S T A T E O F N E W Y O R K

4406

2013-2014 Regular Sessions

I N S E N A T E

March 26, 2013

Introduced by Sens. SAVINO, ADAMS, AVELLA, BRESLIN, CARLUCCI, DILAN, KRUEGER, MONTGOMERY, SAMPSON, SQUADRON, TKACZYK -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, the 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:

Section 1. Legislative findings and intent. The legislature finds that thousands of New Yorkers have serious medical conditions that can be improved by medically-approved use of marihuana. The law should not stand between them and treatment necessary for life and health. This legislation follows the well-established public policy that a controlled substance can have a legitimate medical use. Many controlled substances that are legal for medical use (such as morphine and steroids) are illegal for any other use. The purposes of article 33 of the public health law include allowing legitimate use of controlled substances in health care, including palliative care. This policy and this legislation do not in any way diminish New York state's strong public policy and laws against illegal drug use, nor should it be deemed in any manner to advocate, authorize, promote, or legally or socially accept the use of marihuana for children or adults, for any non-medical use. This legislation is an appropriate exercise of the state's legislative power to protect the health of its people under article 17 of the state constitution and the tenth amendment of the United States constitution.

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

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

LBD01604-04-3

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

TITLE V-A

MEDICAL USE OF MARIHUANA

SECTION 3360. DEFINITIONS.
3361. CERTIFICATION OF PATIENTS.
3362. LAWFUL MEDICAL USE.
3363. REGISTRY IDENTIFICATION CARDS.
3364. REGISTERED ORGANIZATIONS.
3365. REGISTERING OF REGISTERED ORGANIZATIONS.
3366. REPORTS BY REGISTERED ORGANIZATIONS.
3367. EVALUATION; RESEARCH PROGRAMS; REPORT BY DEPARTMENT.
3368. RELATION TO OTHER LAWS.
3369. PROTECTIONS FOR THE MEDICAL USE OF MARIHUANA.
3369-A. REGULATIONS.
3369-B. SEVERABILITY.

S 3360. DEFINITIONS. AS USED IN THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE:

1. "CERTIFIED MEDICAL USE" MEANS THE ACQUISITION, POSSESSION, USE, DELIVERY, TRANSFER, TRANSPORTATION, OR ADMINISTRATION OF MEDICAL MARIHUANA BY A CERTIFIED PATIENT OR DESIGNATED CAREGIVER FOR USE AS PART OF THE TREATMENT OF THE PATIENT'S SERIOUS CONDITION SPECIFIED IN A CERTIFICATION UNDER SECTION THIRTY-THREE HUNDRED SIXTY-ONE OF THIS TITLE, INCLUDING ENABLING THE PATIENT TO TOLERATE TREATMENT FOR THE SERIOUS CONDITION.

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

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

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

5. "DESIGNATED CAREGIVER" MEANS THE INDIVIDUAL DESIGNATED BY A CERTIFIED PATIENT IN A REGISTRY APPLICATION.

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

7. "SERIOUS CONDITION" MEANS A SEVERE DEBILITATING OR LIFE-THREATENING CONDITION, INCLUDING, BUT NOT LIMITED TO, CANCER, GLAUCOMA, POSITIVE STATUS FOR HUMAN IMMUNODEFICIENCY VIRUS OR ACQUIRED IMMUNE DEFICIENCY SYNDROME, PARKINSON'S DISEASE, MULTIPLE SCLEROSIS, DAMAGE TO THE NERVOUS TISSUE OF THE SPINAL CORD WITH OBJECTIVE NEUROLOGICAL INDICATION OF INTRACTABLE SPASTICITY, EPILEPSY, CACHEXIA, WASTING SYNDROME, CROHN'S DISEASE, POST-TRAUMATIC STRESS DISORDER, NEUROPATHY, FIBROMYALGIA, ARTHRITIS, LUPUS, AND DIABETES, OR A CONDITION ASSOCIATED WITH OR A COMPLICATION OF SUCH A CONDITION OR ITS TREATMENT (INCLUDING BUT NOT LIMITED TO INABILITY TO TOLERATE FOOD, NAUSEA, VOMITING, DYSPHORIA OR PAIN) SUBJECT TO LIMITATION IN REGULATION OF THE COMMISSIONER.

8. "MEDICAL MARIHUANA" MEANS MARIHUANA AS DEFINED IN SUBDIVISION TWENTY-ONE OF SECTION THIRTY-THREE HUNDRED TWO OF THIS ARTICLE INTENDED FOR A CERTIFIED MEDICAL USE.

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

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

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

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

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

S 3361. CERTIFICATION OF PATIENTS. 1. A PATIENT CERTIFICATION MAY ONLY BE ISSUED IF A PRACTITIONER WHO IS CARING FOR THE PATIENT FOR A SERIOUS CONDITION CERTIFIES THAT: (A) THE PATIENT HAS A SERIOUS CONDITION, WHICH SHALL BE SPECIFIED IN THE PATIENT'S HEALTH CARE RECORD; (B) THE PATIENT IS UNDER THE PRACTITIONER'S CARE FOR THE SERIOUS CONDITION; AND (C) IN THE PRACTITIONER'S PROFESSIONAL OPINION, THE PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE PRIMARY OR ADJUNCTIVE TREATMENT WITH MEDICAL USE OF MARIHUANA FOR THE SERIOUS CONDITION.

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

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

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

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

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

(B) IF THE PRACTITIONER STATES IN THE CERTIFICATION THAT IN THE PRACTITIONER'S PROFESSIONAL OPINION THE PATIENT IS TERMINALLY ILL AND THAT THE CERTIFICATION SHALL NOT EXPIRE UNTIL THE PATIENT DIES, THEN THE REGISTRY IDENTIFICATION CARD SHALL NOT EXPIRE UNTIL THE PATIENT DIES; AND

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

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;

(C) EXCEPT THAT IN A HEALTH CARE FACILITY, MEDICAL MARIHUANA MAY BE SMOKED BY A PATIENT OF THE FACILITY, SUBJECT TO OTHER PROVISIONS OF THIS TITLE, IN AN AREA, AND UNDER CIRCUMSTANCES, PERMITTED BY THE FACILITY, PROVIDED THAT THE PATIENT DOES NOT SMOKE IN THE PRESENCE OF PATIENTS WHO ARE NOT CERTIFIED UNDER THIS TITLE.

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-SIX 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. 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.

4. 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.

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

6. 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.

7. 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.

8. A REGISTRY IDENTIFICATION CARD SHALL CONTAIN:

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

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

(C) A REGISTRY IDENTIFICATION NUMBER FOR THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER, AS THE CASE MAY BE AND A REGISTRY IDENTIFICATION NUMBER; AND

(D) A PHOTOGRAPH OF THE INDIVIDUAL TO WHOM THE REGISTRY IDENTIFICATION CARD IS BEING ISSUED, WHICH SHALL BE OBTAINED BY THE DEPARTMENT IN A MANNER SPECIFIED BY THE COMMISSIONER IN REGULATIONS; PROVIDED, HOWEVER, THAT IF THE DEPARTMENT REQUIRES CERTIFIED PATIENTS TO SUBMIT PHOTOGRAPHS FOR THIS PURPOSE, THERE SHALL BE A REASONABLE ACCOMMODATION OF CERTIFIED PATIENTS WHO ARE CONFINED TO THEIR HOMES DUE TO THEIR MEDICAL CONDITIONS AND MAY THEREFORE HAVE DIFFICULTY PROCURING PHOTOGRAPHS.

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

10. IF A CERTIFIED PATIENT OR DESIGNATED CAREGIVER LOSES HIS OR HER REGISTRY IDENTIFICATION CARD, HE OR SHE SHALL NOTIFY THE DEPARTMENT AND SUBMIT A TEN DOLLAR FEE WITHIN TEN DAYS OF LOSING THE CARD TO MAINTAIN THE REGISTRATION. THE DEPARTMENT MAY ESTABLISH HIGHER FEES FOR ISSUING A NEW REGISTRY IDENTIFICATION CARD FOR SECOND AND SUBSEQUENT REPLACEMENTS FOR A LOST CARD, PROVIDED, THAT THE DEPARTMENT MAY WAIVE OR REDUCE THE FEE IN CASES OF FINANCIAL HARDSHIP. WITHIN FIVE DAYS AFTER SUCH NOTIFICATION AND PAYMENT, THE DEPARTMENT SHALL ISSUE A NEW REGISTRY IDENTIFICATION CARD, WHICH MAY CONTAIN A NEW REGISTRY IDENTIFICATION NUMBER, TO THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER, AS THE CASE MAY BE.

11. THE DEPARTMENT SHALL MAINTAIN A CONFIDENTIAL LIST OF THE PERSONS TO WHOM IT HAS ISSUED REGISTRY IDENTIFICATION CARDS. INDIVIDUAL IDENTIFYING INFORMATION OBTAINED BY THE DEPARTMENT UNDER THIS TITLE SHALL BE CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW. NOTWITHSTANDING THIS SUBDIVISION, THE DEPARTMENT MAY NOTIFY ANY APPROPRIATE LAW ENFORCEMENT AGENCY OF INFORMATION RELATING TO ANY VIOLATION OR SUSPECTED VIOLATION OF THIS TITLE.

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

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

14. (A) REGISTRY IMPLEMENTATION DATE. AS USED IN THIS SUBDIVISION, THE "REGISTRY IMPLEMENTATION DATE" IS THE DATE DETERMINED BY THE COMMISSION-

ER WHEN THE DEPARTMENT IS READY TO RECEIVE AND EXPEDITIOUSLY ACT ON APPLICATIONS FOR REGISTRY IDENTIFICATION CARDS UNDER THIS SECTION.

(B) ON AND AFTER THE REGISTRY IMPLEMENTATION DATE, UPON RECEIPT OF AN APPLICATION FOR A REGISTRY IDENTIFICATION CARD, THE DEPARTMENT SHALL SEND TO THE APPLICANT A LETTER ACKNOWLEDGING SUCH RECEIPT. WHILE THE APPLICATION FOR A REGISTRY IDENTIFICATION CARD IS PENDING, A COPY OF THE REGISTRY APPLICATION, TOGETHER WITH A COPY OF THE CERTIFICATION (IN THE CASE OF A CERTIFIED PATIENT) AND A COPY OF THE LETTER OF RECEIPT FROM THE DEPARTMENT, SHALL SERVE AS AND HAVE THE SAME EFFECT AS A REGISTRY IDENTIFICATION CARD FOR THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER, PROVIDED THAT A CERTIFICATION AND APPLICATION SHALL NOT SERVE AS A VALID REGISTRY IDENTIFICATION CARD AFTER THE INITIAL THIRTY DAY PERIOD UNDER SUBDIVISION SIX OF THIS SECTION. THIS PARAGRAPH SHALL EXPIRE AND HAVE NO EFFECT ONE YEAR AFTER THE REGISTRY IMPLEMENTATION DATE.

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

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

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

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

2. THE ACQUIRING, POSSESSION, MANUFACTURE, SALE, DELIVERY, TRANSPORTING, DISTRIBUTING OR DISPENSING OF MARIHUANA BY A REGISTERED ORGANIZATION UNDER THIS TITLE IN ACCORDANCE WITH ITS REGISTRATION UNDER SECTION THIRTY-THREE HUNDRED SIXTY-FIVE OF THIS TITLE OR A RENEWAL THEREOF SHALL BE LAWFUL UNDER THIS TITLE. A REGISTERED ORGANIZATION MAY TRANSFER POSSESSION OF MARIHUANA TO, AND MAY RECOVER POSSESSION OF IT FROM, AN ENTITY LICENSED BY THE DEPARTMENT UNDER SECTION THIRTY-THREE HUNDRED TWENTY-FOUR OF THIS TITLE FOR PURPOSES OF CHEMICAL ANALYSIS.

3. A REGISTERED ORGANIZATION MAY LAWFULLY, IN GOOD FAITH, SELL, DELIVER, DISTRIBUTE OR DISPENSE MEDICAL MARIHUANA TO A CERTIFIED PATIENT OR DESIGNATED CAREGIVER UPON PRESENTATION TO THE REGISTERED ORGANIZATION OF A VALID REGISTRY IDENTIFICATION CARD FOR THAT CERTIFIED PATIENT OR DESIGNATED CAREGIVER. WHEN PRESENTED WITH THE REGISTRY IDENTIFICATION CARD, THE REGISTERED ORGANIZATION SHALL PROVIDE TO THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER A RECEIPT, WHICH SHALL STATE: THE NAME, ADDRESS, AND REGISTRY IDENTIFICATION NUMBER OF THE REGISTERED ORGANIZATION; THE REGISTRY IDENTIFICATION NUMBER OF THE CERTIFIED PATIENT AND THE DESIGNATED CAREGIVER (IF ANY); AND THE QUANTITY OF MARIHUANA SOLD. THE REGISTERED ORGANIZATION SHALL RETAIN A COPY OF THE REGISTRY IDENTIFICATION CARD AND THE RECEIPT FOR ONE YEAR.

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

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

(A) METHODS FOR ADMINISTERING MEDICAL MARIHUANA,

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

(C) HOW TO RECOGNIZE WHAT MAY BE PROBLEMATIC USAGE OF MEDICAL MARIHUANA AND OBTAIN APPROPRIATE SERVICES OR TREATMENT FOR PROBLEMATIC USAGE.

6. MANUFACTURING OF MEDICAL MARIHUANA BY A REGISTERED ORGANIZATION SHALL ONLY BE DONE IN AN INDOOR, ENCLOSED, SECURE FACILITY.

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

8. A REGISTERED ORGANIZATION SHALL BE DEEMED TO BE A "HEALTH CARE PROVIDER" FOR THE PURPOSES OF TITLE TWO-D OF ARTICLE TWO OF THIS CHAPTER.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(VI) THE APPLICANT AND ITS MANAGING OFFICERS ARE OF GOOD MORAL CHARACTER.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(III) IS AN APPLICANT UNDER SUBDIVISION ONE OF SECTION THIRTY-THREE HUNDRED SIXTY-FOUR OF THIS TITLE, IN WHICH CASE THE COMMISSIONER MAY CONSIDER WHETHER THE NUMBER OF REGISTERED ORGANIZATIONS IN AN AREA IS ADEQUATE OR EXCESSIVE TO REASONABLY SERVE THE AREA.

(B) FOR PURPOSES OF THIS SECTION, PROOF THAT A REGISTERED ORGANIZATION, DURING THE PERIOD OF ITS REGISTRATION, HAS FAILED TO MAINTAIN EFFECTIVE CONTROL AGAINST DIVERSION OR HAS KNOWINGLY OR NEGLIGENTLY FAILED TO COMPLY WITH APPLICABLE STATE LAWS RELATING TO THE ACTIVITIES IN WHICH IT ENGAGES UNDER THE REGISTRATION, SHALL CONSTITUTE SUBSTANTIAL EVIDENCE THAT THE APPLICANT WILL BE UNLIKELY TO MAINTAIN EFFECTIVE CONTROL AGAINST DIVERSION OR WILL BE UNLIKELY TO COMPLY WITH THE APPLICABLE STATE STATUTES DURING THE PERIOD OF PROPOSED RENEWAL.

6. THE DEPARTMENT MAY SUSPEND OR TERMINATE THE REGISTRATION OF A REGISTERED ORGANIZATION, ON GROUNDS AND USING PROCEDURES UNDER THIS ARTICLE RELATING TO A LICENSE, TO THE EXTENT CONSISTENT WITH THIS TITLE. CONDUCT IN COMPLIANCE WITH THIS TITLE, BUT WHICH MAY VIOLATE CONFLICTING FEDERAL LAW, SHALL NOT BE GROUNDS TO SUSPEND OR TERMINATE A REGISTRATION.

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

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

9. THE COMMISSIONER SHALL DETERMINE THE APPROPRIATE NUMBER OF REGISTERED ORGANIZATIONS AND FACILITIES TO PROMOTE REASONABLE ACCESS TO MEDICAL MARIHUANA IN THE INTEREST OF CERTIFIED PATIENTS AND THE PUBLIC.

S 3366. REPORTS BY REGISTERED ORGANIZATIONS. 1. THE COMMISSIONER SHALL, BY REGULATION, REQUIRE EACH REGISTERED ORGANIZATION TO FILE REPORTS BY THE REGISTERED ORGANIZATION DURING A PARTICULAR PERIOD. THE COMMISSIONER SHALL DETERMINE THE INFORMATION TO BE REPORTED AND THE FORMS, TIME, AND MANNER OF THE REPORTING.

2. THE COMMISSIONER SHALL, BY REGULATION, REQUIRE EACH REGISTERED ORGANIZATION TO ADOPT AND MAINTAIN SECURITY, TRACKING, AND SURVEILLANCE SYSTEMS, RELATING TO ALL MEDICAL MARIHUANA AT EVERY STAGE OF ACQUIRING, POSSESSION, MANUFACTURE, SALE, DELIVERY, TRANSPORTING, DISTRIBUTING, OR DISPENSING BY THE REGISTERED ORGANIZATION, SUBJECT TO REGULATIONS OF THE COMMISSIONER.

S 3367. EVALUATION; RESEARCH PROGRAMS; REPORT BY DEPARTMENT. 1. THE COMMISSIONER MAY PROVIDE FOR THE ANALYSIS AND EVALUATION OF THE OPERATION OF THIS TITLE. THE COMMISSIONER MAY ENTER INTO AGREEMENTS WITH ONE OR MORE PERSONS, NOT-FOR-PROFIT CORPORATIONS OR OTHER ORGANIZATIONS, FOR THE PERFORMANCE OF AN EVALUATION OF THE IMPLEMENTATION AND EFFECTIVENESS OF THIS TITLE.

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

3. THE DEPARTMENT SHALL REPORT EVERY TWO YEARS, BEGINNING TWO YEARS AFTER THE EFFECTIVE DATE OF THIS TITLE, TO THE GOVERNOR AND THE LEGISLATURE ON THE MEDICAL USE OF MARIHUANA UNDER THIS TITLE AND MAKE APPROPRIATE RECOMMENDATIONS.

S 3368. RELATION TO OTHER LAWS. 1. THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO THIS TITLE, EXCEPT THAT WHERE A PROVISION OF THIS TITLE CONFLICTS WITH ANOTHER PROVISION OF THIS ARTICLE, THIS TITLE SHALL APPLY.

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

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

S 3369. PROTECTIONS FOR THE MEDICAL USE OF MARIHUANA. 1. CERTIFIED PATIENTS, DESIGNATED CAREGIVERS, PRACTITIONERS, REGISTERED ORGANIZATIONS AND THE EMPLOYEES OF REGISTERED ORGANIZATIONS SHALL NOT BE SUBJECT TO ARREST, PROSECUTION, OR PENALTY IN ANY MANNER, OR DENIED ANY RIGHT OR PRIVILEGE, INCLUDING BUT NOT LIMITED TO CIVIL PENALTY OR DISCIPLINARY ACTION BY A BUSINESS OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU, SOLELY FOR THE CERTIFIED MEDICAL USE OR MANUFACTURE OF MARIHUANA, OR FOR ANY OTHER ACTION OR CONDUCT IN ACCORDANCE WITH THIS TITLE. STATE OR LOCAL LAW ENFORCEMENT AGENCIES SHALL NOT COOPERATE WITH OR PROVIDE ASSISTANCE TO THE GOVERNMENT OF THE UNITED STATES OR ANY AGENCY THEREOF IN ENFORCING THE CONTROLLED SUBSTANCES ACT, 21 U.S.C. S 801 ET. SEQ., SOLELY FOR ACTIONS AND CONDUCT CONSISTENT WITH THIS TITLE, EXCEPT AS PURSUANT TO A VALID COURT ORDER.

2. AFFIRMATIVE DEFENSE. A PATIENT AND A PATIENT'S CAREGIVER WHO HAVE FAILED TO OBTAIN A REGISTRY IDENTIFICATION CARD MAY ASSERT AN AFFIRMATIVE DEFENSE TO ANY PROSECUTION UNDER STATE LAW FOR ACTIONS AND CONDUCT THAT IS OTHERWISE CONSISTENT WITH THE CERTIFIED MEDICAL USE OF MARIHUANA AS DEFINED UNDER THIS TITLE.

3. INCIDENTAL AMOUNT OF MARIHUANA. ANY INCIDENTAL AMOUNT OF SEEDS, STALKS, AND UNUSABLE ROOTS SHALL NOT BE INCLUDED IN THE AMOUNTS SPECIFIED IN SUBDIVISION ONE OF SECTION THIRTY-THREE HUNDRED SIXTY-TWO OF THIS TITLE.

4. SCHOOL, EMPLOYER, OR LANDLORD MAY NOT DISCRIMINATE. A SCHOOL, EMPLOYER, OR LANDLORD MAY NOT REFUSE TO ENROLL OR EMPLOY OR LEASE TO OR OTHERWISE PENALIZE A PERSON SOLELY FOR THAT PERSON'S STATUS AS A CERTIFIED PATIENT OR DESIGNATED CAREGIVER UNLESS FAILING TO DO SO WOULD PUT THE SCHOOL, EMPLOYER, OR LANDLORD IN VIOLATION OF FEDERAL LAW OR CAUSE IT TO LOSE A FEDERAL CONTRACT OR FUNDING.

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

6. PERSON MAY NOT BE DENIED CUSTODY OR VISITATION OF MINOR. A PERSON SHALL NOT BE DENIED CUSTODY OR VISITATION OF A MINOR FOR ACTING IN ACCORDANCE WITH THIS TITLE UNLESS THE PERSON'S BEHAVIOR IS SUCH THAT IT CREATES AN UNREASONABLE DANGER TO THE MINOR THAT CAN BE CLEARLY ARTICULATED AND SUBSTANTIATED.

7. EFFECT OF REGISTRY IDENTIFICATION CARD ISSUED BY ANOTHER JURISDICTION. A REGISTRY IDENTIFICATION CARD, OR ITS EQUIVALENT, THAT IS ISSUED UNDER THE LAWS OF ANOTHER STATE, DISTRICT, TERRITORY, COMMONWEALTH, OR POSSESSION OF THE UNITED STATES THAT ALLOWS THE MEDICAL USE OF MARIHUANA HAS THE SAME FORCE AND EFFECT AS A REGISTRY IDENTIFICATION CARD ISSUED BY THE DEPARTMENT, SO LONG AS THE VISITING PATIENT'S SERIOUS CONDITION WOULD QUALIFY FOR THE CERTIFIED MEDICAL USE OF MARIHUANA UNDER THIS TITLE.

S 3369-A. REGULATIONS. 1. THE COMMISSIONER SHALL MAKE REGULATIONS TO IMPLEMENT THIS TITLE.

2. ADVISORY COMMITTEE. THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT AN ADVISORY COMMITTEE ON MEDICAL USE OF MARIHUANA (THE "ADVISORY COMMITTEE") TO ADVISE THE COMMISSIONER ON MAKING REGULATIONS UNDER THIS TITLE AND ON ANY MATTERS RELATING TO THE IMPLEMENTATION OF THIS TITLE AS THE COMMISSIONER SHALL DETERMINE. THE MEMBERS OF THE ADVISORY COMMITTEE AND ANY SUBCOMMITTEE OF THE ADVISORY COMMITTEE ("SUBCOMMITTEE") SHALL BE APPOINTED BY THE COMMISSIONER AND INCLUDE BUT NOT BE LIMITED TO: HEALTH CARE PRACTITIONERS, PATIENTS OR REPRESENTATIVES OF PATIENTS WITH SERIOUS CONDITIONS, EXPERTS IN THE REGULATION OF CONTROLLED SUBSTANCES FOR MEDICAL USE, MEDICAL MARIHUANA INDUSTRY PROFESSIONALS AND LAW ENFORCEMENT. THE COMMISSIONER MAY ALSO FORM SUBCOMMITTEES OF THE ADVISORY COMMITTEE. THE COMMISSIONER SHALL FORM A SUBCOMMITTEE TO ADVISE THE 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-B. 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 FOLLOWING RATES:

(A) FOR MEDICAL MARIHUANA MANUFACTURED BY A REGISTERED ORGANIZATION: ONE HUNDRED TWENTY-FIVE DOLLARS FOR EACH POUND OR PART THEREOF OF MEDICAL MARIHUANA MANUFACTURED BY THE REGISTERED ORGANIZATION.

(B) FOR MEDICAL MARIHUANA DISPENSED TO A CERTIFIED PATIENT OR DESIGNATED CAREGIVER: ONE HUNDRED TWENTY-FIVE DOLLARS FOR EACH POUND OR PART THEREOF OF MEDICAL MARIHUANA DISPENSED; PROVIDED THAT IF THE MEDICAL MARIHUANA UNDER THIS PARAGRAPH WAS OBTAINED BY THE REGISTERED ORGANIZATION FROM AN ENTITY THAT DID NOT PAY AN EXCISE TAX ATTRIBUTABLE TO THAT

MEDICAL MARIHUANA UNDER PARAGRAPH (A) OF THIS SUBDIVISION, THEN THE TAX UNDER THIS PARAGRAPH SHALL BE TWO HUNDRED FIFTY DOLLARS.

3. FIFTY PERCENT OF THE REVENUE RECEIVED BY THE DEPARTMENT SHALL BE TRANSFERRED TO THE COUNTY IN WHICH THE MEDICAL MARIHUANA WAS MANUFACTURED (IN THE CASE OF REVENUE RECEIVED UNDER PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION) OR DISPENSED (IN THE CASE OF REVENUE RECEIVED UNDER PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION). FOR PURPOSES OF THIS SUBDIVISION, THE CITY OF NEW YORK SHALL BE DEEMED TO BE A COUNTY.

4. THE COMMISSIONER SHALL MAKE REGULATIONS TO IMPLEMENT THIS ARTICLE.

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

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

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

S 221.00 Marihuana; definitions.

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

S 7. This act shall take effect immediately, provided that the amendment to section 3343-a of the public health law made by section three of this act shall take effect on the same date and in the same manner as section 2 of part A of chapter 447 of the laws of 2012, as amended, takes effect.