

STATE OF NEW YORK

4277

2017-2018 Regular Sessions

IN ASSEMBLY

February 2, 2017

Introduced by M. of A. GOTTFRIED, LUPARDO, DINOWITZ, PAULIN, HEVESI, BLAKE, BRINDISI, ORTIZ, SEPULVEDA, SIMON, SKOUFIS, ZEBROWSKI, McDONALD -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to regulations governing the 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
10 health care, including palliative care.

11 Title 5-A of article 33 of the public health law, and the amendments
12 to it in this act, establish a medical model of care which regulates
13 medical marihuana as a recommended medicine in keeping with recognized
14 medical public health and safety standards. This policy and this legis-
15 lation do not in any way diminish New York state's strong public policy
16 and laws against illegal drug use, nor should it be deemed in any manner
17 to advocate, authorize, promote, or legally or socially accept the use
18 of marihuana for children or adults, for any non-medical use. This
19 legislation is an appropriate exercise of the state's legislative power
20 to protect the health of its people under article 17 of the state
21 constitution and the tenth amendment of the United States constitution.

22 Furthermore, the legislature finds that New York state has a signif-
23 icant and ongoing economic and non-regulatory interest in the financial
24 viability of organizations that sell marihuana for medical use. The

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

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1 legislature finds that the financial viability of such organizations
2 would be greatly diminished and threatened by labor-management conflict,
3 such as a strike at a facility that cultivates marihuana, especially
4 because of the need for enhanced security concerning the products.
5 Replacements during a strike would be difficult to arrange and cause
6 delay far more significant than a strike elsewhere. Accordingly, the
7 legislature finds that the state has a substantial and compelling
8 proprietary interest in this matter, and finds that labor peace is
9 essential for any organization to conduct business relating to the sale
10 of medical marihuana.

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

17 § 2. Section 3369-a of the public health law, as added by chapter 90
18 of the laws of 2014, is amended to read as follows:

19 § 3369-a. Regulations. 1. The commissioner shall make regulations to
20 implement this title. Regulations under this title shall be reasonable
21 and consistent with this title, the legislative intent, and verifiable
22 clinical, legal or public safety considerations.

23 2. There is hereby established in the department an advisory committee
24 on medical use of marihuana (the "advisory committee") to advise the
25 commissioner on making regulations under this title and on any matters
26 relating to the implementation of this title as the commissioner shall
27 determine. The advisory committee shall consist of fifteen members. The
28 members of the advisory committee shall be appointed as follows: eight
29 to be appointed by the governor, two to be appointed by the governor on
30 the recommendation of the temporary president of the senate, one to be
31 appointed by the governor on the recommendation of the minority leader
32 of the senate, two to be appointed by the governor on the recommendation
33 of the speaker of the assembly, one to be appointed by the governor on
34 the recommendation of the minority leader of the assembly, and one to be
35 appointed by the governor on the recommendation of the attorney general
36 of the state of New York. The advisory committee shall include but not
37 be limited to: health care practitioners, patients or representatives of
38 patients with serious conditions, experts in the regulation of
39 controlled substances for medical use, medical marihuana industry
40 professionals and law enforcement. The advisory committee shall be
41 responsible for reviewing the appeal of any patient or caregiver whose
42 registry application has been denied by the department. The advisory
43 committee shall make recommendations regarding any such appeal to the
44 commissioner, who shall make the final determination. The commissioner
45 may also form subcommittees of the advisory committee. The commissioner
46 shall form a subcommittee to assist and advise the commissioner and the
47 advisory committee on clinical matters relating to medical marihuana,
48 including but not limited to expanding or retracting the categories of
49 diseases to be considered serious conditions for purposes of this title,
50 the members of which shall predominantly be clinical professionals in
51 appropriate areas of expertise and shall also include representatives of
52 patients and the general public. Members of a subcommittee need not be
53 members of the advisory committee. Members of the advisory committee
54 shall serve for a term of four years. Members of a subcommittee shall
55 serve at the pleasure of the commissioner. Members of the advisory
56 committee or a subcommittee may receive reimbursement by the department

1 for their reasonable and necessary expenses incurred as members of the
2 advisory committee or a subcommittee. A public employee may be a member
3 of the advisory committee or a subcommittee.

4 § 3. Section 3369 of the public health law is amended by adding a new
5 subdivision 5 to read as follows:

6 5. A registry identification card, or its equivalent, that is issued
7 under the laws of another state, district, territory, commonwealth, or
8 possession of the United States that allows the medical use of marihuana
9 has the same force and effect as a registry identification card issued
10 by the department, so long as the visiting patient's condition is a
11 serious condition, as attested to in writing by a practitioner. Where a
12 registered organization dispenses medical marihuana to a patient under
13 this subdivision, a copy of the attestation shall be provided to the
14 registered organization.

15 § 4. This act shall take effect immediately; provided that the amend-
16 ments to title 5-A of article 33 of the public health law made by this
17 act shall not affect the expiration and repeal of such title and shall
18 expire and be deemed repealed therewith.