

7509

I N S E N A T E

May 15, 2014

Introduced by Sen. BOYLE -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, the penal law and the tax law, in relation to the use of medical marihuana by individuals suffering from debilitating medical conditions

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

1 Section 1. Article 33 of the public health law is amended by adding a
2 new title 5-A to read as follows:

3 TITLE V-A

4 MEDICAL USE OF MARIHUANA

5 SECTION 3360. DEFINITIONS.

6 3361. CERTIFICATION OF QUALIFYING PATIENTS.

7 3362. APPLICABILITY.

8 3363. REGISTRY IDENTIFICATION CARDS.

9 3364. MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTER.

10 3365. WRITTEN INSTRUCTIONS TO PATIENT, CAREGIVER.

11 3366. REPORTS BY MEDICAL MARIHUANA ALTERNATIVE TREATMENT
12 CENTERS.

13 3367. REGULATIONS.

14 3368. SEVERABILITY.

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

18 1. "BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP" MEANS A RELATIONSHIP IN
19 WHICH THE PHYSICIAN HAS ONGOING RESPONSIBILITY FOR THE ASSESSMENT, CARE
20 AND TREATMENT OF A QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION.

21 2. "CERTIFICATION" MEANS A STATEMENT SIGNED BY A PHYSICIAN WITH WHOM A
22 QUALIFYING PATIENT HAS A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP, WHICH
23 ATTESTS TO THE PHYSICIAN'S AUTHORIZATION FOR THE PATIENT TO APPLY FOR
24 REGISTRATION FOR THE MEDICAL USE OF MARIHUANA.

25 3. "COMMISSIONER" MEANS THE COMMISSIONER OF HEALTH OF THE STATE OF NEW
26 YORK.

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

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1 4. "DEBILITATING MEDICAL CONDITION" IS ONE WHICH INCLUDES EPILEPSY,
2 INTRACTABLE SKELETAL MUSCULAR SPASTICITY, TRAUMATIC BRAIN INJURY, GLAU-
3 COMA, CACHEXIA, WASTING SYNDROME, DRAVET SYNDROME, A POSITIVE STATUS FOR
4 HUMAN IMMUNODEFICIENCY VIRUS OR ACQUIRED IMMUNE DEFICIENCY SYNDROME,
5 CANCER, AMYOTROPHIC LATERAL SCLEROSIS, MULTIPLE SCLEROSIS, MUSCULAR
6 DYSTROPHY, CROHN'S DISEASE, TERMINAL ILLNESS, IF THE PHYSICIAN HAS
7 DETERMINED A PROGNOSIS OF LESS THAN TWELVE MONTHS OF LIFE; OR ANY OTHER
8 MEDICAL CONDITION OR ITS TREATMENT THAT IS APPROVED BY THE COMMISSIONER.

9 5. "DEPARTMENT" MEANS THE NEW YORK STATE DEPARTMENT OF HEALTH.

10 6. "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS,
11 WHETHER GROWING OR NOT; THE SEEDS THEREOF; THE RESIN EXTRACTED FROM ANY
12 PART OF THE PLANT; AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE,
13 MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS OR RESIN. IT DOES NOT
14 INCLUDE THE MATURE STALKS OF THE PLANT, FIBER PRODUCED FROM THE STALKS,
15 OIL OR CAKE MADE FROM THE SEEDS OF THE PLANT, ANY OTHER COMPOUND, MANU-
16 FACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE MATURE STALKS
17 (EXCEPT THE RESIN EXTRACTED THEREFROM), FIBER, OIL, OR CAKE, OR THE
18 STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION.

19 7. "MEDICAL MARIHUANA" MEANS MARIHUANA AS DEFINED IN SUBDIVISION SIX
20 OF THIS SECTION WHICH IS INTENDED FOR A MEDICAL USE.

21 8. "MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTER" OR "ALTERNATIVE
22 TREATMENT CENTER" MEANS AN ORGANIZATION APPROVED BY THE DEPARTMENT TO
23 PERFORM ACTIVITIES NECESSARY TO PROVIDE REGISTERED QUALIFYING PATIENTS
24 WITH USABLE MARIHUANA IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE.

25 9. "MEDICAL USE OF MARIHUANA" MEANS THE ACQUISITION, POSSESSION,
26 TRANSPORT, TRANSFER OR USE OF MARIHUANA BY A REGISTERED QUALIFYING
27 PATIENT OR PRIMARY CARE-GIVER FOR USE AS PART OF THE TREATMENT OF THE
28 QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION AS AUTHORIZED BY
29 THIS TITLE. METHODS FOR ADMINISTERING OR USING MEDICAL MARIHUANA AS
30 AUTHORIZED BY THIS TITLE SHALL INCLUDE NON-SMOKING METHODS INCLUDING
31 INHALATION, APPLICATION AND ORAL ADMINISTRATION OF METERED DOSES OF
32 MEDICAL MARIHUANA VIA SMOKELESS VAPORIZING DEVICES, ORAL SPRAYS, EDIBLE
33 INGESTION, TINCTURES AND TOPICAL APPLICATION, OR MEDICAL EXTRACTS IN OIL
34 OR PILL FORM, OR OTHER SMOKELESS TECHNOLOGY DEVELOPED FOR THE ADMINIS-
35 TRATION OF MEDICAL MARIHUANA.

36 10. "METERED DOSE" MEANS A STANDARDIZED MEASURE OF MEDICAL MARIHUANA
37 CONTAINING REPRODUCIBLE CONCENTRATIONS OF ACTIVE INGREDIENTS PACKAGED IN
38 A SINGLE DOSE ENCAPSULATION METHOD.

39 11. "PHYSICIAN" MEANS A PERSON LICENSED TO PRACTICE MEDICINE PURSUANT
40 TO SECTION SIX THOUSAND FIVE HUNDRED TWENTY-FOUR OF THE EDUCATION LAW
41 WITH WHOM THE PATIENT HAS A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP AND
42 WHO IS THE PRIMARY CARE PHYSICIAN, HOSPICE PHYSICIAN, OR PHYSICIAN
43 RESPONSIBLE FOR THE ONGOING TREATMENT OF A QUALIFYING PATIENT'S DEBILI-
44 TATING MEDICAL CONDITION, PROVIDED, HOWEVER, THAT SUCH ONGOING TREATMENT
45 SHALL NOT BE LIMITED TO THE PROVISION OF AUTHORIZATION FOR A QUALIFYING
46 PATIENT TO USE MEDICAL MARIHUANA OR CONSULTATION SOLELY FOR THAT
47 PURPOSE.

48 12. "PRIMARY CAREGIVER" OR "CAREGIVER" MEANS A RESIDENT OF THE STATE
49 WHO: (A) IS AT LEAST EIGHTEEN YEARS OLD;

50 (B) HAS AGREED TO ASSIST WITH A REGISTERED QUALIFYING PATIENT'S
51 MEDICAL USE OF MARIHUANA, IS NOT CURRENTLY SERVING AS PRIMARY CAREGIVER
52 FOR ANOTHER QUALIFYING PATIENT, AND IS NOT THE QUALIFYING PATIENT'S
53 PHYSICIAN;

54 (C) HAS REGISTERED WITH THE DEPARTMENT AND HAS SATISFIED THE CRIMINAL
55 HISTORY RECORD BACKGROUND CHECK REQUIREMENT OF SECTION THIRTY-THREE
56 HUNDRED SIXTY-THREE OF THIS TITLE; AND

(D) HAS BEEN DESIGNATED AS PRIMARY CAREGIVER ON THE QUALIFYING PATIENT'S APPLICATION FOR A REGISTRY IDENTIFICATION CARD.

13. "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 TWENTY-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.

14. "QUALIFYING PATIENT" OR "PATIENT" MEANS A RESIDENT OF THE STATE WHO HAS BEEN PROVIDED WITH A CERTIFICATION BY A PHYSICIAN PURSUANT TO A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP.

15. "REGISTRY IDENTIFICATION CARD" MEANS A DOCUMENT ISSUED BY THE DEPARTMENT THAT IDENTIFIES A PERSON AS A REGISTERED QUALIFYING PATIENT OR PRIMARY CAREGIVER.

16. "SMOKELESS VAPORIZING DEVICE" MEANS A MEDICAL-GRADE VAPORIZER DELIVERY DEVICE CAPABLE OF ADMINISTERING THE ACTIVE INGREDIENTS OF A METERED DOSE OF MEDICAL MARIHUANA VIA INHALATION WITHOUT COMBUSTION BY-PRODUCTS.

S 3361. CERTIFICATION OF QUALIFYING PATIENTS. 1. A QUALIFYING PATIENT CERTIFICATION MAY ONLY BE ISSUED IF THE PHYSICIAN WHO IS CARING FOR THE QUALIFYING PATIENT CERTIFIES THAT: (A) THE QUALIFYING PATIENT HAS A DEBILITATING MEDICAL CONDITION, WHICH SHALL BE SPECIFIED IN HIS OR HER HEALTH CARE RECORD; (B) THE QUALIFYING PATIENT IS UNDER THE PHYSICIAN'S CARE FOR THE DEBILITATING MEDICAL CONDITION; AND (C) IN THE PHYSICIAN'S PROFESSIONAL OPINION, THE QUALIFYING PATIENT IS LIKELY TO BENEFIT FROM THE USE OF MEDICAL MARIHUANA TO TREAT HIS OR HER DEBILITATING MEDICAL CONDITION.

2. THE CERTIFICATION SHALL BE IN WRITING AND INCLUDE (A) THE NAME, DATE OF BIRTH AND ADDRESS OF THE QUALIFYING PATIENT AND (B) A STATEMENT THAT THE QUALIFYING PATIENT HAS A DEBILITATING MEDICAL CONDITION AND THE PATIENT IS UNDER THE PHYSICIAN'S CARE FOR SUCH DEBILITATING MEDICAL CONDITION.

3. A PHYSICIAN PROVIDING SUCH CERTIFICATION SHALL BE LICENSED AND IN GOOD STANDING IN THE STATE.

4. A REGISTRY IDENTIFICATION CARD BASED ON CERTIFICATION SHALL EXPIRE ONE YEAR AFTER THE CERTIFICATION IS SIGNED BY THE QUALIFYING PATIENT'S PHYSICIAN.

S 3362. APPLICABILITY. 1. A QUALIFYING PATIENT, PRIMARY CAREGIVER, ALTERNATIVE TREATMENT CENTER, PHYSICIAN, OR ANY OTHER PERSON ACTING IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE SHALL NOT BE SUBJECT TO ANY CIVIL OR ADMINISTRATIVE PENALTY, OR DENIED ANY RIGHT OR PRIVILEGE, INCLUDING, BUT NOT LIMITED TO, CIVIL PENALTY OR DISCIPLINARY ACTION BY A PROFESSIONAL LICENSING BOARD, RELATED TO THE MEDICAL USE OF MARIHUANA AS AUTHORIZED UNDER THIS TITLE.

2. POSSESSION OF, OR APPLICATION FOR, A REGISTRY IDENTIFICATION CARD SHALL NOT ALONE CONSTITUTE PROBABLE CAUSE TO SEARCH THE PERSON OR THE PROPERTY OF THE PERSON POSSESSING OR APPLYING FOR THE REGISTRY IDENTIFICATION CARD, OR OTHERWISE SUBJECT THE PERSON OR HIS PROPERTY TO INSPECTION BY ANY GOVERNMENTAL AGENCY.

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

(A) THE MEDICAL MARIHUANA THAT IS IN THE POSSESSION OF A QUALIFYING PATIENT DOES NOT EXCEED A THIRTY DAY SUPPLY AS RECOMMENDED BY SUCH PATIENT'S CERTIFYING PHYSICIAN; AND

(B) THE MEDICAL MARIHUANA THAT IS IN THE POSSESSION OF A PRIMARY CARE-GIVER DOES NOT EXCEED THE SUPPLY REFERRED TO IN PARAGRAPH (A) OF THIS SUBDIVISION FOR EACH QUALIFYING PATIENT FOR WHOM THE PRIMARY CAREGIVER POSSESSES A VALID REGISTRY IDENTIFICATION CARD.

4. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE CONSUMING, INHALATION, APPLICATION, GROWING OR DISPLAYING OF MEDICAL MARIHUANA IN A PUBLIC PLACE SHALL BE DEEMED UNLAWFUL.

5. MEDICAL MARIHUANA SHALL NOT BE SMOKED.

S 3363. REGISTRY IDENTIFICATION CARDS. 1. THE DEPARTMENT SHALL ISSUE REGISTRY IDENTIFICATION CARDS FOR QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS. A REGISTRY IDENTIFICATION CARD SHALL EXPIRE AS PROVIDED FOR IN SECTION THIRTY-THREE HUNDRED SIXTY-ONE OF THIS TITLE. THE DEPARTMENT SHALL BEGIN ISSUING REGISTRY IDENTIFICATION CARDS NO LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION.

2. A REGISTRY IDENTIFICATION CARD SHALL CONTAIN THE FOLLOWING:

(A) THE NAME OF THE QUALIFYING PATIENT OR THE DESIGNATED CAREGIVER;

(B) THE DATE ISSUED AND THE EXPIRATION DATE;

(C) THE REGISTRY IDENTIFICATION NUMBER; AND

(D) A PHOTOGRAPH OF THE QUALIFYING PATIENT OR PRIMARY CAREGIVER.

3. THE DEPARTMENT SHALL VERIFY THE INFORMATION CONTAINED IN THE QUALIFYING PATIENT'S OR PRIMARY CAREGIVER'S APPLICATION FOR A REGISTRY IDENTIFICATION CARD BEFORE SUCH CARD IS ISSUED.

4. THE COMMISSIONER SHALL REQUIRE EACH PRIMARY CAREGIVER WHO APPLIES FOR A REGISTRY IDENTIFICATION CARD UNDER THIS TITLE, TO UNDERGO A CRIMINAL HISTORY BACKGROUND CHECK.

5. A QUALIFYING PATIENT OR PRIMARY CAREGIVER WHO HAS BEEN ISSUED A REGISTRY IDENTIFICATION CARD SHALL NOTIFY THE DEPARTMENT OF ANY CHANGE IN HIS OR HER NAME OR ADDRESS WITHIN TEN DAYS OF SUCH CHANGE, OR THE REGISTRY IDENTIFICATION CARD SHALL BE DEEMED NULL AND VOID.

6. THE DEPARTMENT SHALL MAINTAIN A CONFIDENTIAL LIST OF THE QUALIFYING PATIENTS AND PRIMARY CAREGIVERS WHO HAVE BEEN ISSUED REGISTRY IDENTIFICATION CARDS.

7. IF A QUALIFYING PATIENT OR PRIMARY CAREGIVER WILLFULLY VIOLATES ANY PROVISION OF THIS TITLE AS DETERMINED BY THE DEPARTMENT, HIS OR HER REGISTRY IDENTIFICATION CARD SHALL BE SUSPENDED OR REVOKED.

8. KNOWINGLY SELLING, OFFERING, OR EXPOSING FOR SALE, OR OTHERWISE TRANSFERRING, OR POSSESSING WITH THE INTENT TO SELL, OFFER OR EXPOSE FOR SALE OR TRANSFER A DOCUMENT THAT FALSELY PURPORTS TO BE A REGISTRY IDENTIFICATION CARD ISSUED PURSUANT TO THIS TITLE, OR MAKING A FALSE STATEMENT IN THE APPLICATION FOR A REGISTRY IDENTIFICATION CARD IS PUNISHABLE UNDER SECTION 210.45 OF THE PENAL LAW.

S 3364. MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTER. 1. A MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTER SHALL BE (A) A FACILITY LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER; OR

(B) A FOR-PROFIT BUSINESS ENTITY OR NOT-FOR-PROFIT CORPORATION ORGANIZED FOR THE PURPOSE OF POSSESSION, CULTIVATING, MANUFACTURING, SELLING, DELIVERING, TRANSPORTING, DISTRIBUTING OR DISPENSING MARIHUANA FOR A MEDICAL USE.

2. A MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTER SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT WHICH SPECIFIES THE ACTIVITIES IN WHICH IT INTENDS TO ENGAGE AND IF APPROVED, SHALL BE ISSUED A VALID REGISTRATION FOR TWO YEARS.

3. A MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTER SHALL LAWFULLY, IN GOOD FAITH, SELL, DELIVER, DISTRIBUTE OR DISPENSE MEDICAL MARIHUANA TO A QUALIFYING PATIENT OR A PRIMARY CAREGIVER UPON PRESENTATION OF A VALID REGISTRY IDENTIFICATION CARD.

1 4. (A) NO MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTER SHALL SELL,
2 DELIVER, DISTRIBUTE OR DISPENSE TO ANY QUALIFIED PATIENT OR PRIMARY
3 CAREGIVER A SUPPLY OF MEDICAL MARIHUANA LARGER THAN WHAT HE OR SHE WOULD
4 BE ALLOWED TO POSSESS UNDER THIS TITLE.

5 (B) WHEN DISPENSING MEDICAL MARIHUANA TO A QUALIFIED PATIENT OR DESIG-
6 NATED CAREGIVER, THE ALTERNATIVE TREATMENT CENTER (I) SHALL NOT DISPENSE
7 AN AMOUNT SUCH THAT THE QUALIFIED PATIENT WILL HAVE BEEN DISPENSED MORE
8 THAN TWO AND A HALF OUNCES OF MEDICAL MARIHUANA IN THE PREVIOUS THIRTY
9 DAYS, COUNTING THE AMOUNT BEING DISPENSED, FROM ALL MEDICAL MARIHUANA
10 ALTERNATIVE TREATMENT CENTERS, AND (II) SHALL VERIFY THE FOREGOING BY
11 CONSULTING THE PRESCRIPTION MONITORING PROGRAM REGISTRY UNDER SECTION
12 THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS ARTICLE.

13 5. A MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTER SHALL ONLY
14 DISTRIBUTE OR ADMINISTER MEDICAL MARIHUANA IN A NON-SMOKING, METERED
15 DOSE FORM VIA SMOKELESS VAPORIZING DEVICE, ORAL SPRAYS, EDIBLE INGES-
16 TION, TINCTURES AND TOPICAL APPLICATION, OR MEDICAL EXTRACTS IN OIL OR
17 PILL FORM.

18 6. (A) THE MANUFACTURING OF MEDICAL MARIHUANA BY AN ALTERNATIVE TREAT-
19 MENT CENTER SHALL BE DONE IN AN INDOOR, ENCLOSED, SECURE FACILITY.

20 (B) NO FACILITY MANUFACTURING MEDICAL MARIHUANA SHALL BE LOCATED WITH-
21 IN ONE THOUSAND FEET OF ANY SCHOOL BUILDING, PLAYGROUND, PARK OR BUILD-
22 ING IN WHICH CHILD DAY CARE IS PROVIDED. FOR THE PURPOSES OF THIS SUBDI-
23 VISION, "SCHOOL" MEANS A PUBLIC OR PRIVATE ELEMENTARY, PAROCHIAL,
24 INTERMEDIATE, JUNIOR HIGH, VOCATIONAL OR HIGH SCHOOL REGULARLY USED FOR
25 INSTRUCTIONAL PURPOSES.

26 7. A MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTER SHALL PROVIDE A
27 CHEMICAL ANALYSIS BY AN ENTITY LICENSED BY THE DEPARTMENT UNDER SECTION
28 THIRTY-THREE HUNDRED TWENTY-FOUR OF THIS ARTICLE OF THE STANDARDIZATION,
29 CERTIFICATION AND VALIDATION OF THE QUALITY, SAFETY, CONCENTRATION OF
30 ACTIVE INGREDIENTS AND CLINICAL STRENGTH OF THE MEDICAL MARIHUANA IT
31 MANUFACTURES AND SHALL PROVIDE DOCUMENTATION OF SUCH TO THE DEPARTMENT.

32 8. MEDICAL MARIHUANA SHALL BE DISPENSED BY AN ALTERNATIVE TREATMENT
33 CENTER TO A QUALIFYING PATIENT OR PRIMARY CAREGIVER IN A PROPERLY SEALED
34 AND LABELED PACKAGE.

35 9. EACH ALTERNATIVE TREATMENT CENTER SHALL MAKE AVAILABLE METHODS OF
36 INHALED, APPLIED AND ORAL ADMINISTRATION OF METERED DOSES OF MEDICAL
37 MARIHUANA VIA SMOKELESS VAPORIZING DEVICE, ORAL SPRAYS, EDIBLE INGES-
38 TION, TINCTURES AND TOPICAL APPLICATION, OR MEDICAL EXTRACTS IN OIL OR
39 PILL FORM, OR OTHER SMOKELESS TECHNOLOGY DEVELOPED FOR THE ADMINIS-
40 TRATION OF MEDICAL MARIHUANA, FOR THE TREATMENT OF A SERIOUS CONDITION
41 OF A CERTIFIED PATIENT UNDER THE CARE OF A PRACTITIONER.

42 S 3365. WRITTEN INSTRUCTIONS TO PATIENT, CAREGIVER. 1. A PHYSICIAN
43 SHALL PROVIDE WRITTEN INSTRUCTIONS, IN THE FORM OF A PRESCRIPTION, FOR A
44 REGISTERED QUALIFYING PATIENT OR HIS OR HER CAREGIVER TO PRESENT TO AN
45 ALTERNATIVE TREATMENT CENTER CONCERNING THE TOTAL AMOUNT OF MEDICAL
46 MARIHUANA THAT A PATIENT MAY BE DISPENSED, IN WEIGHT, IN A THIRTY DAY
47 PERIOD. IF NO AMOUNT IS NOTED, THE MAXIMUM AMOUNT THAT MAY BE DISPENSED
48 AT ONE TIME IS TWO OUNCES.

49 2. A PHYSICIAN MAY ISSUE MULTIPLE WRITTEN INSTRUCTIONS AT ONE TIME
50 AUTHORIZING THE PATIENT TO RECEIVE A TOTAL OF UP TO A NINETY DAY SUPPLY,
51 PROVIDED THAT THE FOLLOWING CONDITIONS ARE MET:

52 (A) EACH SEPARATE SET OF INSTRUCTIONS SHALL BE ISSUED FOR A LEGITIMATE
53 MEDICAL PURPOSE BY THE PHYSICIAN, AS PROVIDED IN THIS TITLE;

54 (B) EACH SEPARATE SET OF INSTRUCTIONS SHALL INDICATE THE EARLIEST DATE
55 ON WHICH A CENTER MAY DISPENSE THE MARIHUANA, EXCEPT FOR THE FIRST
56 DISPENSATION IF IT IS TO BE FILLED IMMEDIATELY; AND

(C) THE PHYSICIAN HAS DETERMINED THAT PROVIDING THE PATIENT WITH MULTIPLE INSTRUCTIONS IN THIS MANNER DOES NOT CREATE AN UNDUE RISK OF DIVERSION OR ABUSE.

3. A REGISTERED QUALIFYING PATIENT OR HIS OR HER PRIMARY CAREGIVER SHALL PRESENT THE PATIENT'S OR CAREGIVER'S REGISTRY IDENTIFICATION CARD, AS APPLICABLE, AND THESE WRITTEN INSTRUCTIONS TO THE ALTERNATIVE TREATMENT CENTER, WHICH SHALL VERIFY AND LOG THE DOCUMENTATION PRESENTED. A PHYSICIAN MAY PROVIDE A COPY OF A WRITTEN INSTRUCTION BY ELECTRONIC OR OTHER MEANS, AS DETERMINED BY THE COMMISSIONER, DIRECTLY TO AN ALTERNATIVE TREATMENT CENTER ON BEHALF OF A REGISTERED QUALIFYING PATIENT. THE DISPENSATION OF MARIHUANA PURSUANT TO ANY WRITTEN INSTRUCTIONS SHALL OCCUR WITHIN ONE MONTH OF THE DATE THAT THE INSTRUCTIONS WERE WRITTEN OR THE INSTRUCTIONS ARE VOID.

S 3366. REPORTS BY MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTERS. 1. THE COMMISSIONER SHALL, BY REGULATION, REQUIRE EACH MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTER TO FILE REPORTS BY THE ALTERNATIVE TREATMENT CENTER DURING A PARTICULAR PERIOD. THE COMMISSIONER SHALL DETERMINE THE INFORMATION TO BE REPORTED AND THE FORMS, TIME AND MANNER OF THE REPORTING.

2. THE COMMISSIONER SHALL, BY REGULATION, REQUIRE EACH ALTERNATIVE TREATMENT CENTER TO ADOPT AND MAINTAIN SECURITY, TRACKING, RECORD KEEPING, RECORD RETENTION AND SURVEILLANCE SYSTEMS, RELATING TO ALL MEDICAL MARIHUANA IT SUPPLIES.

S 3367. REGULATIONS. THE COMMISSIONER SHALL MAKE REGULATIONS TO IMPLEMENT THIS TITLE.

S 3368. SEVERABILITY. IF ANY PROVISION OF THIS TITLE OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, SUCH INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS TITLE WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS TITLE ARE SEVERABLE.

S 2. Section 221.00 of the penal law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

S 221.00 Marihuana; definitions.

Unless the context in which they are used clearly otherwise requires, the terms occurring in this article shall have the same meaning ascribed to them in article two hundred twenty of this chapter. ANY ACT THAT IS LAWFUL UNDER TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW IS NOT A VIOLATION OF THIS ARTICLE, PROVIDED THAT, ANY PERSON WHO KNOWINGLY AND UNLAWFULLY DIVERTS ANY MEDICAL MARIHUANA UNDER TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW, SHALL BE GUILTY OF THE APPLICABLE PROVISIONS OF THIS ARTICLE IN ACCORDANCE WITH THE AGGREGATE WEIGHT OF MEDICAL MARIHUANA DIVERTED OR THE AGE OF THE PERSON TO WHOM DIVERTED.

S 3. The tax law is amended by adding a new article 20-B to read as follows:

ARTICLE 20-B

TAX ON MEDICAL MARIHUANA

SECTION 490. EXCISE TAX ON MEDICAL MARIHUANA.

S 490. EXCISE TAX ON MEDICAL MARIHUANA. 1. ALL DEFINITIONS OF TERMS APPLICABLE TO TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW SHALL APPLY TO THIS ARTICLE.

2. THERE IS HEREBY LEVIED AND IMPOSED ON MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTERS AN EXCISE TAX ON ALL MEDICAL MARIHUANA SOLD TO ANOTHER MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTER OR TO A QUALIFIED PATIENT OR DESIGNATED CAREGIVER. THE EXCISE TAX SHALL BE AT THE RATE OF SEVEN PERCENT OF THE RETAIL PRICE OF THE MEDICAL MARIHUANA DISPENSED.

1 3. TWENTY-TWO AND FIVE-TENTHS PERCENT OF THE REVENUE RECEIVED BY THE
2 DEPARTMENT SHALL BE TRANSFERRED TO THE COUNTY IN WHICH THE MEDICAL MARI-
3 HUANA WAS MANUFACTURED AND TWENTY-TWO AND FIVE-TENTHS PERCENT OF THE
4 REVENUE RECEIVED BY THE DEPARTMENT SHALL BE TRANSFERRED TO THE COUNTY IN
5 WHICH THE MEDICAL MARIHUANA WAS DISPENSED. FOR PURPOSES OF THE PREVIOUS
6 SENTENCE, THE CITY OF NEW YORK SHALL BE DEEMED TO BE A COUNTY. FIVE
7 PERCENT OF THE REVENUE RECEIVED BY THE DEPARTMENT SHALL BE TRANSFERRED
8 TO THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, WHICH SHALL
9 USE THAT REVENUE FOR ADDITIONAL DRUG ABUSE PREVENTION, COUNSELING AND
10 TREATMENT SERVICES.

11 4. A MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTER THAT DISPENSES
12 MEDICAL MARIHUANA SHALL PROVIDE TO THE DEPARTMENT INFORMATION ON WHERE
13 THE MEDICAL MARIHUANA WAS DISPENSED AND WHERE THE MEDICAL MARIHUANA WAS
14 MANUFACTURED. A MEDICAL MARIHUANA ALTERNATIVE TREATMENT CENTER THAT
15 OBTAINS MARIHUANA FROM ANOTHER MEDICAL MARIHUANA ALTERNATIVE TREATMENT
16 CENTER SHALL OBTAIN FROM SUCH ALTERNATIVE TREATMENT CENTER INFORMATION
17 ON WHERE THE MEDICAL MARIHUANA WAS MANUFACTURED.

18 5. THE COMMISSIONER SHALL MAKE REGULATIONS TO IMPLEMENT THIS ARTICLE.

19 S 4. This act shall take effect immediately.