CONDUCT
9 THAT IS OTHERWISE CONSISTENT WITH THE CERTIFIED MEDICAL USE OF MARIHUANA
10 AS DEFINED UNDER THIS TITLE.

11 3. INCIDENTAL AMOUNT OF MARIHUANA. ANY INCIDENTAL AMOUNT OF SEEDS,
12 STALKS, AND UNUSABLE ROOTS SHALL NOT BE INCLUDED IN THE AMOUNTS SPECI-
13 FIED IN SUBDIVISIONS ONE AND TWO OF SECTION THIRTY-THREE HUNDRED SIXTY-
14 TWO OF THIS TITLE.

15 4. SCHOOL, EMPLOYER, OR LANDLORD MAY NOT DISCRIMINATE. A SCHOOL,
16 EMPLOYER, OR LANDLORD MAY NOT REFUSE TO ENROLL OR EMPLOY OR LEASE TO OR
17 OTHERWISE PENALIZE A PERSON SOLELY FOR THAT PERSON'S STATUS AS A CERTI-
18 FIED PATIENT OR DESIGNATED CAREGIVER UNLESS FAILING TO DO SO WOULD PUT
19 THE SCHOOL, EMPLOYER, OR LANDLORD IN VIOLATION OF FEDERAL LAW OR CAUSE
20 IT TO LOSE A FEDERAL CONTRACT OR FUNDING.

21 5. PERSON MAY NOT BE DENIED MEDICAL CARE, INCLUDING ORGAN TRANSPLANT.
22 FOR THE PURPOSES OF MEDICAL CARE, INCLUDING ORGAN TRANSPLANTS, A CERTI-
23 FIED PATIENT'S MEDICAL USE OF MARIHUANA SHALL NOT CONSTITUTE THE USE OF
24 AN ILLICIT SUBSTANCE AND MAY ONLY BE CONSIDERED WITH RESPECT TO EVIDENCE
25 BASED CLINICAL CRITERIA.

26 6. PERSON MAY NOT BE DENIED CUSTODY OR VISITATION OF MINOR. A PERSON
27 SHALL NOT BE DENIED CUSTODY OR VISITATION OF A MINOR FOR ACTING IN
28 ACCORDANCE WITH THIS TITLE UNLESS THE PERSON'S BEHAVIOR IS SUCH THAT IT
29 CREATES AN UNREASONABLE DANGER TO THE MINOR THAT CAN BE CLEARLY ARTIC-
30 ULATED AND SUBSTANTIATED.

31 7. EFFECT OF REGISTRY IDENTIFICATION CARD ISSUED BY ANOTHER JURISDIC-
32 TION. A REGISTRY IDENTIFICATION CARD, OR ITS EQUIVALENT, THAT IS ISSUED
33 UNDER THE LAWS OF ANOTHER STATE, DISTRICT, TERRITORY, COMMONWEALTH, OR
34 POSSESSION OF THE UNITED STATES THAT ALLOWS THE MEDICAL USE OF MARIHUANA
35 BY A VISITING CERTIFIED PATIENT FROM NEW YORK HAS THE SAME FORCE AND
36 EFFECT AS A REGISTRY IDENTIFICATION CARD ISSUED BY THE DEPARTMENT, SO
37 LONG AS THE VISITING PATIENT'S SERIOUS CONDITION WOULD QUALIFY FOR THE
38 CERTIFIED MEDICAL USE OF MARIHUANA UNDER THIS TITLE.

39 S 3369-B. SEVERABILITY. IF ANY PROVISION OF THIS TITLE OR THE APPLICA-
40 TION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, SUCH INVA-
41 LIDITY SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS TITLE
42 WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION,
43 AND TO THIS END THE PROVISIONS OF THIS TITLE ARE SEVERABLE.

44 S 3. Section 853 of the general business law is amended by adding a
45 new subdivision 3 to read as follows:

46 3. THIS ARTICLE SHALL NOT APPLY TO ANY SALE, FURNISHING OR POSSESSION
47 WHICH IS FOR A LAWFUL PURPOSE UNDER TITLE FIVE-A OF ARTICLE THIRTY-THREE
48 OF THE PUBLIC HEALTH LAW.

49 S 4. This act shall take effect immediately.