

6357--D

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, OTIS, RIVERA, ROBERTS, SKARTADOS, STECK, WEPRIN, ZEBROWSKI, SEPULVEDA, KATZ, MILLER -- 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 -- reported and referred to the Committee on Rules -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the special order of third reading -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

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

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

LBD01604-29-4

1 stand between them and treatment necessary for life and health. This
2 legislation follows the well-established public policy that a controlled
3 substance can have a legitimate medical use. Many controlled substances
4 that are legal for medical use (such as morphine and steroids) are ille-
5 gal for any other use. The purposes of article 33 of the public health
6 law include allowing legitimate medical use of controlled substances in
7 health care, including palliative care. This legislation establishes a
8 medical model of care which regulates medical marihuana as a recommended
9 medicine in keeping with recognized medical public health and safety
10 standards. This policy and this legislation do not in any way diminish
11 New York state's strong public policy and laws against illegal drug use,
12 nor should it be deemed in any manner to advocate, authorize, promote,
13 or legally or socially accept the use of marihuana for children or
14 adults, for any non-medical use. This legislation is an appropriate
15 exercise of the state's legislative power to protect the health of its
16 people under article 17 of the state constitution and the tenth amend-
17 ment of the United States constitution. Furthermore, the legislature
18 finds that New York state has a significant and ongoing economic and
19 non-regulatory interest in the financial viability of organizations that
20 sell marihuana for medical use. The legislature finds that the financial
21 viability of such organizations would be greatly diminished and threat-
22 ened by labor-management conflict, such as a strike at a facility that
23 cultivates marihuana, especially because of the need for enhanced secu-
24 rity concerning the products. Replacements during a strike would be
25 difficult to arrange and cause delay far more significant than a strike
26 elsewhere. Accordingly, the legislature finds that the state has a
27 substantial and compelling proprietary interest in this matter, and
28 finds that labor peace is essential for any organization to conduct
29 business relating to the sale of medical marihuana.

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

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

38 TITLE V-A

39 MEDICAL USE OF MARIHUANA

40 SECTION 3360. DEFINITIONS.
41 3361. CERTIFICATION OF PATIENTS.
42 3362. LAWFUL MEDICAL USE.
43 3363. REGISTRY IDENTIFICATION CARDS.
44 3364. REGISTERED ORGANIZATIONS.
45 3365. REGISTERING OF REGISTERED ORGANIZATIONS.
46 3366. EXPEDITED REGISTRATION OF REGISTERED ORGANIZATIONS.
47 3367. REPORTS BY REGISTERED ORGANIZATIONS.
48 3368. EVALUATION; RESEARCH PROGRAMS; REPORT BY DEPARTMENT.
49 3369. RELATION TO OTHER LAWS.
50 3369-A. PROTECTIONS FOR THE MEDICAL USE OF MARIHUANA.
51 3369-B. REGULATIONS.
52 3369-C. SEVERABILITY.

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

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

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

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

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

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

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

21 7. "SERIOUS CONDITION" MEANS A SEVERE DEBILITATING OR LIFE-THREATENING
22 CONDITION, INCLUDING: CANCER, POSITIVE STATUS FOR HUMAN IMMUNODEFICIENCY
23 VIRUS OR ACQUIRED IMMUNE DEFICIENCY SYNDROME, AMYOTROPHIC LATERAL SCLER-
24 OSIS, ALZHEIMER'S DISEASE, MUSCULAR DYSTROPHY, TRAUMATIC BRAIN INJURY,
25 DYSTONIA, PARKINSON'S DISEASE, MULTIPLE SCLEROSIS, DAMAGE TO THE NERVOUS
26 TISSUE OF THE SPINAL CORD WITH OBJECTIVE NEUROLOGICAL INDICATION OF
27 INTRACTABLE SPASTICITY, EPILEPSY, WASTING SYNDROME, CROHN'S DISEASE,
28 POST-TRAUMATIC STRESS DISORDER, NEUROPATHY, RHEUMATOID ARTHRITIS, AND
29 HUNTINGTON'S DISEASE, OR A CONDITION ASSOCIATED WITH OR A COMPLICATION
30 OF SUCH A CONDITION OR ITS TREATMENT, OR ANY OTHER CONDITION THAT IS
31 ADDED BY THE COMMISSIONER.

32 8. "MEDICAL MARIHUANA" MEANS MARIHUANA AS DEFINED IN SUBDIVISION TWEN-
33 TY-ONE OF SECTION THIRTY-THREE HUNDRED TWO OF THIS ARTICLE INTENDED FOR
34 A CERTIFIED MEDICAL USE, WHICH MAY INCLUDE, BUT IS NOT LIMITED TO, FORMS
35 THAT ARE EXTRACTS, VAPORIZABLE MATERIAL, OR PRODUCTS THAT ARE INFUSED OR
36 COMBINED WITH MARIHUANA, BUT SPECIFICALLY EXCLUDES CONFECTIONS, CARBO-
37 NATED BEVERAGES, AND PRODUCTS THAT ARE MARKETED TOWARDS MINOR CHILDREN;
38 SUBJECT TO REGULATIONS OF THE COMMISSIONER.

39 9. "REGISTERED ORGANIZATION" MEANS A REGISTERED ORGANIZATION UNDER
40 SECTIONS THIRTY-THREE HUNDRED SIXTY-FOUR AND THIRTY-THREE HUNDRED
41 SIXTY-FIVE OF THIS TITLE.

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

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

48 12. "PRACTITIONER" MEANS A PRACTITIONER WHO IS A PHYSICIAN, PHYSICIAN
49 ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN, OR NURSE PRACTITIONER,
50 ACTING WITHIN THE PRACTITIONER'S LAWFUL SCOPE OF PRACTICE.

51 13. "TERMINALLY ILL" MEANS AN INDIVIDUAL HAS A MEDICAL PROGNOSIS THAT
52 THE INDIVIDUAL'S LIFE EXPECTANCY IS APPROXIMATELY ONE YEAR OR LESS IF
53 THE ILLNESS RUNS ITS NORMAL COURSE.

54 14. "LABOR PEACE AGREEMENT" MEANS AN AGREEMENT BETWEEN AN ENTITY AND A
55 LABOR ORGANIZATION THAT, AT A MINIMUM, PROTECTS THE STATE'S PROPRIETARY
56 INTERESTS BY PROHIBITING LABOR ORGANIZATIONS AND MEMBERS FROM ENGAGING

1 IN PICKETING, WORK STOPPAGES, BOYCOTTS, AND ANY OTHER ECONOMIC INTERFER-
2 ENCE WITH THE REGISTERED ORGANIZATION'S BUSINESS.

3 15. "INDIVIDUAL DOSE" MEANS A SINGLE MEASURE OF RAW MEDICAL MARIHUANA
4 OR NON-INFUSED CONCENTRATES TO BE DETERMINED AND CLEARLY IDENTIFIED BY A
5 PATIENT'S PRACTITIONER FOR THE PATIENT'S SPECIFIC CERTIFIED CONDITION.
6 FOR INGESTIBLE OR SUB-LINGUAL MEDICAL MARIHUANA PRODUCTS, NO INDIVIDUAL
7 DOSE MAY CONTAIN MORE THAN TEN MILLIGRAMS OF TETRAHYDRACANABINOL.

8 16. "SPECIAL CERTIFICATION" MEANS A SPECIAL CERTIFICATION MADE UNDER
9 SUBDIVISION SIX OF SECTION THIRTY-THREE HUNDRED SIXTY-ONE OF THIS TITLE.

10 17. "FORM OF MEDICAL MARIHUANA" MEANS CHARACTERISTICS OF THE MEDICAL
11 MARIHUANA RECOMMENDED OR LIMITED FOR A PARTICULAR CERTIFIED PATIENT,
12 INCLUDING THE METHOD OF CONSUMPTION AND ANY PARTICULAR STRAIN, VARIETY,
13 AND QUANTITY OR PERCENTAGE OF MARIHUANA OR PARTICULAR ACTIVE INGREDIENT.

14 S 3361. CERTIFICATION OF PATIENTS. 1. A PATIENT CERTIFICATION MAY ONLY
15 BE ISSUED IF A PRACTITIONER, WHO IS CARING FOR THE PATIENT FOR A SERIOUS
16 CONDITION, AND WHO BY TRAINING OR EXPERIENCE IS QUALIFIED TO TREAT THE
17 SERIOUS CONDITION, CERTIFIES THAT: (A) THE PATIENT HAS A SERIOUS CONDI-
18 TION, WHICH SHALL BE SPECIFIED IN THE PATIENT'S HEALTH CARE RECORD; (B)
19 THE PATIENT IS UNDER THE PRACTITIONER'S CARE FOR THE SERIOUS CONDITION;
20 AND (C) IN THE PRACTITIONER'S PROFESSIONAL OPINION, THE PATIENT IS LIKE-
21 LY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE PRIMARY OR
22 ADJUNCTIVE TREATMENT WITH MEDICAL USE OF MARIHUANA FOR THE SERIOUS
23 CONDITION.

24 2. THE CERTIFICATION SHALL BE IN WRITING AND INCLUDE (A) THE NAME,
25 DATE OF BIRTH AND ADDRESS OF THE PATIENT; (B) A STATEMENT THAT THE
26 PATIENT HAS A SERIOUS CONDITION; THE PATIENT IS UNDER THE PRACTITIONER'S
27 CARE FOR THE SERIOUS CONDITION AND, IN THE PRACTITIONER'S PROFESSIONAL
28 OPINION, THE PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE
29 BENEFIT FROM THE PRIMARY OR ADJUNCTIVE TREATMENT WITH MEDICAL USE OF
30 MARIHUANA FOR THE SERIOUS CONDITION, AND ANY SPECIFICATION OR LIMITATION
31 OF THE FORM OF MEDICAL MARIHUANA RECOMMENDED; (C) THE DATE; AND (D) THE
32 NAME, ADDRESS, FEDERAL REGISTRATION NUMBER, TELEPHONE NUMBER, AND THE
33 HANDWRITTEN SIGNATURE OF THE CERTIFYING PRACTITIONER. THE COMMISSIONER
34 MAY REQUIRE BY REGULATION THAT THE CERTIFICATION SHALL BE ON A FORM
35 PROVIDED BY THE DEPARTMENT IF THE COMMISSIONER DETERMINES THAT THE
36 DEPARTMENT IS MAKING CERTIFICATION FORMS ADEQUATELY AVAILABLE. THE PRAC-
37 TITIONER MAY STATE IN THE CERTIFICATION THAT, IN THE PRACTITIONER'S
38 PROFESSIONAL OPINION THE PATIENT WOULD BENEFIT FROM MEDICAL MARIHUANA
39 ONLY UNTIL A SPECIFIED DATE. THE PRACTITIONER MAY STATE IN THE CERTIF-
40 ICATION THAT, IN THE PRACTITIONER'S PROFESSIONAL OPINION THE PATIENT IS
41 TERMINALLY ILL AND THAT THE CERTIFICATION SHALL NOT EXPIRE UNTIL THE
42 PATIENT DIES.

43 3. IN MAKING A CERTIFICATION, THE PRACTITIONER SHALL CONSIDER THE FORM
44 OF MEDICAL MARIHUANA THE PATIENT SHOULD CONSUME, INCLUDING THE METHOD OF
45 CONSUMPTION AND ANY PARTICULAR STRAIN, VARIETY, AND QUANTITY OR PERCENT-
46 AGE OF MARIHUANA OR PARTICULAR ACTIVE INGREDIENT, AND APPROPRIATE
47 DOSAGE. THE PRACTITIONER SHALL STATE IN THE CERTIFICATION ANY RECOMMEN-
48 DATION OR LIMITATION THE PRACTITIONER MAKES, IN HIS OR HER PROFESSIONAL
49 OPINION, CONCERNING THE APPROPRIATE FORM OR FORMS OF MEDICAL MARIHUANA
50 AND DOSAGE, INCLUDING ANY SPECIFICATION OF AN AMOUNT GREATER OR LESS
51 THAN TWO OUNCES OF MARIHUANA PER THIRTY DAY PERIOD IF CLINICALLY APPRO-
52 PRIATE IN THE PRACTITIONER'S PROFESSIONAL OPINION, FOR THE CERTIFIED
53 PATIENT.

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

1 5. NO PRACTITIONER SHALL ISSUE A CERTIFICATION UNDER THIS SECTION FOR
2 HIMSELF OR HERSELF.

3 6. A REGISTRY IDENTIFICATION CARD BASED ON A CERTIFICATION SHALL
4 EXPIRE ONE YEAR AFTER THE DATE THE CERTIFICATION IS SIGNED BY THE PRAC-
5 TITIONER; EXCEPT THAT WHERE A CERTIFIED PATIENT HAS A REGISTRY IDENTIFI-
6 CATION CARD BASED ON A CURRENT VALID CERTIFICATION, A NEW REGISTRY IDEN-
7 TIFICATION CARD BASED ON A NEW CERTIFICATION SHALL EXPIRE ONE YEAR AFTER
8 THE EXPIRATION OF THE REGISTRY IDENTIFICATION CARD BASED ON THE CURRENT
9 VALID CERTIFICATION. HOWEVER,

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

14 (B) IF THE PRACTITIONER STATES IN THE CERTIFICATION THAT IN THE PRAC-
15 TITIONER'S PROFESSIONAL OPINION THE PATIENT IS TERMINALLY ILL AND THAT
16 THE CERTIFICATION SHALL NOT EXPIRE UNTIL THE PATIENT DIES, THEN THE
17 REGISTRY IDENTIFICATION CARD SHALL STATE THAT THE PATIENT IS TERMINALLY
18 ILL AND THAT THE REGISTRATION CARD SHALL NOT EXPIRE UNTIL THE PATIENT
19 DIES;

20 (C) IF THE PRACTITIONER RE-ISSUES THE CERTIFICATION TO TERMINATE THE
21 CERTIFICATION ON AN EARLIER DATE, THEN THE REGISTRY IDENTIFICATION CARD
22 SHALL EXPIRE ON THAT DATE AND SHALL BE PROMPTLY RETURNED BY THE CERTI-
23 FIED PATIENT TO THE DEPARTMENT; AND

24 (D) IF THE CERTIFICATION SO PROVIDES, THE REGISTRY IDENTIFICATION CARD
25 SHALL STATE ANY RECOMMENDATION OR LIMITATION BY THE PRACTITIONER AS TO
26 THE FORM OR FORMS OF MEDICAL MARIHUANA OR DOSAGE FOR THE CERTIFIED
27 PATIENT.

28 7. (A) A CERTIFICATION MAY BE A SPECIAL CERTIFICATION IF, IN ADDITION
29 TO THE OTHER REQUIREMENTS FOR A CERTIFICATION, THE PRACTITIONER CERTI-
30 FIES IN THE CERTIFICATION THAT THE PATIENT'S SERIOUS CONDITION IS
31 PROGRESSIVE AND DEGENERATIVE OR THAT DELAY IN THE PATIENT'S CERTIFIED
32 MEDICAL USE OF MARIHUANA POSES A SERIOUS RISK TO THE PATIENT'S LIFE OR
33 HEALTH.

34 (B) THE DEPARTMENT SHALL CREATE THE FORM TO BE USED FOR A SPECIAL
35 CERTIFICATION AND SHALL MAKE THAT FORM AVAILABLE TO BE DOWNLOADED FROM
36 THE DEPARTMENT'S WEBSITE.

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

42 (A) THE MARIHUANA THAT MAY BE POSSESSED BY A CERTIFIED PATIENT DOES
43 NOT EXCEED A TOTAL WEIGHT OF TWO OUNCES OF MARIHUANA PER THIRTY DAY
44 PERIOD, OR A GREATER OR LESSER AMOUNT SPECIFIED BY THE PRACTITIONER IN
45 THE CERTIFICATION; PROVIDED THAT DURING THE LAST SEVEN DAYS OF THE THIR-
46 TY DAY PERIOD, THE CERTIFIED PATIENT MAY ALSO POSSESS UP TO SUCH AMOUNT
47 FOR THE NEXT THIRTY DAY PERIOD; AND

48 (B) THE MARIHUANA THAT MAY BE POSSESSED BY A DESIGNATED CAREGIVER DOES
49 NOT EXCEED THE QUANTITIES REFERRED TO IN PARAGRAPH (A) OF THIS SUBDIVI-
50 SION FOR EACH CERTIFIED PATIENT FOR WHOM THE CAREGIVER POSSESSES A VALID
51 REGISTRY IDENTIFICATION CARD, UP TO FIVE CERTIFIED PATIENTS; AND

52 (C) THE FORM OR FORMS OF MEDICAL MARIHUANA THAT MAY BE POSSESSED BY
53 THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER PURSUANT TO A CERTIF-
54 ICATION SHALL BE IN COMPLIANCE WITH ANY RECOMMENDATION OR LIMITATION BY
55 THE PRACTITIONER AS TO THE FORM OR FORMS OF MEDICAL MARIHUANA OR DOSAGE
56 FOR THE CERTIFIED PATIENT IN THE CERTIFICATION; AND

(D) THE MEDICAL MARIHUANA SHALL BE KEPT IN THE ORIGINAL PACKAGE IN WHICH IT WAS DISPENSED UNDER SUBDIVISION TEN OF SECTION THIRTY-THREE HUNDRED SIXTY-FOUR OF THIS TITLE, EXCEPT FOR THE PORTION REMOVED FOR IMMEDIATE CONSUMPTION FOR CERTIFIED MEDICAL USE BY THE CERTIFIED PATIENT.

2. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION:

(A) POSSESSION OF MEDICAL MARIHUANA SHALL NOT BE LAWFUL UNDER THIS TITLE IF IT IS SMOKED IN A PUBLIC PLACE, REGARDLESS OF THE FORM OF MEDICAL MARIHUANA STATED IN THE PATIENT'S CERTIFICATION;

(B) MEDICAL MARIHUANA MAY NOT BE SMOKED IN ANY PLACE WHERE TOBACCO MAY NOT BE SMOKED UNDER ARTICLE THIRTEEN-E OF THIS CHAPTER, REGARDLESS OF THE FORM OF MEDICAL MARIHUANA STATED IN THE PATIENT'S CERTIFICATION;

(C) MEDICAL MARIHUANA MAY NOT BE SMOKED BY ANYONE UNDER THE AGE OF TWENTY-ONE. THIS SHALL NOT PRECLUDE THE USE OF ANY VAPORIZED MEDICAL MARIHUANA; AND

(D) A PERSON POSSESSING MEDICAL MARIHUANA UNDER THIS TITLE SHALL POSSESS HIS OR HER REGISTRY IDENTIFICATION CARD AT ALL TIMES WHEN IN IMMEDIATE POSSESSION OF MEDICAL MARIHUANA.

S 3363. REGISTRY IDENTIFICATION CARDS. 1. UPON APPROVAL OF THE CERTIFICATION, 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 AS SOON AS PRACTICABLE, AND 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;

(VI) ANY RECOMMENDATION OR LIMITATION BY THE PRACTITIONER AS TO THE FORM OR FORMS OF MEDICAL MARIHUANA OR DOSAGE FOR THE CERTIFIED PATIENT; AND

(VII) 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;

(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 SPECIAL CERTIFICATION, THEN IN THE CASE OF A SPECIAL 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 THE PROVISIONS OF THIS
TITLE RELATING TO A SPECIAL CERTIFICATION, REGULATIONS UNDER THIS
SECTION MAY REQUIRE THE APPLICANT TO SUBMIT ADDITIONAL DOCUMENTATION
ESTABLISHING THE CLINICAL BASIS FOR THE SPECIAL 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.

7. NO PERSON MAY BE A DESIGNATED CAREGIVER FOR MORE THAN FIVE CERTIFIED
PATIENTS AT ONE TIME.

8. THE DEPARTMENT SHALL ISSUE SEPARATE REGISTRY IDENTIFICATION CARDS
FOR CERTIFIED PATIENTS AND DESIGNATED CAREGIVERS 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.

9. IF THE APPLICATION OF A CERTIFIED PATIENT DESIGNATES AN INDIVIDUAL
AS A DESIGNATED CAREGIVER WHO IS NOT AUTHORIZED TO BE A DESIGNATED CAREGIVER,
THAT PORTION OF THE APPLICATION SHALL BE DENIED BY THE DEPARTMENT
BUT THAT SHALL NOT AFFECT THE APPROVAL OF THE BALANCE OF THE APPLICATION.

10. A REGISTRY IDENTIFICATION CARD SHALL:

(A) CONTAIN THE NAME OF THE CERTIFIED PATIENT OR THE DESIGNATED CAREGIVER
AS THE CASE MAY BE;

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

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

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

12 (E) BE A SECURE DOCUMENT; AND

13 (F) PLAINLY STATE ANY RECOMMENDATION OR LIMITATION BY THE PRACTITIONER
14 AS TO THE FORM OR FORMS OF MEDICAL MARIHUANA OR DOSAGE FOR THE CERTIFIED
15 PATIENT.

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

21 12. IF A CERTIFIED PATIENT OR DESIGNATED CAREGIVER LOSES HIS OR HER
22 REGISTRY IDENTIFICATION CARD, HE OR SHE SHALL NOTIFY THE DEPARTMENT AND
23 SUBMIT A TEN DOLLAR FEE WITHIN TEN DAYS OF LOSING THE CARD TO MAINTAIN
24 THE REGISTRATION. THE DEPARTMENT MAY ESTABLISH HIGHER FEES FOR ISSUING
25 A NEW REGISTRY IDENTIFICATION CARD FOR SECOND AND SUBSEQUENT REPLACE-
26 MENTS FOR A LOST CARD, PROVIDED, THAT THE DEPARTMENT MAY WAIVE OR REDUCE
27 THE FEE IN CASES OF FINANCIAL HARDSHIP. WITHIN FIVE DAYS AFTER SUCH
28 NOTIFICATION AND PAYMENT, THE DEPARTMENT SHALL ISSUE A NEW REGISTRY
29 IDENTIFICATION CARD, WHICH MAY CONTAIN A NEW REGISTRY IDENTIFICATION
30 NUMBER, TO THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER, AS THE CASE
31 MAY BE.

32 13. THE DEPARTMENT SHALL MAINTAIN A CONFIDENTIAL LIST OF THE PERSONS
33 TO WHOM IT HAS ISSUED REGISTRY IDENTIFICATION CARDS. INDIVIDUAL IDENTI-
34 FYING INFORMATION OBTAINED BY THE DEPARTMENT UNDER THIS TITLE SHALL BE
35 CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER ARTICLE SIX OF THE PUBLIC
36 OFFICERS LAW. NOTWITHSTANDING THIS SUBDIVISION, THE DEPARTMENT MAY NOTI-
37 FY ANY APPROPRIATE LAW ENFORCEMENT AGENCY OF INFORMATION RELATING TO ANY
38 VIOLATION OR SUSPECTED VIOLATION OF THIS TITLE.

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

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

45 16. (A) AS USED IN THIS SUBDIVISION, THE "REGISTRY IMPLEMENTATION
46 DATE" IS THE DATE DETERMINED BY THE COMMISSIONER WHEN THE DEPARTMENT IS
47 READY TO RECEIVE AND EXPEDITIOUSLY ACT ON APPLICATIONS FOR REGISTRY
48 IDENTIFICATION CARDS UNDER THIS SECTION.

49 (B) THIS PARAGRAPH SHALL APPLY ON AND AFTER THE REGISTRY IMPLEMENTA-
50 TION DATE, AND SHALL APPLY BEFORE THE REGISTRY IMPLEMENTATION DATE IN
51 THE CASE OF A SPECIAL CERTIFICATION. UPON RECEIPT OF AN APPLICATION FOR
52 A REGISTRY IDENTIFICATION CARD, THE DEPARTMENT SHALL SEND TO THE APPLI-
53 CANT A LETTER ACKNOWLEDGING SUCH RECEIPT. WHILE THE APPLICATION FOR A
54 REGISTRY IDENTIFICATION CARD IS PENDING, A COPY OF THE REGISTRY APPLICA-
55 TION, TOGETHER WITH A COPY OF THE CERTIFICATION (IN THE CASE OF A CERTI-
56 FIED PATIENT) AND A COPY OF THE LETTER OF RECEIPT FROM THE DEPARTMENT,

1 SHALL SERVE AS AND HAVE THE SAME EFFECT AS A REGISTRY IDENTIFICATION
2 CARD FOR THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER, PROVIDED THAT A
3 CERTIFICATION AND APPLICATION SHALL NOT SERVE AS A VALID REGISTRY IDEN-
4 TIFICATION CARD AFTER THE INITIAL THIRTY DAY PERIOD UNDER SUBDIVISION
5 SEVEN OF THIS SECTION.

6 S 3364. REGISTERED ORGANIZATIONS. 1. A REGISTERED ORGANIZATION SHALL
7 BE A FOR-PROFIT BUSINESS ENTITY OR NOT-FOR-PROFIT CORPORATION ORGANIZED
8 FOR THE PURPOSE OF ACQUIRING, POSSESSING, MANUFACTURING, SELLING, DELIV-
9 ERING, TRANSPORTING, DISTRIBUTING OR DISPENSING MARIHUANA FOR CERTIFIED
10 MEDICAL USE.

11 2. THE ACQUIRING, POSSESSION, MANUFACTURE, SALE, DELIVERY, TRANSPORT-
12 ING, DISTRIBUTING OR DISPENSING OF MARIHUANA BY A REGISTERED ORGANIZA-
13 TION UNDER THIS TITLE IN ACCORDANCE WITH ITS REGISTRATION UNDER SECTION
14 THIRTY-THREE HUNDRED SIXTY-FIVE OF THIS TITLE OR A RENEWAL THEREOF SHALL
15 BE LAWFUL UNDER THIS TITLE. A REGISTERED ORGANIZATION MAY TRANSFER
16 POSSESSION OF MARIHUANA TO, AND MAY RECOVER POSSESSION OF IT FROM, AN
17 ENTITY LICENSED BY THE DEPARTMENT UNDER SECTION THIRTY-THREE HUNDRED
18 TWENTY-FOUR OF THIS ARTICLE FOR PURPOSES OF CHEMICAL ANALYSIS.

19 3. (A) A REGISTERED ORGANIZATION MAY LAWFULLY, IN GOOD FAITH, SELL,
20 DELIVER, DISTRIBUTE OR DISPENSE MEDICAL MARIHUANA TO A CERTIFIED PATIENT
21 OR DESIGNATED CAREGIVER UPON PRESENTATION TO THE REGISTERED ORGANIZATION
22 OF A VALID REGISTRY IDENTIFICATION CARD FOR THAT CERTIFIED PATIENT OR
23 DESIGNATED CAREGIVER. WHEN PRESENTED WITH THE REGISTRY IDENTIFICATION
24 CARD, THE REGISTERED ORGANIZATION SHALL PROVIDE TO THE CERTIFIED PATIENT
25 OR DESIGNATED CAREGIVER A RECEIPT, WHICH SHALL STATE: THE NAME, ADDRESS,
26 AND REGISTRY IDENTIFICATION NUMBER OF THE REGISTERED ORGANIZATION; THE
27 NAME AND REGISTRY IDENTIFICATION NUMBER OF THE CERTIFIED PATIENT AND THE
28 DESIGNATED CAREGIVER (IF ANY); THE DATE THE MARIHUANA WAS SOLD; ANY
29 RECOMMENDATION OR LIMITATION BY THE PRACTITIONER AS TO THE FORM OR FORMS
30 OF MEDICAL MARIHUANA OR DOSAGE FOR THE CERTIFIED PATIENT; AND THE FORM
31 AND THE QUANTITY OF MEDICAL MARIHUANA SOLD. THE REGISTERED ORGANIZATION
32 SHALL RETAIN A COPY OF THE REGISTRY IDENTIFICATION CARD AND THE RECEIPT
33 FOR SIX YEARS.

34 (B) THE REGISTERED ORGANIZATION SHALL REPORT TO THE DEPARTMENT, UNDER
35 SECTIONS THIRTY-THREE HUNDRED THIRTY-THREE AND THIRTY-THREE HUNDRED
36 FORTY-THREE-A OF THIS ARTICLE, THE INFORMATION REQUIRED TO BE INCLUDED
37 IN THE RECEIPT UNDER THIS SUBDIVISION.

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

42 (B) WHEN DISPENSING MEDICAL MARIHUANA TO A CERTIFIED PATIENT OR DESIG-
43 NATED CAREGIVER, THE REGISTERED ORGANIZATION (I) SHALL NOT DISPENSE AN
44 AMOUNT SUCH THAT THE CERTIFIED PATIENT WILL HAVE BEEN DISPENSED MORE
45 THAN TWO OUNCES (OR SUCH GREATER OR LESSER AMOUNT AS SPECIFIED IN THE
46 CERTIFICATION) OF MEDICAL MARIHUANA IN THE PREVIOUS THIRTY DAYS, COUNT-
47 ING THE AMOUNT BEING DISPENSED, FROM ALL REGISTERED ORGANIZATIONS;
48 PROVIDED THAT DURING THE LAST SEVEN DAYS OF THE THIRTY DAY PERIOD, THE
49 CERTIFIED PATIENT MAY ALSO BE DISPENSED UP TO SUCH AMOUNT FOR THE NEXT
50 THIRTY DAY PERIOD, AND (II) SHALL VERIFY THE FOREGOING BY CONSULTING THE
51 PRESCRIPTION MONITORING PROGRAM REGISTRY UNDER SECTION THIRTY-THREE
52 HUNDRED FORTY-THREE-A OF THIS ARTICLE.

53 (C) MEDICAL MARIHUANA DISPENSED TO A CERTIFIED PATIENT OR DESIGNATED
54 CAREGIVER BY A REGISTERED ORGANIZATION SHALL CONFORM TO ANY RECOMMENDA-
55 TION OR LIMITATION BY THE PRACTITIONER AS TO THE FORM OR FORMS OF
56 MEDICAL MARIHUANA OR DOSAGE FOR THE CERTIFIED PATIENT.

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

6 (A) METHODS FOR ADMINISTERING MEDICAL MARIHUANA IN INDIVIDUAL DOSES,

7 (B) ANY POTENTIAL DANGERS STEMMING FROM THE USE OF MEDICAL MARIHUANA,
8 AND

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

11 6. REGISTERED ORGANIZATIONS SHALL NOT EMPLOY ANYONE WHO HAS BEEN
12 CONVICTED OF ANY FELONY OF SALE OR POSSESSION OF DRUGS, NARCOTICS, OR
13 CONTROLLED SUBSTANCES; PROVIDED THAT THIS SUBDIVISION ONLY APPLIES TO

14 (A) EMPLOYEES WHO COME INTO CONTACT WITH OR HANDLE MEDICAL MARIHUANA,
15 AND (B) A CONVICTION LESS THAN TEN YEARS (NOT COUNTING TIME SPENT IN
16 INCARCERATION) PRIOR TO BEING EMPLOYED, FOR WHICH THE PERSON HAS NOT
17 RECEIVED A CERTIFICATE OF RELIEF FROM DISABILITIES OR A CERTIFICATE OF
18 GOOD CONDUCT UNDER ARTICLE TWENTY-THREE OF THE CORRECTION LAW.

19 7. MANUFACTURING OF MEDICAL MARIHUANA BY A REGISTERED ORGANIZATION
20 SHALL ONLY BE DONE IN AN INDOOR, ENCLOSED, SECURE FACILITY, WHICH MAY
21 INCLUDE A GREENHOUSE.

22 8. A REGISTERED ORGANIZATION SHALL DETERMINE THE QUALITY, SAFETY, AND
23 CLINICAL STRENGTH OF MEDICAL MARIHUANA MANUFACTURED OR DISPENSED BY THE
24 REGISTERED ORGANIZATION, AND SHALL PROVIDE DOCUMENTATION OF THAT QUALI-
25 TY, SAFETY AND CLINICAL STRENGTH TO THE DEPARTMENT AND TO ANY PERSON OR
26 ENTITY TO WHICH THE MEDICAL MARIHUANA IS SOLD OR DISPENSED.

27 9. A REGISTERED ORGANIZATION SHALL BE DEEMED TO BE A "HEALTH CARE
28 PROVIDER" FOR THE PURPOSES OF TITLE TWO-D OF ARTICLE TWO OF THIS CHAP-
29 TER.

30 10. MEDICAL MARIHUANA SHALL BE DISPENSED TO A CERTIFIED PATIENT OR
31 DESIGNATED CAREGIVER IN A SEALED AND PROPERLY LABELED PACKAGE. THE
32 LABELING SHALL CONTAIN: (A) THE INFORMATION REQUIRED TO BE INCLUDED IN
33 THE RECEIPT PROVIDED TO THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER BY
34 THE REGISTERED ORGANIZATION; (B) THE PACKAGING DATE; (C) ANY APPLICABLE
35 DATE BY WHICH THE MEDICAL MARIHUANA SHOULD BE USED; (D) A WARNING STAT-
36 ING, "THIS PRODUCT IS FOR MEDICINAL USE ONLY. WOMEN SHOULD NOT CONSUME
37 DURING PREGNANCY OR WHILE BREASTFEEDING EXCEPT ON THE ADVICE OF THE
38 CERTIFYING HEALTH CARE PRACTITIONER, AND IN THE CASE OF BREASTFEEDING
39 MOTHERS, INCLUDING THE INFANT'S PEDIATRICIAN. THIS PRODUCT MIGHT IMPAIR
40 THE ABILITY TO DRIVE. KEEP OUT OF REACH OF CHILDREN."; AND (E) THE
41 AMOUNT OF INDIVIDUAL DOSES CONTAINED WITHIN.

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

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

49 (II) POSSESSES OR HAS THE RIGHT TO USE SUFFICIENT LAND, BUILDINGS, AND
50 OTHER PREMISES (WHICH SHALL BE SPECIFIED IN THE APPLICATION) AND EQUIP-
51 MENT TO PROPERLY CARRY ON THE ACTIVITY DESCRIBED IN THE APPLICATION, OR
52 IN THE ALTERNATIVE POSTS A BOND OF NOT LESS THAN TWO MILLION DOLLARS;

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

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

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

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

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

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

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

22 (III) SUCH OTHER INFORMATION AS THE COMMISSIONER MAY REASONABLY
23 REQUIRE.

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

28 (E) IN REVIEWING APPLICATIONS, THE DEPARTMENT SHALL GIVE ADDITIONAL
29 CONSIDERATION TO APPLICANTS THAT UTILIZE A VERTICAL INTEGRATION MODEL.
30 FOR PURPOSES OF THIS TITLE, A VERTICAL INTEGRATION MODEL SHALL BE ONE IN
31 WHICH A REGISTERED ORGANIZATION POSSESSES LICENSES FOR BOTH PRODUCTION
32 AND DISPENSING.

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

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

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

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

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

46 (V) IT IS IN THE PUBLIC INTEREST THAT SUCH REGISTRATION BE GRANTED;
47 THE COMMISSIONER MAY CONSIDER WHETHER THE NUMBER OF REGISTERED ORGANIZA-
48 TIONS IN AN AREA WILL BE ADEQUATE OR EXCESSIVE TO REASONABLY SERVE THE
49 AREA;

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

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

55 (B) IF THE COMMISSIONER IS NOT SATISFIED THAT THE APPLICANT SHOULD BE
56 ISSUED A REGISTRATION, HE OR SHE SHALL NOTIFY THE APPLICANT IN WRITING

1 OF THOSE FACTORS UPON WHICH FURTHER EVIDENCE IS REQUIRED. WITHIN THIRTY
2 DAYS OF THE RECEIPT OF SUCH NOTIFICATION, THE APPLICANT MAY SUBMIT ADDI-
3 TIONAL MATERIAL TO THE COMMISSIONER OR DEMAND A HEARING, OR BOTH.

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

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

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

12 (II) WHICH ACTIVITIES OF A REGISTERED ORGANIZATION ARE PERMITTED BY
13 THE REGISTRATION;

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

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

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

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

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

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

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

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

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

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

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

53 (D) IF THE COMMISSIONER IS NOT SATISFIED THAT THE APPLICANT IS ENTI-
54 TLED TO A RENEWAL OF THE REGISTRATION, HE OR SHE SHALL WITHIN FORTY-FIVE
55 DAYS AFTER THE FILING OF THE APPLICATION SERVE UPON THE APPLICANT OR HIS
56 OR HER ATTORNEY OF RECORD IN PERSON OR BY REGISTERED OR CERTIFIED MAIL

1 AN ORDER DIRECTING THE APPLICANT TO SHOW CAUSE WHY HIS OR HER APPLICA-
2 TION FOR RENEWAL SHOULD NOT BE DENIED. THE ORDER SHALL SPECIFY IN DETAIL
3 THE RESPECTS IN WHICH THE APPLICANT HAS NOT SATISFIED THE COMMISSIONER
4 THAT THE REGISTRATION SHOULD BE RENEWED.

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

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

13 (I) THE APPLICANT IS UNLIKELY TO MAINTAIN OR BE ABLE TO MAINTAIN
14 EFFECTIVE CONTROL AGAINST DIVERSION; OR

15 (II) THE APPLICANT IS UNLIKELY TO COMPLY WITH ALL STATE LAWS APPLICA-
16 BLE TO THE ACTIVITIES IN WHICH IT MAY ENGAGE UNDER THE REGISTRATION;

17 (III) IT IS NOT IN THE PUBLIC INTEREST TO RENEW THE REGISTRATION
18 BECAUSE THE NUMBER OF REGISTERED ORGANIZATIONS IN AN AREA IS EXCESSIVE
19 TO REASONABLY SERVE THE AREA; OR

20 (IV) THE APPLICANT HAS EITHER VIOLATED OR TERMINATED ITS LABOR PEACE
21 AGREEMENT.

22 (B) FOR PURPOSES OF THIS SECTION, PROOF THAT A REGISTERED ORGANIZA-
23 TION, DURING THE PERIOD OF ITS REGISTRATION, HAS FAILED TO MAINTAIN
24 EFFECTIVE CONTROL AGAINST DIVERSION OR HAS KNOWINGLY OR NEGLIGENTLY
25 FAILED TO COMPLY WITH APPLICABLE STATE LAWS RELATING TO THE ACTIVITIES
26 IN WHICH IT ENGAGES UNDER THE REGISTRATION, SHALL CONSTITUTE SUBSTANTIAL
27 EVIDENCE THAT THE APPLICANT WILL BE UNLIKELY TO MAINTAIN EFFECTIVE
28 CONTROL AGAINST DIVERSION OR WILL BE UNLIKELY TO COMPLY WITH THE APPLI-
29 CABLE STATE STATUTES DURING THE PERIOD OF PROPOSED RENEWAL.

30 6. THE DEPARTMENT MAY SUSPEND OR TERMINATE THE REGISTRATION OF A
31 REGISTERED ORGANIZATION, ON GROUNDS AND USING PROCEDURES UNDER THIS
32 ARTICLE RELATING TO A LICENSE, TO THE EXTENT CONSISTENT WITH THIS TITLE.
33 THE DEPARTMENT SHALL SUSPEND OR TERMINATE THE REGISTRATION IN THE EVENT
34 THAT A REGISTERED ORGANIZATION VIOLATES OR TERMINATES THE APPLICABLE
35 LABOR PEACE AGREEMENT. CONDUCT IN COMPLIANCE WITH THIS TITLE, BUT WHICH
36 MAY VIOLATE CONFLICTING FEDERAL LAW, SHALL NOT BE GROUNDS TO SUSPEND OR
37 TERMINATE A REGISTRATION.

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

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

43 9. THE COMMISSIONER SHALL DETERMINE THE APPROPRIATE NUMBER OF REGIS-
44 TERED ORGANIZATIONS AND FACILITIES TO PROMOTE REASONABLE ACCESS TO
45 MEDICAL MARIHUANA IN THE INTEREST OF CERTIFIED PATIENTS AND THE PUBLIC.
46 DURING THE FIRST TWO YEARS AFTER THIS TITLE TAKES EFFECT, THE COMMIS-
47 SIONER SHALL REGISTER NO MORE THAN TWENTY REGISTERED ORGANIZATIONS THAT
48 MANUFACTURE MEDICAL MARIHUANA.

49 S 3366. EXPEDITED REGISTRATION OF REGISTERED ORGANIZATIONS. 1. THE
50 PURPOSE OF THIS SECTION IS TO EXPEDITE THE AVAILABILITY OF MEDICAL MARI-
51 HUANA TO AVOID SUFFERING AND LOSS OF LIFE, DURING THE PERIOD BEFORE FULL
52 IMPLEMENTATION OF AND PRODUCTION UNDER THIS TITLE, ESPECIALLY IN THE
53 CASE OF PATIENTS WHOSE SERIOUS CONDITION IS PROGRESSIVE AND DEGENERATIVE
54 OR IS SUCH THAT DELAY IN THE PATIENT'S MEDICAL USE OF MARIHUANA POSES A
55 SERIOUS RISK TO THE PATIENT'S LIFE OR HEALTH. THE COMMISSIONER SHALL

1 IMPLEMENT THIS SECTION AS EXPEDITIOUSLY AS PRACTICABLE, INCLUDING BY
2 EMERGENCY REGULATION.

3 2. THE DEPARTMENT SHALL BEGIN ACCEPTING AND ACTING ON APPLICATIONS
4 UNDER THIS SECTION FOR REGISTERED ORGANIZATIONS AS SOON AS PRACTICABLE
5 AFTER THE EFFECTIVE DATE OF THIS TITLE.

6 3. FOR THE PURPOSES OF THIS SECTION, AND FOR SPECIFIED LIMITED TIMES,
7 THE COMMISSIONER MAY WAIVE OR MODIFY THE REQUIREMENTS OF THIS ARTICLE
8 RELATING TO REGISTERED ORGANIZATIONS, CONSISTENT WITH THE LEGISLATIVE
9 INTENT AND PURPOSE OF THIS TITLE AND THIS SECTION. WHERE A REGISTERED
10 ORGANIZATION OPERATES IN A JURISDICTION OTHER THAN THE STATE OF NEW
11 YORK, UNDER LICENSURE OR OTHER GOVERNMENTAL RECOGNITION OF THAT JURIS-
12 DICTION, AND THE LAWS OF THAT JURISDICTION ARE ACCEPTABLE TO THE COMMIS-
13 SIONER AS CONSISTENT WITH THE LEGISLATIVE INTENT AND PURPOSE OF THIS
14 TITLE AND THIS SECTION, THEN THE COMMISSIONER MAY ACCEPT THAT LICENSURE
15 OR RECOGNITION AS WHOLLY OR PARTIALLY SATISFYING THE REQUIREMENTS OF
16 THIS TITLE, FOR PURPOSES OF THE REGISTRATION AND OPERATION OF THE REGIS-
17 TERED ORGANIZATION UNDER THIS SECTION.

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

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

23 (B) APPLICANTS THAT ARE ABLE AND QUALIFIED TO BOTH PRODUCE, DISTRIB-
24 UTE, AND DISPENSE MEDICAL MARIHUANA TO PATIENTS EXPEDITIOUSLY;

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

29 5. THE COMMISSIONER MAY LIMIT REGISTERED ORGANIZATIONS REGISTERED
30 UNDER THIS SECTION TO SERVING PATIENTS WITH SPECIAL CERTIFICATIONS.

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

34 S 3367. REPORTS BY REGISTERED ORGANIZATIONS. 1. THE COMMISSIONER
35 SHALL, BY REGULATION, REQUIRE EACH REGISTERED ORGANIZATION TO FILE
36 REPORTS BY THE REGISTERED ORGANIZATION DURING A PARTICULAR PERIOD. THE
37 COMMISSIONER SHALL DETERMINE THE INFORMATION TO BE REPORTED AND THE
38 FORMS, TIME, AND MANNER OF THE REPORTING.

39 2. THE COMMISSIONER SHALL, BY REGULATION, REQUIRE EACH REGISTERED
40 ORGANIZATION TO ADOPT AND MAINTAIN SECURITY, TRACKING, RECORD KEEPING,
41 RECORD RETENTION AND SURVEILLANCE SYSTEMS, RELATING TO ALL MEDICAL MARI-
42 HUANA AT EVERY STAGE OF ACQUIRING, POSSESSION, MANUFACTURE, SALE, DELIV-
43 ERY, TRANSPORTING, DISTRIBUTING, OR DISPENSING BY THE REGISTERED ORGAN-
44 IZATION, SUBJECT TO REGULATIONS OF THE COMMISSIONER.

45 S 3368. EVALUATION; RESEARCH PROGRAMS; REPORT BY DEPARTMENT. 1. THE
46 COMMISSIONER MAY PROVIDE FOR THE ANALYSIS AND EVALUATION OF THE OPERA-
47 TION OF THIS TITLE. THE COMMISSIONER MAY ENTER INTO AGREEMENTS WITH ONE
48 OR MORE PERSONS, NOT-FOR-PROFIT CORPORATIONS OR OTHER ORGANIZATIONS, FOR
49 THE PERFORMANCE OF AN EVALUATION OF THE IMPLEMENTATION AND EFFECTIVENESS
50 OF THIS TITLE.

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

55 3. THE DEPARTMENT SHALL REPORT EVERY TWO YEARS, BEGINNING TWO YEARS
56 AFTER THE EFFECTIVE DATE OF THIS TITLE, TO THE GOVERNOR AND THE LEGISLA-

1 TURE ON THE MEDICAL USE OF MARIHUANA UNDER THIS TITLE AND MAKE APPROPRI-
2 ATE RECOMMENDATIONS.

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

7 (B) MEDICAL MARIHUANA SHALL NOT BE DEEMED TO BE A "DRUG" FOR PURPOSES
8 OF ARTICLE ONE HUNDRED THIRTY-SEVEN OF THE EDUCATION LAW.

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

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

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

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

29 3. NON-DISCRIMINATION. BEING A CERTIFIED PATIENT SHALL BE DEEMED TO
30 BE HAVING A "DISABILITY" UNDER ARTICLE FIFTEEN OF THE EXECUTIVE LAW
31 (HUMAN RIGHTS LAW), SECTION FORTY-C OF THE CIVIL RIGHTS LAW, SECTIONS
32 240.00, 485.00, AND 485.05 OF THE PENAL LAW, AND SECTION 200.50 OF THE
33 CRIMINAL PROCEDURE LAW. THIS SUBDIVISION SHALL NOT BAR THE ENFORCEMENT
34 OF A POLICY PROHIBITING AN EMPLOYEE FROM PERFORMING HIS OR HER EMPLOY-
35 MENT DUTIES UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE. A SCHOOL MAY
36 NOT REFUSE TO ENROLL OR OTHERWISE PENALIZE A PERSON SOLELY FOR THAT
37 PERSON'S STATUS AS A CERTIFIED PATIENT OR DESIGNATED CAREGIVER. THIS
38 SUBDIVISION SHALL NOT REQUIRE ANY PERSON OR ENTITY TO DO ANY ACT THAT
39 WOULD PUT THE PERSON OR ENTITY IN VIOLATION OF FEDERAL LAW OR CAUSE IT
40 TO LOSE A FEDERAL CONTRACT OR FUNDING.

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

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

51 S 3369-B. REGULATIONS. THE COMMISSIONER SHALL MAKE REGULATIONS TO
52 IMPLEMENT THIS TITLE.

53 S 3369-C. SEVERABILITY. IF ANY PROVISION OF THIS TITLE OR THE APPLICA-
54 TION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, SUCH INVA-
55 LIDITY SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS TITLE

1 WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION,
2 AND TO THIS END THE PROVISIONS OF THIS TITLE ARE SEVERABLE.

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

5 8-A. MEDICAL MARIHUANA. AS USED IN ANY PROVISION OF THIS ARTICLE
6 RELATING TO THE PRESCRIPTION MONITORING PROGRAM REGISTRY, THE FOLLOWING
7 TERMS SHALL INCLUDE THE FOLLOWING IN RELATION TO MEDICAL MARIHUANA, IN
8 ADDITION TO THE MEANING EACH TERM WOULD OTHERWISE HAVE:

9 (A) "PRESCRIPTION," "PRESCRIBE," AND "PRESCRIBER," INCLUDE, RESPEC-
10 TIVELY, A CERTIFICATION, THE ISSUING OF A CERTIFICATION, AND A PRACTI-
11 TIONER UNDER TITLE FIVE-A OF THIS ARTICLE.

12 (B) "PHARMACY" INCLUDES A REGISTERED ORGANIZATION THAT IS AUTHORIZED
13 TO DISPENSE MEDICAL MARIHUANA UNDER TITLE FIVE-A OF THIS ARTICLE;
14 PROVIDED THAT A REGISTERED ORGANIZATION THAT IS NOT A FACILITY LICENSED
15 UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR A PHARMACY UNDER ARTICLE
16 ONE HUNDRED THIRTY-SEVEN OF THE EDUCATION LAW SHALL ONLY BE AUTHORIZED
17 TO CONSULT THE REGISTRY OR ACCESS PATIENT-SPECIFIC INFORMATION FROM THE
18 REGISTRY (INCLUDING UNDER SUBDIVISION THREE OF THIS SECTION AND SUBDIVI-
19 SION TWO OF SECTION THIRTY-THREE HUNDRED SEVENTY-ONE OF THIS ARTICLE) IN
20 DIRECT RELATION TO MEDICAL MARIHUANA, BUT SHALL REPORT INFORMATION TO
21 THE REGISTRY, INCLUDING UNDER SUBDIVISION FOUR OF SECTION THIRTY-THREE
22 HUNDRED THIRTY-THREE OF THIS ARTICLE.

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

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

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

32 S 4. The tax law is amended by adding a new article 20-B to read as
33 follows:

34 ARTICLE 20-B

35 TAX ON MEDICAL MARIHUANA

36 SECTION 490. EXCISE TAX ON MEDICAL MARIHUANA.

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

40 2. THERE IS HEREBY LEVIED AND IMPOSED ON REGISTERED ORGANIZATIONS AN
41 EXCISE TAX ON ALL MEDICAL MARIHUANA SOLD TO ANOTHER REGISTERED ORGANIZA-
42 TION OR TO A CERTIFIED PATIENT OR DESIGNATED CAREGIVER. THE EXCISE TAX
43 SHALL BE AT THE RATE OF SEVEN PERCENT OF THE RETAIL PRICE OF THE MEDICAL
44 MARIHUANA DISPENSED.

45 3. TWENTY-TWO AND FIVE-TENTHS PERCENT OF THE REVENUE RECEIVED BY THE
46 DEPARTMENT SHALL BE TRANSFERRED TO THE COUNTY IN NEW YORK STATE IN WHICH
47 THE MEDICAL MARIHUANA WAS MANUFACTURED AND TWENTY-TWO AND FIVE-TENTHS
48 PERCENT OF THE REVENUE RECEIVED BY THE DEPARTMENT SHALL BE TRANSFERRED
49 TO THE COUNTY IN NEW YORK STATE IN WHICH THE MEDICAL MARIHUANA WAS
50 DISPENSED. FOR PURPOSES OF THE PREVIOUS SENTENCE, THE CITY OF NEW YORK
51 SHALL BE DEEMED TO BE A COUNTY. FIVE PERCENT OF THE REVENUE RECEIVED BY
52 THE DEPARTMENT SHALL BE TRANSFERRED TO THE OFFICE OF ALCOHOLISM AND
53 SUBSTANCE ABUSE SERVICES, WHICH SHALL USE THAT REVENUE FOR ADDITIONAL
54 DRUG ABUSE PREVENTION, COUNSELING AND TREATMENT SERVICES. FIVE PERCENT
55 OF THE REVENUE RECEIVED BY THE DEPARTMENT SHALL BE TRANSFERRED TO THE
56 DIVISION OF CRIMINAL JUSTICE SERVICES, WHICH SHALL USE THAT REVENUE FOR

1 A PROGRAM OF DISCRETIONARY GRANTS TO STATE AND LOCAL LAW ENFORCEMENT
2 AGENCIES THAT DEMONSTRATE A NEED RELATING TO TITLE FIVE-A OF ARTICLE
3 THIRTY-THREE OF THE PUBLIC HEALTH LAW. SAID GRANTS COULD BE USED FOR
4 PERSONNEL COSTS OF STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

5 4. A REGISTERED ORGANIZATION THAT DISPENSES MEDICAL MARIHUANA SHALL
6 PROVIDE TO THE DEPARTMENT INFORMATION ON WHERE THE MEDICAL MARIHUANA WAS
7 DISPENSED AND WHERE THE MEDICAL MARIHUANA WAS MANUFACTURED. A REGISTERED
8 ORGANIZATION THAT OBTAINS MARIHUANA FROM ANOTHER REGISTERED ORGANIZATION
9 SHALL OBTAIN FROM SUCH REGISTERED ORGANIZATION INFORMATION ON WHERE THE
10 MEDICAL MARIHUANA WAS MANUFACTURED.

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

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

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

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

19 S 221.00 Marihuana; definitions.

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

25 S 7. This act shall take effect immediately.