

7060

2015-2016 Regular Sessions

I N   A S S E M B L Y

April 22, 2015

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Introduced by M. of A. GOTTFRIED, KOLB, CAHILL, GUNTHER, ROSENTHAL, RAIA  
-- Multi-Sponsored by -- M. of A. KEARNS -- read once and referred to  
the Committee on Health

AN ACT to amend the public health law, in relation to expedited access  
to medical marihuana in certain cases

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 hereby  
2 finds and declares it necessary to establish an emergency program to  
3 provide appropriate medical marihuana for certain patients whose serious  
4 condition is progressive and degenerative or for whom delay in the  
5 patient's certified medical use of marihuana poses a serious risk to the  
6 patient's life or health, and that emergency action is needed before the  
7 full medical marihuana program established under title V-A of article 33  
8 of the public health law is implemented, to protect the life and health  
9 of these patients.  
10    S 2 Section 3360 of the public health law is amended by adding a new  
11 subdivision 18 to read as follows:  
12    18. "SPECIAL CERTIFICATION" MEANS A SPECIAL CERTIFICATION MADE UNDER  
13 SUBDIVISION SIX OF SECTION THIRTY-THREE HUNDRED SIXTY-ONE OF THIS TITLE.  
14    S 3. Section 3361 of the public health law is amended by adding a new  
15 subdivision 9 to read as follows:  
16    9.(A) A CERTIFICATION MAY BE A SPECIAL CERTIFICATION IF, IN ADDITION  
17 TO THE OTHER REQUIREMENTS FOR A CERTIFICATION, THE PRACTITIONER CERTI-  
18 FIES IN THE CERTIFICATION THAT THE PATIENT'S SERIOUS CONDITION IS  
19 PROGRESSIVE AND DEGENERATIVE OR THAT DELAY IN THE PATIENT'S CERTIFIED  
20 MEDICAL USE OF MARIHUANA POSES A SERIOUS RISK TO THE PATIENT'S LIFE OR  
21 HEALTH.  
22    (B) THE DEPARTMENT SHALL CREATE THE FORM TO BE USED FOR A SPECIAL  
23 CERTIFICATION AND SHALL MAKE THAT FORM AVAILABLE TO BE DOWNLOADED FROM  
24 THE DEPARTMENT'S WEBSITE.

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

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1 S 4. Section 3363 of the public health law is amended by adding a new  
2 subdivision 16 to read as follows:

3 16. THE COMMISSIONER SHALL MAKE REGULATIONS FOR SPECIAL CERTIF-  
4 ICATIONS, WHICH SHALL INCLUDE EXPEDITED PROCEDURES AND WHICH MAY REQUIRE  
5 THE APPLICANT TO SUBMIT ADDITIONAL DOCUMENTATION ESTABLISHING THE CLIN-  
6 ICAL BASIS FOR THE SPECIAL CERTIFICATION. IF THE DEPARTMENT HAS NOT  
7 ESTABLISHED AND MADE AVAILABLE A FORM FOR A REGISTRY APPLICATION OR  
8 RENEWAL APPLICATION AND DETERMINED THE APPLICATION FEE IF ANY, OR ESTAB-  
9 LISHED AND MADE AVAILABLE A FORM FOR A REGISTRY APPLICATION OR RENEWAL  
10 APPLICATION AND DETERMINED THE APPLICATION FEE FOR A SPECIAL CERTIF-  
11 ICATION, THEN IN THE CASE OF A SPECIAL CERTIFICATION, A REGISTRY APPLI-  
12 CATION OR RENEWAL APPLICATION THAT OTHERWISE CONFORMS WITH THE REQUIRE-  
13 MENTS OF THIS SECTION SHALL NOT REQUIRE THE USE OF A FORM OR THE PAYMENT  
14 OF AN APPLICATION FEE.

15 S 5. The public health law is amended by adding a new section 3365-a  
16 to read as follows:

17 S 3365-A. EXPEDITED REGISTRATION OF REGISTERED ORGANIZATIONS. 1.  
18 THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT AN EMERGENCY MEDICAL MARI-  
19 HUANA ACCESS PROGRAM (REFERRED TO IN THIS SECTION AS THE "PROGRAM")  
20 UNDER THIS SECTION. THE PURPOSE OF THE PROGRAM IS TO EXPEDITE THE AVAIL-  
21 ABILITY OF MEDICAL MARIHUANA TO AVOID SUFFERING AND LOSS OF LIFE, DURING  
22 THE PERIOD BEFORE FULL IMPLEMENTATION OF AND PRODUCTION UNDER THIS  
23 TITLE, ESPECIALLY IN THE CASE OF PATIENTS WHOSE SERIOUS CONDITION IS  
24 PROGRESSIVE AND DEGENERATIVE OR IS SUCH THAT DELAY IN THE PATIENT'S  
25 MEDICAL USE OF MARIHUANA POSES A SERIOUS RISK TO THE PATIENT'S LIFE OR  
26 HEALTH. THE COMMISSIONER SHALL IMPLEMENT THE PROGRAM AS EXPEDITIOUSLY AS  
27 PRACTICABLE, INCLUDING BY EMERGENCY REGULATION.

28 2. THE DEPARTMENT SHALL BEGIN ACCEPTING AND ACTING ON APPLICATIONS  
29 UNDER THIS SECTION FOR REGISTERED ORGANIZATIONS AS SOON AS PRACTICABLE  
30 AFTER THE EFFECTIVE DATE OF THIS SECTION.

31 3. FOR THE PURPOSES OF THIS SECTION, AND FOR SPECIFIED LIMITED TIMES,  
32 THE COMMISSIONER MAY WAIVE OR MODIFY THE REQUIREMENTS OF THIS ARTICLE  
33 RELATING TO REGISTERED ORGANIZATIONS, CONSISTENT WITH THE LEGISLATIVE  
34 INTENT AND PURPOSE OF THIS TITLE AND THIS SECTION. WHERE AN ENTITY SEEK-  
35 ING TO BE A REGISTERED ORGANIZATION UNDER THE PROGRAM OPERATES IN A  
36 JURISDICTION OTHER THAN THE STATE OF NEW YORK, UNDER LICENSURE OR OTHER  
37 GOVERNMENTAL RECOGNITION OF THAT JURISDICTION, AND THE LAWS OF THAT  
38 JURISDICTION ARE ACCEPTABLE TO THE COMMISSIONER AS CONSISTENT WITH THE  
39 LEGISLATIVE INTENT AND PURPOSE OF THIS TITLE AND THIS SECTION, THEN THE  
40 COMMISSIONER MAY ACCEPT THAT LICENSURE OR RECOGNITION AS WHOLLY OR  
41 PARTIALLY SATISFYING THE REQUIREMENTS OF THIS TITLE, FOR PURPOSES OF THE  
42 REGISTRATION AND OPERATION OF THE REGISTERED ORGANIZATION UNDER THE  
43 PROGRAM AND THIS SECTION.

44 4. IN CONSIDERING AN APPLICATION FOR REGISTRATION AS A REGISTERED  
45 ORGANIZATION UNDER THIS SECTION, THE COMMISSIONER SHALL GIVE PREFERENCE  
46 TO THE FOLLOWING:

47 (A) AN APPLICANT THAT IS CURRENTLY PRODUCING OR PROVIDING OR HAS A  
48 HISTORY OF PRODUCING OR PROVIDING MEDICAL MARIHUANA IN ANOTHER JURISDIC-  
49 TION IN FULL COMPLIANCE WITH THE LAWS OF THE JURISDICTION;

50 (B) AN APPLICANT THAT IS ABLE AND QUALIFIED TO BOTH PRODUCE, DISTRIB-  
51 UTE, AND DISPENSE MEDICAL MARIHUANA TO PATIENTS EXPEDITIOUSLY;

52 (C) AN APPLICANT THAT PROPOSES A LOCATION OR LOCATIONS FOR DISPENSING  
53 BY THE REGISTERED ORGANIZATION, WHICH ENSURE, TO THE GREATEST EXTENT  
54 POSSIBLE, THAT CERTIFIED PATIENTS WITH A SPECIAL CERTIFICATION HAVE  
55 ACCESS TO A REGISTERED ORGANIZATION.

56 5. THE COMMISSIONER MAY MAKE REGULATIONS UNDER THIS SECTION:

1 (A) LIMITING REGISTERED ORGANIZATIONS REGISTERED UNDER THIS SECTION TO  
2 SERVING PATIENTS WITH SPECIAL CERTIFICATIONS;

3 (B) LIMITING THE ALLOWABLE LEVELS OF CANNABIDIOL AND TETRAHYDROCANNA-  
4 BINOL THAT MAY BE CONTAINED IN MEDICAL MARIHUANA AUTHORIZED UNDER THE  
5 PROGRAM, BASED ON THERAPEUTICS AND PATIENT SAFETY.

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

9 S 6. Section 3369-b of the public health law, as added by chapter 90  
10 of the laws of 2014, is amended to read as follows:

11 S 3369-b. Effective date. Registry identification cards or registered  
12 organization registrations shall be issued or become effective no later  
13 than eighteen months from signing or until such time as the commissioner  
14 and the superintendent of state police certify that this title can be  
15 implemented in accordance with public health and safety interests,  
16 whichever event comes later. PRIOR TO MAKING A GENERAL CERTIFICATION  
17 UNDER THIS SECTION, THE COMMISSIONER AND THE SUPERINTENDENT OF STATE  
18 POLICE MAY MAKE A CERTIFICATION LIMITED TO ACCOMMODATING EXPEDITED  
19 ACCESS FOR PATIENTS WITH SPECIAL CERTIFICATIONS AND FOR REGISTERED  
20 ORGANIZATIONS UNDER THE EMERGENCY MEDICAL MARIHUANA ACCESS PROGRAM UNDER  
21 SECTION THIRTY-THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE.

22 S 7. This act shall take effect immediately, provided however, that  
23 the amendments to title 5-A of article 33 of the public health law made  
24 by sections two through six of this act shall not affect the expiration  
25 and repeal of such title and shall expire and be deemed repealed there-  
26 with.