

6357--B

2013-2014 Regular Sessions

I N A S S E M B L Y

March 26, 2013

Introduced by M. of A. GOTTFRIED, LUPARDO, CAHILL, CLARK, CYMBROWITZ, DINOWITZ, HEVESI, LAVINE, PAULIN, PEOPLES-STOKES, ROSENTHAL, TITONE, ARROYO, BRONSON, BROOK-KRASNY, COOK, CRESPO, DenDEKKER, FAHY, JAFFEE, KAVANAGH, LIFTON, O'DONNELL, OTIS, RIVERA, ROBERTS, SKARTADOS, STECK, WEPRIN, ZEBROWSKI, SEPULVEDA, KATZ -- Multi-Sponsored by -- M. of A. ABINANTI, AUBRY, BRAUNSTEIN, BRENNAN, BUCHWALD, FARRELL, GALEF, GLICK, HIKIND, JACOBS, KELLNER, MAGEE, MARKEY, McDONALD, MILLMAN, MOSLEY, MOYA, PERRY, PRETLOW, ROBINSON, RODRIGUEZ, SCARBOROUGH, SCHIMEL, SWEENEY, WALTER, WEISENBERG, WRIGHT -- read once and referred to the Committee on Health -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, the tax law, the general business law and the penal 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 medical use of controlled substances in

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

LBD01604-14-4

1 health care, including palliative care. This legislation establishes a
2 medical model of care which regulates medical marihuana as a recommended
3 medicine in keeping with recognized medical public health and safety
4 standards. This policy and this legislation do not in any way diminish
5 New York state's strong public policy and laws against illegal drug use,
6 nor should it be deemed in any manner to advocate, authorize, promote,
7 or legally or socially accept the use of marihuana for children or
8 adults, for any non-medical use. This legislation is an appropriate
9 exercise of the state's legislative power to protect the health of its
10 people under article 17 of the state constitution and the tenth amend-
11 ment of the United States constitution. Furthermore, the legislature
12 finds that New York state has a significant and ongoing economic and
13 non-regulatory interest in the financial viability of organizations that
14 sell marihuana for medical use. The legislature finds that the financial
15 viability of such organizations would be greatly diminished and threat-
16 ened by labor-management conflict, such as a strike at a facility that
17 cultivates marihuana, especially because of the need for enhanced secu-
18 rity concerning the products. Replacements during a strike would be
19 difficult to arrange and cause delay far more significant than a strike
20 elsewhere. Accordingly, the legislature finds that the state has a
21 substantial and compelling proprietary interest in this matter, and
22 finds that labor peace is essential for any organization to conduct
23 business relating to the sale of medical marihuana.

24 It is the legislative intent that this act be implemented consistently
25 with these findings and principles, through a reasonable and workable
26 system with appropriate oversight; strong "seed to sale" regulation to
27 prevent diversion, abuse, and other illegal conduct; reasonable access
28 to and appropriate use of medical marihuana by certified patients; eval-
29 uation; and continuing research.

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

32 TITLE V-A

33 MEDICAL USE OF MARIHUANA

34 SECTION 3360. DEFINITIONS.
35 3361. CERTIFICATION OF PATIENTS.
36 3362. LAWFUL MEDICAL USE.
37 3363. REGISTRY IDENTIFICATION CARDS.
38 3364. REGISTERED ORGANIZATIONS.
39 3365. REGISTERING OF REGISTERED ORGANIZATIONS.
40 3366. EMERGENCY REGISTRATION OF REGISTERED ORGANIZATIONS.
41 3367. REPORTS BY REGISTERED ORGANIZATIONS.
42 3368. EVALUATION; RESEARCH PROGRAMS; REPORT BY DEPARTMENT.
43 3369. RELATION TO OTHER LAWS.
44 3369-A. PROTECTIONS FOR THE MEDICAL USE OF MARIHUANA.
45 3369-B. REGULATIONS.
46 3369-C. SEVERABILITY.

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

50 1. "CERTIFIED MEDICAL USE" MEANS THE ACQUISITION, POSSESSION, USE,
51 DELIVERY, TRANSFER, TRANSPORTATION, OR ADMINISTRATION OF MEDICAL MARI-
52 HUANA BY A CERTIFIED PATIENT OR DESIGNATED CAREGIVER FOR USE AS PART OF
53 THE TREATMENT OF THE PATIENT'S SERIOUS CONDITION SPECIFIED IN A CERTIF-
54 ICATION UNDER THIS TITLE, INCLUDING ENABLING THE PATIENT TO TOLERATE
55 TREATMENT FOR THE SERIOUS CONDITION.

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

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

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

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

10 6. "PROVISIONAL CERTIFICATION" MEANS A PROVISIONAL CERTIFICATION MADE
11 UNDER SUBDIVISION SIX OF SECTION THIRTY-THREE HUNDRED SIXTY-ONE OF THIS
12 TITLE.

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

18 8. "SERIOUS CONDITION" MEANS A SEVERE DEBILITATING OR LIFE-THREATENING
19 CONDITION, INCLUDING, BUT NOT LIMITED TO, CANCER, POSITIVE STATUS FOR
20 HUMAN IMMUNODEFICIENCY VIRUS OR ACQUIRED IMMUNE DEFICIENCY SYNDROME,
21 PARKINSON'S DISEASE, MULTIPLE SCLEROSIS, DAMAGE TO THE NERVOUS TISSUE OF
22 THE SPINAL CORD WITH OBJECTIVE NEUROLOGICAL INDICATION OF INTRACTABLE
23 SPASTICITY, EPILEPSY, CACHEXIA, WASTING SYNDROME, CROHN'S DISEASE,
24 POST-TRAUMATIC STRESS DISORDER, NEUROPATHY, ARTHRITIS, LUPUS, AND
25 DIABETES, OR A CONDITION ASSOCIATED WITH OR A COMPLICATION OF SUCH A
26 CONDITION OR ITS TREATMENT SUBJECT TO LIMITATION IN REGULATION OF THE
27 COMMISSIONER.

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

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

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

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

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

43 14. "TERMINALLY ILL" MEANS AN INDIVIDUAL HAS A MEDICAL PROGNOSIS THAT
44 THE INDIVIDUAL'S LIFE EXPECTANCY IS APPROXIMATELY ONE YEAR OR LESS IF
45 THE ILLNESS RUNS ITS NORMAL COURSE.

46 15. "LABOR PEACE AGREEMENT" MEANS AN AGREEMENT BETWEEN AN ENTITY AND A
47 LABOR ORGANIZATION THAT, AT A MINIMUM, PROTECTS THE STATE'S PROPRIETARY
48 INTERESTS BY PROHIBITING LABOR ORGANIZATIONS AND MEMBERS FROM ENGAGING
49 IN PICKETING, WORK STOPPAGES, BOYCOTTS, AND ANY OTHER ECONOMIC INTERFER-
50 ENCE WITH THE REGISTERED ORGANIZATION'S BUSINESS.

51 S 3361. CERTIFICATION OF PATIENTS. 1. A PATIENT CERTIFICATION MAY ONLY
52 BE ISSUED IF A PRACTITIONER WHO IS CARING FOR THE PATIENT FOR A SERIOUS
53 CONDITION CERTIFIES THAT: (A) THE PATIENT HAS A SERIOUS CONDITION, WHICH
54 SHALL BE SPECIFIED IN THE PATIENT'S HEALTH CARE RECORD; (B) THE PATIENT
55 IS UNDER THE PRACTITIONER'S CARE FOR THE SERIOUS CONDITION; (C) IN THE
56 PRACTITIONER'S PROFESSIONAL OPINION, THE PATIENT IS LIKELY TO RECEIVE

1 THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE PRIMARY OR ADJUNCTIVE TREAT-
2 MENT WITH MEDICAL USE OF MARIHUANA FOR THE SERIOUS CONDITION; AND (D)
3 EITHER, AS SPECIFIED IN THE PATIENT'S HEALTH CARE RECORD, (I) OTHER
4 TREATMENTS APPROPRIATE FOR THE PATIENT AND THE PATIENT'S SERIOUS CONDI-
5 TION HAVE BEEN TRIED AND NOT BEEN EFFECTIVE, OR (II) CLINICAL TRIALS
6 HAVE BEEN SHOWN TO DEMONSTRATE COMPARABLE EFFICACY TO CURRENTLY ACCEPTED
7 TREATMENTS.

8 2. THE CERTIFICATION SHALL BE IN WRITING AND INCLUDE (A) THE NAME,
9 DATE OF BIRTH AND ADDRESS OF THE PATIENT; (B) A STATEMENT THAT THE
10 PATIENT HAS A SERIOUS CONDITION; THE PATIENT IS UNDER THE PRACTITIONER'S
11 CARE FOR THE SERIOUS CONDITION AND, IN THE PRACTITIONER'S PROFESSIONAL
12 OPINION, THE PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE
13 BENEFIT FROM THE PRIMARY OR ADJUNCTIVE TREATMENT WITH MEDICAL USE OF
14 MARIHUANA FOR THE SERIOUS CONDITION; (C) THE DATE; AND (D) THE NAME,
15 ADDRESS, FEDERAL REGISTRATION NUMBER, TELEPHONE NUMBER, AND THE HAND-
16 WRITTEN SIGNATURE OF THE CERTIFYING PRACTITIONER. THE COMMISSIONER MAY
17 REQUIRE BY REGULATION THAT THE CERTIFICATION SHALL BE ON A FORM PROVIDED
18 BY THE DEPARTMENT IF THE COMMISSIONER DETERMINES THAT THE DEPARTMENT IS
19 MAKING CERTIFICATION FORMS ADEQUATELY AVAILABLE. THE PRACTITIONER MAY
20 STATE IN THE CERTIFICATION THAT, IN THE PRACTITIONER'S PROFESSIONAL
21 OPINION THE PATIENT WOULD BENEFIT FROM MEDICAL MARIHUANA ONLY UNTIL A
22 SPECIFIED DATE. THE PRACTITIONER MAY STATE IN THE CERTIFICATION THAT, IN
23 THE PRACTITIONER'S PROFESSIONAL OPINION THE PATIENT IS TERMINALLY ILL
24 AND THAT THE CERTIFICATION SHALL NOT EXPIRE UNTIL THE PATIENT DIES.

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

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

29 5. A REGISTRY IDENTIFICATION CARD BASED ON A CERTIFICATION SHALL
30 EXPIRE NINETY DAYS AFTER THE DATE THE CERTIFICATION IS SIGNED BY THE
31 PRACTITIONER; EXCEPT THAT WHERE A CERTIFIED PATIENT HAS A REGISTRY IDEN-
32 TIFICATION CARD BASED ON A CURRENT VALID CERTIFICATION, A NEW REGISTRY
33 IDENTIFICATION CARD BASED ON A NEW CERTIFICATION SHALL EXPIRE NINETY
34 DAYS AFTER THE EXPIRATION OF THE REGISTRY IDENTIFICATION CARD BASED ON
35 THE CURRENT VALID CERTIFICATION. HOWEVER,

36 (A) IF THE PRACTITIONER STATES IN THE CERTIFICATION THAT, IN THE PRAC-
37 TITIONER'S PROFESSIONAL OPINION, THE PATIENT WOULD BENEFIT FROM MEDICAL
38 MARIHUANA ONLY UNTIL A SPECIFIED EARLIER DATE, THEN THE REGISTRY IDEN-
39 TIFICATION CARD SHALL EXPIRE ON THAT DATE;

40 (B) IF THE PRACTITIONER STATES IN THE CERTIFICATION THAT IN THE PRAC-
41 TITIONER'S PROFESSIONAL OPINION THE PATIENT IS TERMINALLY ILL AND THAT
42 THE CERTIFICATION SHALL NOT EXPIRE UNTIL THE PATIENT DIES, THEN THE
43 REGISTRY IDENTIFICATION CARD SHALL STATE THAT THE PATIENT IS TERMINALLY
44 ILL AND THAT THE REGISTRATION CARD SHALL NOT EXPIRE UNTIL THE PATIENT
45 DIES; AND

46 (C) IF THE PRACTITIONER RE-ISSUES THE CERTIFICATION TO TERMINATE THE
47 CERTIFICATION ON AN EARLIER DATE, THEN THE REGISTRY IDENTIFICATION CARD
48 SHALL EXPIRE ON THAT DATE AND SHALL BE PROMPTLY RETURNED BY THE CERTI-
49 FIED PATIENT TO THE DEPARTMENT.

50 6. (A) A CERTIFICATION MAY BE A PROVISIONAL CERTIFICATION IF, IN ADDI-
51 TION TO THE OTHER REQUIREMENTS FOR A CERTIFICATION, THE PRACTITIONER
52 CERTIFIES IN THE CERTIFICATION THAT THE PATIENT'S SERIOUS CONDITION IS
53 PROGRESSIVE AND DEGENERATIVE OR THAT DELAY IN THE PATIENT'S CERTIFIED
54 MEDICAL USE OF MARIHUANA POSES A SERIOUS RISK TO THE PATIENT'S LIFE OR
55 HEALTH.

(B) THE DEPARTMENT SHALL, WITHIN THIRTY DAYS AFTER THIS SUBDIVISION SHALL TAKE EFFECT, CREATE THE FORM TO BE USED FOR A PROVISIONAL CERTIFICATION AND SHALL MAKE THAT FORM AVAILABLE TO BE DOWNLOADED FROM THE DEPARTMENT'S WEBSITE.

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; 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.

2. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION:

(A) POSSESSION OF MARIHUANA SHALL NOT BE LAWFUL UNDER THIS TITLE IF IT IS CONSUMED, GROWN OR DISPLAYED IN A PUBLIC PLACE;

(B) MEDICAL MARIHUANA MAY NOT BE SMOKED IN ANY PLACE WHERE TOBACCO MAY NOT BE SMOKED UNDER ARTICLE THIRTEEN-E OF THIS CHAPTER.

3. IT SHALL BE LAWFUL UNDER THIS ARTICLE TO GIVE OR DISPOSE OF MARIHUANA, OBTAINED UNDER THIS TITLE, FOR CERTIFIED MEDICAL USE, BETWEEN CERTIFIED PATIENTS AND OTHER CERTIFIED PATIENTS, AND BETWEEN A DESIGNATED CAREGIVER AND THE DESIGNATED CAREGIVER'S CERTIFIED PATIENT WHERE NOTHING OF VALUE IS TRANSFERRED IN RETURN, OR TO OFFER TO DO THE SAME. THIS PROHIBITION ON TRANSFERRING OR OFFERING TO TRANSFER A THING OF VALUE SHALL NOT:

(A) APPLY TO SALE OF MEDICAL MARIHUANA TO OR BY A REGISTERED ORGANIZATION UNDER THIS ARTICLE; NOR

(B) PREVENT A DESIGNATED CAREGIVER FROM BEING REIMBURSED FOR REASONABLE COSTS OR ACTIVITIES RELATING TO CARING FOR A CERTIFIED PATIENT, INCLUDING, BUT NOT LIMITED TO, REIMBURSEMENT FOR LEGITIMATE EXPENSES RELATING TO THE PURCHASE OF MEDICAL MARIHUANA FROM A REGISTERED ORGANIZATION UNDER SECTION THIRTY-THREE HUNDRED SIXTY-SEVEN OF THIS TITLE.

S 3363. REGISTRY IDENTIFICATION CARDS. 1. THE DEPARTMENT SHALL ISSUE REGISTRY IDENTIFICATION CARDS FOR CERTIFIED PATIENTS AND DESIGNATED CAREGIVERS. A REGISTRY IDENTIFICATION CARD SHALL EXPIRE AS PROVIDED IN SECTION THIRTY-THREE HUNDRED SIXTY-ONE OF THIS TITLE OR AS OTHERWISE PROVIDED IN THIS SECTION. THE DEPARTMENT SHALL BEGIN ISSUING REGISTRY IDENTIFICATION CARDS NO LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION. THE DEPARTMENT MAY SPECIFY A FORM FOR A REGISTRY APPLICATION, IN WHICH CASE THE DEPARTMENT SHALL PROVIDE THE FORM ON REQUEST, REPRODUCTIONS OF THE FORM MAY BE USED, AND THE FORM SHALL BE AVAILABLE FOR DOWNLOADING FROM THE DEPARTMENT'S WEBSITE.

2. TO OBTAIN, AMEND OR RENEW A REGISTRY IDENTIFICATION CARD, A CERTIFIED PATIENT OR DESIGNATED CAREGIVER SHALL FILE A REGISTRY APPLICATION WITH THE DEPARTMENT. THE REGISTRY APPLICATION OR RENEWAL APPLICATION SHALL INCLUDE:

(A) IN THE CASE OF A CERTIFIED PATIENT, THE ORIGINAL PATIENT'S CERTIFICATION (A NEW WRITTEN CERTIFICATION SHALL BE PROVIDED WITH A RENEWAL APPLICATION);

(B) IN THE CASE OF A CERTIFIED PATIENT,

(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) IN THE CASE OF A CERTIFIED PATIENT, 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; EXCEPT THAT A CERTIFIED PATIENT MAY DESIGNATE MORE THAN TWO CAREGIVERS IF THE ADDITIONAL CAREGIVERS ARE MEMBERS OF THE CERTIFIED PATIENT'S IMMEDIATE FAMILY OR PHYSICAL HOUSEHOLD;

(D) IN THE CASE OF A DESIGNATED CAREGIVER,

(I) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE DESIGNATED CAREGIVER;

(II) IF THE DESIGNATED CAREGIVER HAS A REGISTRY IDENTIFICATION CARD, THE REGISTRY IDENTIFICATION NUMBER AND EXPIRATION DATE OF THAT REGISTRY IDENTIFICATION CARD; AND

(III) OTHER INDIVIDUAL IDENTIFYING INFORMATION REQUIRED BY THE DEPARTMENT;

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

(F) THE DATE OF THE APPLICATION AND THE SIGNATURE OF THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER, AS THE CASE MAY BE; AND

(G) 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. IF THE DEPARTMENT HAS NOT ESTABLISHED AND MADE AVAILABLE A FORM FOR A REGISTRY APPLICATION OR RENEWAL APPLICATION AND DETERMINED THE APPLICATION FEE IF ANY, OR ESTABLISHED AND MADE AVAILABLE A FORM FOR A REGISTRY APPLICATION OR RENEWAL APPLICATION AND DETERMINED THE APPLICATION FEE FOR A PROVISIONAL CERTIFICATION, THEN IN THE CASE OF A PROVISIONAL CERTIFICATION, A REGISTRY APPLICATION OR RENEWAL APPLICATION THAT OTHERWISE CONFORMS WITH THE REQUIREMENTS OF THIS SECTION SHALL NOT REQUIRE THE USE OF A FORM OR THE PAYMENT OF AN APPLICATION FEE.

4. WHERE AN APPLICANT CHOOSES TO APPLY UNDER PROVISIONS OF THIS TITLE RELATING TO A PROVISIONAL CERTIFICATION, REGULATIONS UNDER THIS SECTION MAY REQUIRE THE APPLICANT TO SUBMIT ADDITIONAL DOCUMENTATION ESTABLISHING THE CLINICAL BASIS FOR THE PROVISIONAL CERTIFICATION.

5. 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.

6. 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.

1 7. NO PERSON MAY BE A DESIGNATED CAREGIVER FOR MORE THAN FIVE CERTI-
2 FIED PATIENTS AT ONE TIME.

3 8. THE DEPARTMENT SHALL ISSUE SEPARATE REGISTRY IDENTIFICATION CARDS
4 FOR CERTIFIED PATIENTS AND DESIGNATED CAREGIVERS WITHIN THIRTY DAYS OF
5 RECEIVING A COMPLETE APPLICATION UNDER THIS SECTION, UNLESS IT DETER-
6 MINES THAT THE APPLICATION IS INCOMPLETE OR FACIALLY INACCURATE, IN
7 WHICH CASE IT SHALL PROMPTLY NOTIFY THE APPLICANT.

8 9. IF THE APPLICATION OF A CERTIFIED PATIENT DESIGNATES AN INDIVIDUAL
9 AS A DESIGNATED CAREGIVER WHO IS NOT AUTHORIZED TO BE A DESIGNATED CARE-
10 GIVER, THAT PORTION OF THE APPLICATION SHALL BE DENIED BY THE DEPARTMENT
11 BUT THAT SHALL NOT AFFECT THE APPROVAL OF THE BALANCE OF THE APPLICA-
12 TION.

13 10. A REGISTRY IDENTIFICATION CARD SHALL:

14 (A) CONTAIN THE NAME OF THE CERTIFIED PATIENT OR THE DESIGNATED CARE-
15 GIVER AS THE CASE MAY BE;

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

18 (C) CONTAIN A REGISTRY IDENTIFICATION NUMBER FOR THE CERTIFIED PATIENT
19 OR DESIGNATED CAREGIVER, AS THE CASE MAY BE AND A REGISTRY IDENTIFICA-
20 TION NUMBER;

21 (D) CONTAIN A PHOTOGRAPH OF THE INDIVIDUAL TO WHOM THE REGISTRY IDEN-
22 TIFICATION CARD IS BEING ISSUED, WHICH SHALL BE OBTAINED BY THE DEPART-
23 MENT IN A MANNER SPECIFIED BY THE COMMISSIONER IN REGULATIONS; PROVIDED,
24 HOWEVER, THAT IF THE DEPARTMENT REQUIRES CERTIFIED PATIENTS TO SUBMIT
25 PHOTOGRAPHS FOR THIS PURPOSE, THERE SHALL BE A REASONABLE ACCOMMODATION
26 OF CERTIFIED PATIENTS WHO ARE CONFINED TO THEIR HOMES DUE TO THEIR
27 MEDICAL CONDITIONS AND MAY THEREFORE HAVE DIFFICULTY PROCURING PHOTO-
28 GRAPHS; AND

29 (E) BE A SECURE DOCUMENT.

30 11. A CERTIFIED PATIENT OR DESIGNATED CAREGIVER WHO HAS BEEN ISSUED A
31 REGISTRY IDENTIFICATION CARD SHALL NOTIFY THE DEPARTMENT OF ANY CHANGE
32 IN HIS OR HER NAME OR ADDRESS OR, WITH RESPECT TO THE PATIENT, OR IF HE
33 OR SHE CEASES TO HAVE THE SERIOUS CONDITION NOTED ON THE CERTIFICATION
34 WITHIN TEN DAYS OF SUCH CHANGE.

35 12. IF A CERTIFIED PATIENT OR DESIGNATED CAREGIVER LOSES HIS OR HER
36 REGISTRY IDENTIFICATION CARD, HE OR SHE SHALL NOTIFY THE DEPARTMENT AND
37 SUBMIT A TEN DOLLAR FEE WITHIN TEN DAYS OF LOSING THE CARD TO MAINTAIN
38 THE REGISTRATION. THE DEPARTMENT MAY ESTABLISH HIGHER FEES FOR ISSUING
39 A NEW REGISTRY IDENTIFICATION CARD FOR SECOND AND SUBSEQUENT REPLACE-
40 MENTS FOR A LOST CARD, PROVIDED, THAT THE DEPARTMENT MAY WAIVE OR REDUCE
41 THE FEE IN CASES OF FINANCIAL HARDSHIP. WITHIN FIVE DAYS AFTER SUCH
42 NOTIFICATION AND PAYMENT, THE DEPARTMENT SHALL ISSUE A NEW REGISTRY
43 IDENTIFICATION CARD, WHICH MAY CONTAIN A NEW REGISTRY IDENTIFICATION
44 NUMBER, TO THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER, AS THE CASE
45 MAY BE.

46 13. THE DEPARTMENT SHALL MAINTAIN A CONFIDENTIAL LIST OF THE PERSONS
47 TO WHOM IT HAS ISSUED REGISTRY IDENTIFICATION CARDS. INDIVIDUAL IDENTI-
48 FYING INFORMATION OBTAINED BY THE DEPARTMENT UNDER THIS TITLE SHALL BE
49 CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER ARTICLE SIX OF THE PUBLIC
50 OFFICERS LAW. NOTWITHSTANDING THIS SUBDIVISION, THE DEPARTMENT MAY NOTI-
51 FY ANY APPROPRIATE LAW ENFORCEMENT AGENCY OF INFORMATION RELATING TO ANY
52 VIOLATION OR SUSPECTED VIOLATION OF THIS TITLE.

53 14. THE DEPARTMENT SHALL VERIFY TO LAW ENFORCEMENT PERSONNEL IN AN
54 APPROPRIATE CASE WHETHER A REGISTRY IDENTIFICATION CARD IS VALID.

55 15. IF A CERTIFIED PATIENT OR DESIGNATED CAREGIVER WILLFULLY VIOLATES
56 ANY PROVISION OF THIS TITLE AS DETERMINED BY THE DEPARTMENT, HIS OR HER

1 REGISTRY IDENTIFICATION CARD MAY BE SUSPENDED OR REVOKED. THIS IS IN
2 ADDITION TO ANY OTHER PENALTY THAT MAY APPLY.

3 16. (A) REGISTRY IMPLEMENTATION DATE. AS USED IN THIS SUBDIVISION, THE
4 "REGISTRY IMPLEMENTATION DATE" IS THE DATE DETERMINED BY THE COMMISSION-
5 ER WHEN THE DEPARTMENT IS READY TO RECEIVE AND EXPEDITIOUSLY ACT ON
6 APPLICATIONS FOR REGISTRY IDENTIFICATION CARDS UNDER THIS SECTION.

7 (B) THIS PARAGRAPH SHALL APPLY ON AND AFTER THE REGISTRY IMPLEMENTA-
8 TION DATE, AND SHALL APPLY BEFORE THE REGISTRY IMPLEMENTATION DATE IN
9 THE CASE OF A PROVISIONAL CERTIFICATION. UPON RECEIPT OF AN APPLICATION
10 FOR A REGISTRY IDENTIFICATION CARD, THE DEPARTMENT SHALL SEND TO THE
11 APPLICANT A LETTER ACKNOWLEDGING SUCH RECEIPT. WHILE THE APPLICATION FOR
12 A REGISTRY IDENTIFICATION CARD IS PENDING, A COPY OF THE REGISTRY APPLI-
13 CATION, TOGETHER WITH A COPY OF THE CERTIFICATION (IN THE CASE OF A
14 CERTIFIED PATIENT) AND A COPY OF THE LETTER OF RECEIPT FROM THE DEPART-
15 MENT, SHALL SERVE AS AND HAVE THE SAME EFFECT AS A REGISTRY IDENTIFICA-
16 TION CARD FOR THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER, PROVIDED
17 THAT A CERTIFICATION AND APPLICATION SHALL NOT SERVE AS A VALID REGISTRY
18 IDENTIFICATION CARD AFTER THE INITIAL THIRTY DAY PERIOD UNDER SUBDIVI-
19 SION EIGHT OF THIS SECTION. THIS PARAGRAPH SHALL EXPIRE AND HAVE NO
20 EFFECT ONE YEAR AFTER THE REGISTRY IMPLEMENTATION DATE.

21 17. IF THE DEPARTMENT FAILS TO BEGIN ISSUING REGISTRY IDENTIFICATION
22 CARDS NO LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, A
23 PATIENT'S CERTIFICATION SHALL SERVE AS THE REGISTRY IDENTIFICATION CARD
24 FOR BOTH THE PATIENT AND THE PATIENT'S DESIGNATED CAREGIVER.

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

27 (A) A FACILITY LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER; OR

28 (B) A FOR-PROFIT BUSINESS ENTITY OR NOT-FOR-PROFIT CORPORATION ORGAN-
29 IZED FOR THE PURPOSE OF ACQUIRING, POSSESSING, MANUFACTURING, SELLING,
30 DELIVERING, TRANSPORTING, DISTRIBUTING OR DISPENSING MARIHUANA FOR
31 CERTIFIED MEDICAL USE.

32 2. THE ACQUIRING, POSSESSION, MANUFACTURE, SALE, DELIVERY, TRANSPORT-
33 ING, DISTRIBUTING OR DISPENSING OF MARIHUANA BY A REGISTERED ORGANIZA-
34 TION UNDER THIS TITLE IN ACCORDANCE WITH ITS REGISTRATION UNDER SECTION
35 THIRTY-THREE HUNDRED SIXTY-FIVE OF THIS TITLE OR A RENEWAL THEREOF SHALL
36 BE LAWFUL UNDER THIS TITLE. A REGISTERED ORGANIZATION MAY TRANSFER
37 POSSESSION OF MARIHUANA TO, AND MAY RECOVER POSSESSION OF IT FROM, AN
38 ENTITY LICENSED BY THE DEPARTMENT UNDER SECTION THIRTY-THREE HUNDRED
39 TWENTY-FOUR OF THIS ARTICLE FOR PURPOSES OF CHEMICAL ANALYSIS.

40 3. (A) A REGISTERED ORGANIZATION MAY LAWFULLY, IN GOOD FAITH, SELL,
41 DELIVER, DISTRIBUTE OR DISPENSE MEDICAL MARIHUANA TO A CERTIFIED PATIENT
42 OR DESIGNATED CAREGIVER UPON PRESENTATION TO THE REGISTERED ORGANIZATION
43 OF A VALID REGISTRY IDENTIFICATION CARD FOR THAT CERTIFIED PATIENT OR
44 DESIGNATED CAREGIVER. WHEN PRESENTED WITH THE REGISTRY IDENTIFICATION
45 CARD, THE REGISTERED ORGANIZATION SHALL PROVIDE TO THE CERTIFIED PATIENT
46 OR DESIGNATED CAREGIVER A RECEIPT, WHICH SHALL STATE: THE NAME, ADDRESS,
47 AND REGISTRY IDENTIFICATION NUMBER OF THE REGISTERED ORGANIZATION; THE
48 REGISTRY IDENTIFICATION NUMBER OF THE CERTIFIED PATIENT AND THE DESIG-
49 NATED CAREGIVER (IF ANY); THE DATE THE MARIHUANA WAS SOLD; AND THE QUAN-
50 TITY OF MARIHUANA SOLD. THE REGISTERED ORGANIZATION SHALL RETAIN A COPY
51 OF THE REGISTRY IDENTIFICATION CARD AND THE RECEIPT FOR SIX YEARS.

52 (B) THE REGISTERED ORGANIZATION SHALL REPORT TO THE DEPARTMENT, UNDER
53 SECTIONS THIRTY-THREE HUNDRED THIRTY-THREE AND THIRTY-THREE HUNDRED
54 FORTY-THREE-A OF THIS ARTICLE, THE INFORMATION REQUIRED TO BE INCLUDED
55 IN THE RECEIPT UNDER THIS SUBDIVISION.

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

5 5. WHEN A REGISTERED ORGANIZATION SELLS, DELIVERS, DISTRIBUTES OR
6 DISPENSES MEDICAL MARIHUANA TO A CERTIFIED PATIENT OR DESIGNATED CARE-
7 GIVER, IT SHALL PROVIDE TO THAT INDIVIDUAL A SAFETY INSERT, WHICH WILL
8 BE DEVELOPED AND APPROVED BY THE COMMISSIONER AND INCLUDE, BUT NOT BE
9 LIMITED TO, INFORMATION ON:

10 (A) METHODS FOR ADMINISTERING MEDICAL MARIHUANA,

11 (B) ANY POTENTIAL DANGERS STEMMING FROM THE USE OF MEDICAL MARIHUANA,
12 AND

13 (C) HOW TO RECOGNIZE WHAT MAY BE PROBLEMATIC USAGE OF MEDICAL MARIHUA-
14 NA AND OBTAIN APPROPRIATE SERVICES OR TREATMENT FOR PROBLEMATIC USAGE.

15 6. MANUFACTURING OF MEDICAL MARIHUANA BY A REGISTERED ORGANIZATION
16 SHALL ONLY BE DONE IN AN INDOOR, ENCLOSED, SECURE FACILITY, WHICH MAY
17 INCLUDE A GREENHOUSE.

18 7. A REGISTERED ORGANIZATION SHALL DETERMINE THE QUALITY, SAFETY, AND
19 CLINICAL STRENGTH OF MEDICAL MARIHUANA MANUFACTURED OR DISPENSED BY THE
20 REGISTERED ORGANIZATION, AND SHALL PROVIDE DOCUMENTATION OF THAT QUALI-
21 TY, SAFETY AND CLINICAL STRENGTH TO THE DEPARTMENT AND TO ANY PERSON OR
22 ENTITY TO WHICH THE MEDICAL MARIHUANA IS SOLD OR DISPENSED.

23 8. A REGISTERED ORGANIZATION SHALL BE DEEMED TO BE A "HEALTH CARE
24 PROVIDER" FOR THE PURPOSES OF TITLE TWO-D OF ARTICLE TWO OF THIS CHAP-
25 TER.

26 9. MEDICAL MARIHUANA SHALL BE DISPENSED TO A CERTIFIED PATIENT OR
27 DESIGNATED CAREGIVER IN A SEALED AND PROPERLY LABELED PACKAGE.

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

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

35 (II) POSSESSES OR HAS THE RIGHT TO USE SUFFICIENT LAND, BUILDINGS, AND
36 OTHER PREMISES (WHICH SHALL BE SPECIFIED IN THE APPLICATION) AND EQUIP-
37 MENT TO PROPERLY CARRY ON THE ACTIVITY DESCRIBED IN THE APPLICATION;

38 (III) IS ABLE TO MAINTAIN EFFECTIVE SECURITY AND CONTROL TO PREVENT
39 DIVERSION, ABUSE, AND OTHER ILLEGAL CONDUCT RELATING TO THE MARIHUANA;

40 (IV) IS ABLE TO COMPLY WITH ALL APPLICABLE STATE LAWS AND REGULATIONS
41 RELATING TO THE ACTIVITIES IN WHICH IT INTENDS TO ENGAGE UNDER THE
42 REGISTRATION; AND

43 (V) HAS ENTERED INTO A LABOR PEACE AGREEMENT WITH A BONA-FIDE LABOR
44 ORGANIZATION THAT IS ACTIVELY ENGAGED IN REPRESENTING OR ATTEMPTING TO
45 REPRESENT THE APPLICANT'S EMPLOYEES. THE MAINTENANCE OF SUCH A LABOR
46 PEACE AGREEMENT SHALL BE AN ONGOING MATERIAL CONDITION OF CERTIFICATION.

47 (B) THE APPLICATION SHALL ESTABLISH THE APPLICANT'S STATUS UNDER PARA-
48 GRAPH (A) OR (B) OF SUBDIVISION ONE OF SECTION THIRTY-THREE HUNDRED
49 SIXTY-FOUR OF THIS TITLE.

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

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

4 (II) WHETHER SUCH PERSON OR ANY SUCH BUSINESS HAS BEEN CONVICTED OF A
5 FELONY OR HAD A REGISTRATION OR LICENSE SUSPENDED OR REVOKED IN ANY
6 ADMINISTRATIVE OR JUDICIAL PROCEEDING; AND

7 (III) SUCH OTHER INFORMATION AS THE COMMISSIONER MAY REASONABLY
8 REQUIRE.

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

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

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

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

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

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

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

31 (VI) THE APPLICANT AND ITS MANAGING OFFICERS ARE OF GOOD MORAL CHARAC-
32 TER; AND

33 (VII) THE APPLICANT HAS ENTERED INTO A LABOR PEACE AGREEMENT WITH A
34 BONA-FIDE LABOR ORGANIZATION THAT IS ACTIVELY ENGAGED IN REPRESENTING OR
35 ATTEMPTING TO REPRESENT THE APPLICANT'S EMPLOYEES.

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

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

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

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

49 (II) WHICH ACTIVITIES OF A REGISTERED ORGANIZATION ARE PERMITTED BY
50 THE REGISTRATION;

51 (III) THE LAND, BUILDINGS AND FACILITIES THAT MAY BE USED FOR THE
52 PERMITTED ACTIVITIES OF THE REGISTERED ORGANIZATION; AND

53 (IV) SUCH OTHER MATTERS AS THE COMMISSIONER SHALL REASONABLY PROVIDE
54 TO ASSURE COMPLIANCE WITH THIS TITLE.

55 (E) UPON APPLICATION OF A REGISTERED ORGANIZATION, A REGISTRATION MAY
56 BE AMENDED TO ALLOW THE REGISTERED ORGANIZATION TO RELOCATE WITHIN THE

1 STATE OR TO ADD OR DELETE PERMITTED REGISTERED ORGANIZATION ACTIVITIES
2 OR FACILITIES. THE FEE FOR SUCH AMENDMENT SHALL BE TWO HUNDRED FIFTY
3 DOLLARS.

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

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

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

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

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

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

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

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

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

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

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

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

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

55 (III) IS AN APPLICANT UNDER SUBDIVISION ONE OF SECTION THIRTY-THREE
56 HUNDRED SIXTY-FOUR OF THIS TITLE, IN WHICH CASE THE COMMISSIONER MAY

1 CONSIDER WHETHER THE NUMBER OF REGISTERED ORGANIZATIONS IN AN AREA IS
2 ADEQUATE OR EXCESSIVE TO REASONABLY SERVE THE AREA; OR

3 (IV) HAS EITHER VIOLATED OR TERMINATED ITS LABOR PEACE AGREEMENT.

4 (B) FOR PURPOSES OF THIS SECTION, PROOF THAT A REGISTERED ORGANIZA-
5 TION, DURING THE PERIOD OF ITS REGISTRATION, HAS FAILED TO MAINTAIN
6 EFFECTIVE CONTROL AGAINST DIVERSION OR HAS KNOWINGLY OR NEGLIGENTLY
7 FAILED TO COMPLY WITH APPLICABLE STATE LAWS RELATING TO THE ACTIVITIES
8 IN WHICH IT ENGAGES UNDER THE REGISTRATION, SHALL CONSTITUTE SUBSTANTIAL
9 EVIDENCE THAT THE APPLICANT WILL BE UNLIKELY TO MAINTAIN EFFECTIVE
10 CONTROL AGAINST DIVERSION OR WILL BE UNLIKELY TO COMPLY WITH THE APPLI-
11 CABLE STATE STATUTES DURING THE PERIOD OF PROPOSED RENEWAL.

12 6. THE DEPARTMENT MAY SUSPEND OR TERMINATE THE REGISTRATION OF A
13 REGISTERED ORGANIZATION, ON GROUNDS AND USING PROCEDURES UNDER THIS
14 ARTICLE RELATING TO A LICENSE, TO THE EXTENT CONSISTENT WITH THIS TITLE.
15 THE DEPARTMENT SHALL SUSPEND OR TERMINATE THE REGISTRATION IN THE EVENT
16 THAT A REGISTERED ORGANIZATION VIOLATES OR TERMINATES THE APPLICABLE
17 LABOR PEACE AGREEMENT. CONDUCT IN COMPLIANCE WITH THIS TITLE, BUT WHICH
18 MAY VIOLATE CONFLICTING FEDERAL LAW, SHALL NOT BE GROUNDS TO SUSPEND OR
19 TERMINATE A REGISTRATION.

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

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

25 9. THE COMMISSIONER SHALL DETERMINE THE APPROPRIATE NUMBER OF REGIS-
26 TERED ORGANIZATIONS AND FACILITIES TO PROMOTE REASONABLE ACCESS TO
27 MEDICAL MARIHUANA IN THE INTEREST OF CERTIFIED PATIENTS AND THE PUBLIC.
28 DURING THE FIRST TWO YEARS AFTER THIS TITLE TAKES EFFECT, THE COMMIS-
29 SIONER SHALL REGISTER NO MORE THAN TEN REGISTERED ORGANIZATIONS THAT
30 MANUFACTURE MEDICAL MARIHUANA.

31 S 3366. EMERGENCY REGISTRATION OF REGISTERED ORGANIZATIONS. 1. THE
32 PURPOSE OF THIS SECTION IS TO EXPEDITE THE AVAILABILITY OF MEDICAL MARI-
33 HUANA TO AVOID SUFFERING AND LOSS OF LIFE, DURING THE PERIOD BEFORE FULL
34 IMPLEMENTATION OF AND PRODUCTION UNDER THIS TITLE, ESPECIALLY IN THE
35 CASE OF PATIENTS WHOSE SERIOUS CONDITION IS PROGRESSIVE AND DEGENERATIVE
36 OR IS SUCH THAT DELAY IN THE PATIENT'S MEDICAL USE OF MARIHUANA POSES A
37 SERIOUS RISK TO THE PATIENT'S LIFE OR HEALTH. THE COMMISSIONER SHALL
38 IMPLEMENT THIS SECTION AS EXPEDITIOUSLY AS POSSIBLE, INCLUDING BY EMER-
39 GENCY REGULATION.

40 2. THE DEPARTMENT SHALL BEGIN ACCEPTING AND ACTING ON APPLICATIONS FOR
41 REGISTERED ORGANIZATIONS UNDER THIS SECTION NO LATER THAN SIXTY DAYS
42 AFTER THIS TITLE SHALL TAKE EFFECT.

43 3. FOR THE PURPOSES OF THIS SECTION, AND FOR SPECIFIED LIMITED TIMES,
44 THE COMMISSIONER MAY WAIVE OR MODIFY THE REQUIREMENTS OF THIS ARTICLE
45 RELATING TO REGISTERED ORGANIZATIONS, CONSISTENT WITH THE LEGISLATIVE
46 INTENT AND PURPOSE OF THIS TITLE AND THIS SECTION. WHERE A REGISTERED
47 ORGANIZATION OPERATES IN A JURISDICTION OTHER THAN THE STATE OF NEW
48 YORK, UNDER LICENSURE OR OTHER GOVERNMENTAL RECOGNITION OF THAT JURIS-
49 DICTION, AND THE LAWS OF THAT JURISDICTION ARE ACCEPTABLE TO THE COMMIS-
50 SIONER AS CONSISTENT WITH THE LEGISLATIVE INTENT AND PURPOSE OF THIS
51 TITLE AND THIS SECTION, THEN THE COMMISSIONER MAY ACCEPT THAT LICENSURE
52 OR RECOGNITION AS WHOLLY OR PARTIALLY SATISFYING THE REQUIREMENTS OF
53 THIS TITLE, FOR PURPOSES OF THE REGISTRATION AND OPERATION OF THE REGIS-
54 TERED ORGANIZATION UNDER THIS SECTION.

55 4. IN CONSIDERING APPLICATIONS FOR REGISTRATION UNDER THIS SECTION,
56 THE COMMISSIONER SHALL GIVE PREFERENCE TO THE FOLLOWING:

1 (A) APPLICANTS THAT ARE CURRENTLY PRODUCING OR PROVIDING OR HAVE A
2 HISTORY OF PRODUCING OR PROVIDING MEDICAL MARIHUANA IN OTHER JURISDIC-
3 TIONS IN FULL COMPLIANCE WITH THE LAWS OF THE JURISDICTION;

4 (B) APPLICANTS THAT ARE ABLE AND QUALIFIED TO BOTH PRODUCE, DISTRIB-
5 UTE, AND DISPENSE MEDICAL MARIHUANA TO PATIENTS EXPEDITIOUSLY AND IN
6 COMPLIANCE WITH THIS TITLE AND THIS SECTION; AND

7 (C) APPLICANTS THAT PROPOSE LOCATIONS FOR DISPENSING BY THE REGISTERED
8 ORGANIZATION, WHICH ENSURE, TO THE GREATEST EXTENT POSSIBLE, THAT CERTI-
9 FIED PATIENTS THROUGHOUT THE STATE HAVE ACCESS TO A REGISTERED ORGANIZA-
10 TION.

11 5. THE COMMISSIONER MAY LIMIT REGISTERED ORGANIZATIONS REGISTERED
12 UNDER THIS SECTION TO SERVING PATIENTS WITH PROVISIONAL CERTIFICATIONS.

13 6. A REGISTERED ORGANIZATION REGISTERED UNDER THIS SECTION MAY APPLY
14 TO RECEIVE OR RENEW REGISTRATION UNDER SECTION THIRTY-THREE HUNDRED
15 SIXTY-FIVE OF THIS TITLE.

16 S 3367. REPORTS BY REGISTERED ORGANIZATIONS. 1. THE COMMISSIONER
17 SHALL, BY REGULATION, REQUIRE EACH REGISTERED ORGANIZATION TO FILE
18 REPORTS BY THE REGISTERED ORGANIZATION DURING A PARTICULAR PERIOD. THE
19 COMMISSIONER SHALL DETERMINE THE INFORMATION TO BE REPORTED AND THE
20 FORMS, TIME, AND MANNER OF THE REPORTING.

21 2. THE COMMISSIONER SHALL, BY REGULATION, REQUIRE EACH REGISTERED
22 ORGANIZATION TO ADOPT AND MAINTAIN SECURITY, TRACKING, RECORD KEEPING,
23 RECORD RETENTION AND SURVEILLANCE SYSTEMS, RELATING TO ALL MEDICAL MARI-
24 HUANA AT EVERY STAGE OF ACQUIRING, POSSESSION, MANUFACTURE, SALE, DELIV-
25 ERY, TRANSPORTING, DISTRIBUTING, OR DISPENSING BY THE REGISTERED ORGAN-
26 IZATION, SUBJECT TO REGULATIONS OF THE COMMISSIONER.

27 S 3368. EVALUATION; RESEARCH PROGRAMS; REPORT BY DEPARTMENT. 1. THE
28 COMMISSIONER MAY PROVIDE FOR THE ANALYSIS AND EVALUATION OF THE OPERA-
29 TION OF THIS TITLE. THE COMMISSIONER MAY ENTER INTO AGREEMENTS WITH ONE
30 OR MORE PERSONS, NOT-FOR-PROFIT CORPORATIONS OR OTHER ORGANIZATIONS, FOR
31 THE PERFORMANCE OF AN EVALUATION OF THE IMPLEMENTATION AND EFFECTIVENESS
32 OF THIS TITLE.

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

37 3. THE DEPARTMENT SHALL REPORT EVERY TWO YEARS, BEGINNING TWO YEARS
38 AFTER THE EFFECTIVE DATE OF THIS TITLE, TO THE GOVERNOR AND THE LEGISLA-
39 TURE ON THE MEDICAL USE OF MARIHUANA UNDER THIS TITLE AND MAKE APPROPRI-
40 ATE RECOMMENDATIONS.

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

45 (B) MEDICAL MARIHUANA SHALL NOT BE DEEMED A DRUG FOR PURPOSES OF ARTI-
46 CLE ONE HUNDRED THIRTY-SEVEN OF THE EDUCATION LAW (PHARMACY).

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

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

55 S 3369-A. PROTECTIONS FOR THE MEDICAL USE OF MARIHUANA. 1. CERTIFIED
56 PATIENTS, DESIGNATED CAREGIVERS, PRACTITIONERS, REGISTERED ORGANIZATIONS

1 AND THE EMPLOYEES OF REGISTERED ORGANIZATIONS SHALL NOT BE SUBJECT TO
2 ARREST, PROSECUTION, OR PENALTY IN ANY MANNER, OR DENIED ANY RIGHT OR
3 PRIVILEGE, INCLUDING BUT NOT LIMITED TO CIVIL PENALTY OR DISCIPLINARY
4 ACTION BY A BUSINESS OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR
5 BUREAU, SOLELY FOR THE CERTIFIED MEDICAL USE OR MANUFACTURE OF MARIHUA-
6 NA, OR FOR ANY OTHER ACTION OR CONDUCT IN ACCORDANCE WITH THIS TITLE.
7 STATE OR LOCAL LAW ENFORCEMENT AGENCIES SHALL NOT COOPERATE WITH OR
8 PROVIDE ASSISTANCE TO THE GOVERNMENT OF THE UNITED STATES OR ANY AGENCY
9 THEREOF IN ENFORCING THE CONTROLLED SUBSTANCES ACT, 21 U.S.C. S 801 ET.
10 SEQ., SOLELY FOR ACTIONS AND CONDUCT CONSISTENT WITH THIS TITLE, EXCEPT
11 AS PURSUANT TO A VALID COURT ORDER.

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

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

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

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

32 6. EFFECT OF REGISTRY IDENTIFICATION CARD ISSUED BY ANOTHER JURISDIC-
33 TION. A REGISTRY IDENTIFICATION CARD, OR ITS EQUIVALENT, THAT IS ISSUED
34 UNDER THE LAWS OF ANOTHER STATE, DISTRICT, TERRITORY, COMMONWEALTH, OR
35 POSSESSION OF THE UNITED STATES THAT ALLOWS THE MEDICAL USE OF MARIHUANA
36 HAS THE SAME FORCE AND EFFECT AS A REGISTRY IDENTIFICATION CARD ISSUED
37 BY THE DEPARTMENT, SO LONG AS THE VISITING PATIENT'S CONDITION IS A
38 SERIOUS CONDITION, AS ATTESTED TO IN WRITING BY A PRACTITIONER. WHERE A
39 REGISTERED ORGANIZATION DISPENSES MEDICAL MARIHUANA TO A PATIENT UNDER
40 THIS SUBDIVISION, A COPY OF THE ATTESTATION SHALL BE PROVIDED TO THE
41 REGISTERED ORGANIZATION.

42 S 3369-B. REGULATIONS. 1. THE COMMISSIONER SHALL MAKE REGULATIONS TO
43 IMPLEMENT THIS TITLE.

44 2. ADVISORY COMMITTEE. THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT
45 AN ADVISORY COMMITTEE ON MEDICAL USE OF MARIHUANA (THE "ADVISORY COMMIT-
46 TEE") TO ADVISE THE COMMISSIONER ON MAKING REGULATIONS UNDER THIS TITLE
47 AND ON ANY MATTERS RELATING TO THE IMPLEMENTATION OF THIS TITLE AS THE
48 COMMISSIONER SHALL DETERMINE. THE MEMBERS OF THE ADVISORY COMMITTEE AND
49 ANY SUBCOMMITTEE OF THE ADVISORY COMMITTEE ("SUBCOMMITTEE") SHALL BE
50 APPOINTED BY THE COMMISSIONER AND INCLUDE BUT NOT BE LIMITED TO: HEALTH
51 CARE PRACTITIONERS, PATIENTS OR REPRESENTATIVES OF PATIENTS WITH SERIOUS
52 CONDITIONS, EXPERTS IN THE REGULATION OF CONTROLLED SUBSTANCES FOR
53 MEDICAL USE, MEDICAL MARIHUANA INDUSTRY PROFESSIONALS AND LAW ENFORCE-
54 MENT. THE COMMISSIONER MAY ALSO FORM SUBCOMMITTEES OF THE ADVISORY
55 COMMITTEE. THE COMMISSIONER SHALL FORM A SUBCOMMITTEE TO ADVISE THE
56 COMMISSIONER ON CLINICAL MATTERS RELATING TO MEDICAL MARIHUANA, THE

MEMBERS OF WHICH SHALL PREDOMINANTLY BE CLINICAL PROFESSIONALS IN APPROPRIATE AREAS OF EXPERTISE AND SHALL ALSO INCLUDE REPRESENTATIVES OF PATIENTS AND THE GENERAL PUBLIC. MEMBERS OF A SUBCOMMITTEE NEED NOT BE MEMBERS OF THE ADVISORY COMMITTEE. MEMBERS OF THE ADVISORY COMMITTEE OR A SUBCOMMITTEE SHALL SERVE AT THE PLEASURE OF THE COMMISSIONER. MEMBERS OF THE ADVISORY COMMITTEE OR A SUBCOMMITTEE MAY RECEIVE REIMBURSEMENT BY THE DEPARTMENT FOR THEIR REASONABLE AND NECESSARY EXPENSES INCURRED AS MEMBERS OF THE ADVISORY COMMITTEE OR A SUBCOMMITTEE. A PUBLIC EMPLOYEE MAY BE A MEMBER OF THE ADVISORY COMMITTEE OR A SUBCOMMITTEE.

S 3369-C. 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 3. Section 3343-a of the public health law is amended by adding a new subdivision 8-a to read as follows:

8-A. MEDICAL MARIHUANA. AS USED IN ANY PROVISION OF THIS ARTICLE RELATING TO THE PRESCRIPTION MONITORING PROGRAM REGISTRY, THE FOLLOWING TERMS SHALL INCLUDE THE FOLLOWING IN RELATION TO MEDICAL MARIHUANA, IN ADDITION TO THE MEANING EACH TERM WOULD OTHERWISE HAVE:

(A) "PRESCRIPTION," "PRESCRIBE," AND "PRESCRIBER," INCLUDE, RESPECTIVELY, A CERTIFICATION, THE ISSUING OF A CERTIFICATION, AND A PRACTITIONER UNDER TITLE FIVE-A OF THIS ARTICLE.

(B) "PHARMACY" INCLUDES A REGISTERED ORGANIZATION THAT IS AUTHORIZED TO DISPENSE MEDICAL MARIHUANA UNDER TITLE FIVE-A OF THIS ARTICLE; PROVIDED THAT A REGISTERED ORGANIZATION THAT IS NOT A FACILITY LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR A PHARMACY UNDER ARTICLE ONE HUNDRED THIRTY-SEVEN OF THE EDUCATION LAW SHALL NOT BE AUTHORIZED TO CONSULT THE REGISTRY OR ACCESS PATIENT-SPECIFIC INFORMATION FROM THE REGISTRY, INCLUDING UNDER SUBDIVISION THREE OF THIS SECTION AND SUBDIVISION TWO OF SECTION THIRTY-THREE HUNDRED SEVENTY-ONE OF THIS ARTICLE, BUT SHALL REPORT INFORMATION TO THE REGISTRY, INCLUDING UNDER SUBDIVISION FOUR OF SECTION THIRTY-THREE HUNDRED THIRTY-THREE OF THIS ARTICLE.

(C) "PATIENT-SPECIFIC INFORMATION," IN RELATION TO MEDICAL MARIHUANA, SHALL NOT INCLUDE INFORMATION NOT REQUIRED TO BE INCLUDED IN A CERTIFICATION UNDER TITLE FIVE-A OF THIS ARTICLE.

(D) "CONTROLLED SUBSTANCE" INCLUDES MEDICAL MARIHUANA, REGARDLESS OF WHETHER THE PROVISION IN WHICH THE TERM IS FOUND IS LIMITED TO SCHEDULES OTHER THAN SCHEDULE I OF SECTION THIRTY-THREE HUNDRED SIX OF THIS ARTICLE.

(E) "MEDICAL MARIHUANA" MEANS MEDICAL MARIHUANA UNDER TITLE FIVE-A OF THIS ARTICLE.

S 4. 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 REGISTERED ORGANIZATIONS AN EXCISE TAX ON ALL MEDICAL MARIHUANA SOLD TO ANOTHER REGISTERED ORGANIZATION OR TO A CERTIFIED PATIENT OR DESIGNATED CAREGIVER. THE EXCISE TAX SHALL BE AT THE RATE OF TEN PERCENT OF THE RETAIL PRICE OF THE MEDICAL MARIHUANA DISPENSED.

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

10 4. A REGISTERED ORGANIZATION THAT DISPENSES MEDICAL MARIHUANA SHALL
11 PROVIDE TO THE DEPARTMENT INFORMATION ON WHERE THE MEDICAL MARIHUANA WAS
12 DISPENSED AND WHERE THE MEDICAL MARIHUANA WAS MANUFACTURED. A REGISTERED
13 ORGANIZATION THAT OBTAINS MARIHUANA FROM ANOTHER REGISTERED ORGANIZATION
14 SHALL OBTAIN FROM SUCH REGISTERED ORGANIZATION INFORMATION ON WHERE THE
15 MEDICAL MARIHUANA WAS MANUFACTURED.

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

17 S 5. Section 853 of the general business law is amended by adding a
18 new subdivision 3 to read as follows:

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

22 S 6. Section 221.00 of the penal law, as added by chapter 360 of the
23 laws of 1977, is amended to read as follows:

24 S 221.00 Marihuana; definitions.

25 Unless the context in which they are used clearly otherwise requires,
26 the terms occurring in this article shall have the same meaning ascribed
27 to them in article two hundred twenty of this chapter. ANY ACT THAT IS
28 LAWFUL UNDER TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH
29 LAW IS NOT A VIOLATION OF THIS ARTICLE.

30 S 7. This act shall take effect immediately.