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

6357--E

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, O'DONNELL -- 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 -- (at request of the Governor) -- 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 -- recommitted to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law, in relation to medical use of marihuana; and providing for the repeal of such provisions upon expiration thereof

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

LBD01604-31-4

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. 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. EFFECTIVE DATE.
3369-C. SUSPEND; TERMINATE.
3369-D. PRICING.
3369-E. 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, OR, TRANSPORTATION OF MEDICAL MARIHUANA BY A CERTIFIED PATIENT, OR THE ACQUISITION, POSSESSION, DELIVERY, TRANSPORTATION OR ADMINISTRATION OF MEDICAL MARIHUANA BY A DESIGNATED CAREGIVER, FOR USE AS PART OF THE TREATMENT OF THE PATIENT'S SERIOUS CONDITION, AS AUTHORIZED IN A CERTIFICATION UNDER THIS TITLE INCLUDING ENABLING THE PATIENT TO TOLERATE TREATMENT FOR THE SERIOUS CONDITION. A CERTIFIED MEDICAL USE DOES NOT INCLUDE SMOKING.

2. "CARING FOR" MEANS TREATING 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 A RESIDENT OF NEW YORK STATE OR RECEIVING CARE AND TREATMENT IN NEW YORK STATE AS DETERMINED BY THE COMMISSIONER IN REGULATION, AND 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. A CERTIFIED PATIENT MAY DESIGNATE UP TO TWO DESIGNATED CAREGIVERS.

6. "PUBLIC PLACE" MEANS A PUBLIC PLACE AS DEFINED IN REGULATION BY THE COMMISSIONER.

7. (A) "SERIOUS CONDITION" MEANS:

(I) HAVING ONE OF THE FOLLOWING SEVERE DEBILITATING OR LIFE-THREATENING CONDITIONS: CANCER, POSITIVE STATUS FOR HUMAN IMMUNODEFICIENCY VIRUS OR ACQUIRED IMMUNE DEFICIENCY SYNDROME, AMYOTROPHIC LATERAL SCLEROSIS, PARKINSON'S DISEASE, MULTIPLE SCLEROSIS, DAMAGE TO THE NERVOUS TISSUE OF THE SPINAL CORD WITH OBJECTIVE NEUROLOGICAL INDICATION OF INTRACTABLE SPASTICITY, EPILEPSY, INFLAMMATORY BOWEL DISEASE, NEUROPATHIES, HUNTINGTON'S DISEASE, OR AS ADDED BY THE COMMISSIONER; AND

(II) ANY OF THE FOLLOWING CONDITIONS WHERE IT IS CLINICALLY ASSOCIATED WITH, OR A COMPLICATION OF, A CONDITION UNDER THIS PARAGRAPH OR ITS TREATMENT: CACHEXIA OR WASTING SYNDROME; SEVERE OR CHRONIC PAIN; SEVERE NAUSEA; SEIZURES; SEVERE OR PERSISTENT MUSCLE SPASMS; OR SUCH CONDITIONS AS ARE ADDED BY THE COMMISSIONER.

(B) NO LATER THAN EIGHTEEN MONTHS FROM THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSIONER SHALL DETERMINE WHETHER TO ADD THE FOLLOWING SERIOUS CONDITIONS: ALZHEIMER'S, MUSCULAR DYSTROPHY, DYSTONIA, POST-TRAUMATIC STRESS DISORDER AND RHEUMATOID ARTHRITIS.

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, AS DETERMINED BY THE COMMISSIONER IN HIS OR HER SOLE DISCRETION. ANY FORM OF MEDICAL MARIHUANA NOT APPROVED BY THE COMMISSIONER IS EXPRESSLY PROHIBITED.

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 (I) IS A PHYSICIAN LICENSED BY NEW YORK STATE AND PRACTICING WITHIN THE STATE, (II) WHO BY TRAINING OR EXPERIENCE IS QUALIFIED TO TREAT A SERIOUS CONDITION AS DEFINED IN SUBDIVISION SEVEN OF THIS SECTION; AND (III) HAS COMPLETED A TWO TO FOUR HOUR COURSE AS DETERMINED BY THE COMMISSIONER IN REGULATION AND REGISTERED WITH THE DEPARTMENT; PROVIDED HOWEVER, A REGISTRATION SHALL NOT BE DENIED WITHOUT CAUSE. SUCH COURSE MAY COUNT TOWARD BOARD CERTIFICATION REQUIREMENTS. THE COMMISSIONER SHALL CONSIDER THE INCLUSION OF NURSE PRACTITIONERS UNDER THIS TITLE BASED UPON CONSIDERATIONS INCLUDING ACCESS AND AVAILABILITY. AFTER SUCH CONSIDERATION THE COMMISSIONER IS AUTHORIZED TO DEEM NURSE PRACTITIONERS AS PRACTITIONERS UNDER THIS TITLE.

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.

14. "LABOR PEACE AGREEMENT" MEANS AN AGREEMENT BETWEEN AN ENTITY AND A LABOR ORGANIZATION THAT, AT A MINIMUM, PROTECTS THE STATE'S PROPRIETARY INTERESTS BY PROHIBITING LABOR ORGANIZATIONS AND MEMBERS FROM ENGAGING IN PICKETING, WORK STOPPAGES, BOYCOTTS, AND ANY OTHER ECONOMIC INTERFERENCE WITH THE REGISTERED ORGANIZATION'S BUSINESS.

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

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

17. "APPLICANT" MEANS A FOR-PROFIT ENTITY OR NOT-FOR-PROFIT CORPORATION AND INCLUDES: BOARD MEMBERS, OFFICERS, MANAGERS, OWNERS, PARTNERS, PRINCIPAL STAKEHOLDERS AND MEMBERS WHO SUBMIT AN APPLICATION TO BECOME A REGISTERED ORGANIZATION.

S 3361. CERTIFICATION OF PATIENTS. 1. A PATIENT CERTIFICATION MAY ONLY BE ISSUED IF: (A) A PRACTITIONER HAS BEEN REGISTERED WITH THE DEPARTMENT TO ISSUE A CERTIFICATION AS DETERMINED BY THE COMMISSIONER; (B) THE PATIENT HAS A SERIOUS CONDITION, WHICH SHALL BE SPECIFIED IN THE PATIENT'S HEALTH CARE RECORD; (C) THE PRACTITIONER BY TRAINING OR EXPERIENCE IS QUALIFIED TO TREAT THE SERIOUS CONDITION; (D) THE PATIENT IS UNDER THE PRACTITIONER'S CONTINUING CARE FOR THE SERIOUS CONDITION; AND (E) IN THE PRACTITIONER'S PROFESSIONAL OPINION AND REVIEW OF PAST TREATMENTS, 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 INCLUDE (A) THE NAME, DATE OF BIRTH AND ADDRESS OF THE PATIENT; (B) A STATEMENT THAT THE PATIENT HAS A SERIOUS CONDITION AND THE PATIENT IS UNDER THE PRACTITIONER'S CARE FOR THE SERIOUS CONDITION; (C) A STATEMENT ATTESTING THAT ALL REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION HAVE BEEN SATISFIED; (D) THE DATE; AND (E) THE NAME, ADDRESS, FEDERAL REGISTRATION NUMBER, TELEPHONE NUMBER, AND THE HANDWRITTEN SIGNATURE OF THE CERTIFYING PRACTITIONER. THE COMMISSIONER MAY REQUIRE BY REGULATION THAT THE CERTIFICATION SHALL BE ON A FORM PROVIDED BY THE DEPARTMENT. 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. IN MAKING A CERTIFICATION, THE PRACTITIONER SHALL CONSIDER THE FORM OF MEDICAL MARIHUANA THE PATIENT SHOULD CONSUME, INCLUDING THE METHOD OF CONSUMPTION AND ANY PARTICULAR STRAIN, VARIETY, AND QUANTITY OR PERCENTAGE OF MARIHUANA OR PARTICULAR ACTIVE INGREDIENT, AND APPROPRIATE DOSAGE. THE PRACTITIONER SHALL STATE IN THE CERTIFICATION ANY RECOMMENDATION OR LIMITATION THE PRACTITIONER MAKES, IN HIS OR HER PROFESSIONAL OPINION, CONCERNING THE APPROPRIATE FORM OR FORMS OF MEDICAL MARIHUANA AND DOSAGE.

4. EVERY PRACTITIONER SHALL CONSULT THE PRESCRIPTION MONITORING DRUG PROGRAM REGISTRY PRIOR TO MAKING OR ISSUING A CERTIFICATION, FOR THE PURPOSE OF REVIEWING A PATIENT'S CONTROLLED SUBSTANCE HISTORY. FOR PURPOSES OF THIS SECTION, A PRACTITIONER MAY AUTHORIZE A DESIGNEE TO CONSULT THE PRESCRIPTION MONITORING PROGRAM REGISTRY ON HIS OR HER BEHALF, PROVIDED THAT SUCH DESIGNATION IS IN ACCORDANCE WITH SECTION THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS ARTICLE.

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

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

7. A REGISTRY IDENTIFICATION CARD BASED ON A CERTIFICATION SHALL EXPIRE ONE YEAR AFTER THE DATE THE CERTIFICATION IS SIGNED BY THE PRACTITIONER.

8. (A) IF THE PRACTITIONER STATES IN THE CERTIFICATION THAT, IN THE PRACTITIONER'S PROFESSIONAL OPINION, THE PATIENT WOULD BENEFIT FROM MEDICAL MARIHUANA ONLY UNTIL A SPECIFIED EARLIER DATE, THEN THE REGISTRY IDENTIFICATION 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 STATE THAT THE PATIENT IS TERMINALLY

ILL AND THAT THE REGISTRATION CARD SHALL NOT EXPIRE UNTIL THE PATIENT DIES;

(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;

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

(E) THE COMMISSIONER SHALL MAKE REGULATIONS TO IMPLEMENT THIS SUBDIVISION.

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 SHALL NOT EXCEED A THIRTY DAY SUPPLY OF THE DOSAGE AS DETERMINED BY THE PRACTITIONER, CONSISTENT WITH ANY GUIDANCE AND REGULATIONS ISSUED BY THE COMMISSIONER, PROVIDED THAT DURING THE LAST SEVEN DAYS OF ANY THIRTY DAY PERIOD, THE CERTIFIED PATIENT MAY ALSO POSSESS UP TO SUCH AMOUNT FOR THE NEXT THIRTY DAY PERIOD;

(B) THE MARIHUANA THAT MAY BE POSSESSED BY DESIGNATED CAREGIVERS 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;

(C) THE FORM OR FORMS OF MEDICAL MARIHUANA THAT MAY BE POSSESSED BY THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER PURSUANT TO A CERTIFICATION SHALL BE IN COMPLIANCE WITH ANY RECOMMENDATION OR LIMITATION BY THE PRACTITIONER AS TO THE FORM OR FORMS OF MEDICAL MARIHUANA OR DOSAGE 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 TWELVE 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, CONSUMED, VAPORIZED, OR GROWN IN A PUBLIC PLACE, REGARDLESS OF THE FORM OF MEDICAL MARIHUANA STATED IN THE PATIENT'S CERTIFICATION.

(B) 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 AFTER THE CERTIFICATIONS REQUIRED BY SECTION THIRTY-THREE HUNDRED SIXTY-NINE-B ARE GRANTED. 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:

(I) THE PATIENT'S CERTIFICATION (A NEW WRITTEN CERTIFICATION SHALL BE PROVIDED WITH A RENEWAL APPLICATION);

(II) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE PATIENT;

(III) THE DATE OF THE CERTIFICATION;

(IV) 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;

(V) THE SPECIFIED DATE UNTIL WHICH THE PATIENT WOULD BENEFIT FROM MEDICAL MARIHUANA, IF THE CERTIFICATION STATES SUCH A DATE;

(VI) THE NAME, ADDRESS, FEDERAL REGISTRATION NUMBER, AND TELEPHONE NUMBER OF THE CERTIFYING PRACTITIONER;

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

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

(B) 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;

(C) 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;

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

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

(F) A FIFTY DOLLAR APPLICATION FEE, PROVIDED, THAT THE DEPARTMENT MAY WAIVE OR REDUCE THE FEE IN CASES OF FINANCIAL HARDSHIP; AND

(G) ANY OTHER REQUIREMENTS DETERMINED BY THE COMMISSIONER.

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. THE REQUIREMENTS FOR SUCH A SHOWING SHALL BE DETERMINED BY THE COMMISSIONER.

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

6. IF A CERTIFIED PATIENT WISHES TO CHANGE OR TERMINATE HIS OR HER DESIGNATED CAREGIVER, FOR WHATEVER REASON, THE CERTIFIED PATIENT SHALL NOTIFY THE DEPARTMENT AS SOON AS PRACTICABLE. THE DEPARTMENT SHALL ISSUE A NOTIFICATION TO THE DESIGNATED CAREGIVER THAT THEIR REGISTRATION CARD IS INVALID AND MUST BE PROMPTLY RETURNED TO THE DEPARTMENT. THE NEWLY DESIGNATED CAREGIVER MUST COMPLY WITH ALL REQUIREMENTS SET FORTH IN THIS SECTION.

7. IF THE CERTIFICATION SO PROVIDES, THE REGISTRY IDENTIFICATION CARD SHALL CONTAIN ANY RECOMMENDATION OR LIMITATION BY THE PRACTITIONER AS TO THE FORM OR FORMS OF MEDICAL MARIHUANA OR DOSAGE FOR THE CERTIFIED PATIENT.

8. THE DEPARTMENT SHALL ISSUE SEPARATE REGISTRY IDENTIFICATION CARDS FOR CERTIFIED PATIENTS AND DESIGNATED CAREGIVERS AS SOON AS REASONABLY PRACTICABLE AFTER RECEIVING A COMPLETE APPLICATION UNDER THIS SECTION, UNLESS IT DETERMINES THAT THE APPLICATION IS INCOMPLETE OR FACTUALLY 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;

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

(D) CONTAIN 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;

(E) BE A SECURE DOCUMENT AS DETERMINED BY THE DEPARTMENT;

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

(G) ANY OTHER REQUIREMENTS DETERMINED BY THE COMMISSIONER.

11. 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, IF HE OR SHE CEASES TO HAVE THE SERIOUS CONDITION NOTED ON THE CERTIFICATION WITHIN TEN DAYS OF SUCH CHANGE. THE CERTIFIED PATIENT'S OR DESIGNATED CAREGIVER'S REGISTRY IDENTIFICATION CARD SHALL BE DEEMED INVALID AND SHALL BE RETURNED PROMPTLY TO THE DEPARTMENT.

12. IF A CERTIFIED PATIENT OR DESIGNATED CAREGIVER LOSES HIS OR HER REGISTRY IDENTIFICATION CARD, HE OR SHE SHALL NOTIFY THE DEPARTMENT AND SUBMIT A TWENTY-FIVE 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. THE DEPARTMENT SHALL

ISSUE A NEW REGISTRY IDENTIFICATION CARD AS SOON AS PRACTICABLE, WHICH MAY CONTAIN A NEW REGISTRY IDENTIFICATION NUMBER, TO THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER, AS THE CASE MAY BE. THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER SHALL NOT BE ABLE TO OBTAIN MEDICAL MARIHUANA UNTIL THE CERTIFIED PATIENT RECEIVES A NEW CARD.

13. 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.

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

15. 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.

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

3. EACH REGISTERED ORGANIZATION SHALL CONTRACT WITH AN INDEPENDENT LABORATORY TO TEST THE MEDICAL MARIHUANA PRODUCED BY THE REGISTERED ORGANIZATION. THE COMMISSIONER SHALL APPROVE THE LABORATORY AND REQUIRE THAT THE LABORATORY REPORT TESTING RESULTS IN A MANNER DETERMINED BY THE COMMISSIONER. THE COMMISSIONER IS AUTHORIZED TO ISSUE REGULATION REQUIRING THE LABORATORY TO PERFORM CERTAIN TESTS AND SERVICES.

4. (A) 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 NAME AND REGISTRY IDENTIFICATION NUMBER OF THE CERTIFIED PATIENT AND THE DESIGNATED CAREGIVER (IF ANY); THE DATE THE MARIHUANA WAS SOLD; ANY RECOMMENDATION OR LIMITATION BY THE PRACTITIONER AS TO THE FORM OR FORMS OF MEDICAL MARIHUANA OR DOSAGE FOR THE CERTIFIED PATIENT; AND THE FORM AND THE QUANTITY OF MEDICAL MARIHUANA SOLD. THE REGISTERED ORGANIZATION SHALL RETAIN A COPY OF THE REGISTRY IDENTIFICATION CARD AND THE RECEIPT FOR SIX YEARS.

(B) THE PROPRIETOR OF A REGISTERED ORGANIZATION SHALL FILE OR CAUSE TO BE FILED ANY RECEIPT AND CERTIFICATION INFORMATION WITH THE DEPARTMENT BY ELECTRONIC MEANS ON A REAL TIME BASIS AS THE COMMISSIONER SHALL REQUIRE BY REGULATION. WHEN FILING RECEIPT AND CERTIFICATION INFORMATION ELECTRONICALLY PURSUANT TO THIS PARAGRAPH, THE PROPRIETOR OF THE REGISTERED ORGANIZATION SHALL DISPOSE OF ANY ELECTRONICALLY RECORDED

PRESCRIPTION INFORMATION IN SUCH MANNER AS THE COMMISSIONER SHALL BY REGULATION REQUIRE.

5. (A) 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.

(B) WHEN DISPENSING MEDICAL MARIHUANA TO A CERTIFIED PATIENT OR DESIGNATED CAREGIVER, THE REGISTERED ORGANIZATION (I) SHALL NOT DISPENSE AN AMOUNT GREATER THAN A THIRTY DAY SUPPLY TO A CERTIFIED PATIENT UNTIL THE CERTIFIED PATIENT HAS EXHAUSTED ALL BUT A SEVEN DAY SUPPLY PROVIDED PURSUANT TO A PREVIOUSLY ISSUED CERTIFICATION, AND (II) SHALL VERIFY THE INFORMATION IN SUBPARAGRAPH (I) OF THIS PARAGRAPH BY CONSULTING THE PRESCRIPTION MONITORING PROGRAM REGISTRY UNDER SECTION THIRTY-THREE HUNDRED FORTY-THREE-A OF THIS ARTICLE.

(C) MEDICAL MARIHUANA DISPENSED TO A CERTIFIED PATIENT OR DESIGNATED CAREGIVER BY A REGISTERED ORGANIZATION SHALL CONFORM TO ANY RECOMMENDATION OR LIMITATION BY THE PRACTITIONER AS TO THE FORM OR FORMS OF MEDICAL MARIHUANA OR DOSAGE FOR THE CERTIFIED PATIENT.

6. 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 IN INDIVIDUAL DOSES,

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

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

(D) OTHER INFORMATION AS DETERMINED BY THE COMMISSIONER.

7. REGISTERED ORGANIZATIONS SHALL NOT BE MANAGED BY OR EMPLOY ANYONE WHO HAS BEEN CONVICTED OF ANY FELONY OF SALE OR POSSESSION OF DRUGS, NARCOTICS, OR CONTROLLED SUBSTANCES PROVIDED THAT THIS SUBDIVISION ONLY APPLIES TO (A) MANAGERS OR EMPLOYEES WHO COME INTO CONTACT WITH OR HANDLE MEDICAL MARIHUANA, AND (B) A CONVICTION LESS THAN TEN YEARS (NOT COUNTING TIME SPENT IN INCARCERATION) PRIOR TO BEING EMPLOYED, FOR WHICH THE PERSON HAS NOT RECEIVED A CERTIFICATE OF RELIEF FROM DISABILITIES OR A CERTIFICATE OF GOOD CONDUCT UNDER ARTICLE TWENTY-THREE OF THE CORRECTION LAW.

8. MANUFACTURING OF MEDICAL MARIHUANA BY A REGISTERED ORGANIZATION SHALL ONLY BE DONE IN AN INDOOR, ENCLOSED, SECURE FACILITY LOCATED IN NEW YORK STATE, WHICH MAY INCLUDE A GREENHOUSE. THE COMMISSIONER SHALL PROMULGATE REGULATIONS ESTABLISHING REQUIREMENTS FOR SUCH FACILITIES.

9. DISPENSING OF MEDICAL MARIHUANA BY A REGISTERED ORGANIZATION SHALL ONLY BE DONE IN AN INDOOR, ENCLOSED, SECURE FACILITY LOCATED IN NEW YORK STATE, WHICH MAY INCLUDE A GREENHOUSE. THE COMMISSIONER SHALL PROMULGATE REGULATIONS ESTABLISHING REQUIREMENTS FOR SUCH FACILITIES.

10. 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.

11. 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.

12. MEDICAL MARIHUANA SHALL BE DISPENSED TO A CERTIFIED PATIENT OR DESIGNATED CAREGIVER IN A SEALED AND PROPERLY LABELED PACKAGE. THE

LABELING SHALL CONTAIN: (A) THE INFORMATION REQUIRED TO BE INCLUDED IN THE RECEIPT PROVIDED TO THE CERTIFIED PATIENT OR DESIGNATED CAREGIVER BY THE REGISTERED ORGANIZATION; (B) THE PACKAGING DATE; (C) ANY APPLICABLE DATE BY WHICH THE MEDICAL MARIHUANA SHOULD BE USED; (D) A WARNING STATING, "THIS PRODUCT IS FOR MEDICINAL USE ONLY. WOMEN SHOULD NOT CONSUME DURING PREGNANCY OR WHILE BREASTFEEDING EXCEPT ON THE ADVICE OF THE CERTIFYING HEALTH CARE PRACTITIONER, AND IN THE CASE OF BREASTFEEDING MOTHERS, INCLUDING THE INFANT'S PEDIATRICIAN. THIS PRODUCT MIGHT IMPAIR THE ABILITY TO DRIVE. KEEP OUT OF REACH OF CHILDREN."; (E) THE AMOUNT OF INDIVIDUAL DOSES CONTAINED WITHIN; AND (F) A WARNING THAT THE MEDICAL MARIHUANA MUST BE KEPT IN THE ORIGINAL CONTAINER IN WHICH IT WAS DISPENSED.

13. THE COMMISSIONER IS AUTHORIZED TO MAKE RULES AND REGULATIONS RESTRICTING THE ADVERTISING AND MARKETING OF MEDICAL MARIHUANA, WHICH SHALL BE CONSISTENT WITH THE FEDERAL REGULATIONS GOVERNING PRESCRIPTION DRUG ADVERTISING AND MARKETING.

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 INCLUDE SUCH INFORMATION PREPARED IN SUCH MANNER AND DETAIL AS THE COMMISSIONER MAY REQUIRE, INCLUDING BUT NOT LIMITED TO:

(I) A DESCRIPTION OF THE ACTIVITIES IN WHICH IT INTENDS TO ENGAGE AS A REGISTERED ORGANIZATION;

(II) THAT THE APPLICANT:

(A) IS OF GOOD MORAL CHARACTER;

(B) 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, OR IN THE ALTERNATIVE POSTS A BOND OF NOT LESS THAN TWO MILLION DOLLARS;

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

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

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

(IV) THE APPLICANT'S STATUS UNDER SUBDIVISION ONE OF SECTION THIRTY-THREE HUNDRED SIXTY-FOUR OF THIS TITLE; AND

(V) 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:

(A) 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;

(B) 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

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

2. DUTY TO REPORT. 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.

3. 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; THE COMMISSIONER MAY CONSIDER WHETHER THE NUMBER OF REGISTERED ORGANIZATIONS IN AN AREA WILL BE ADEQUATE OR EXCESSIVE TO REASONABLY SERVE THE AREA;

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

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

(VIII) THE APPLICANT SATISFIES ANY OTHER CONDITIONS AS DETERMINED BY THE COMMISSIONER.

(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 THE REGISTERED ORGANIZATION 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 INFORMATION 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.

4. 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.

5. 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 OR ADMINISTRATIVE 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 A REASONABLY PRACTICABLE TIME AS DETERMINED BY THE COMMISSIONER, 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 A REASONABLY PRACTICABLE TIME AS DETERMINED BY THE COMMISSIONER 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 AS SOON AS REASONABLY PRACTICABLE.

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

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

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

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

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

(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, VIOLATES ANY PROVISION OF THIS ARTICLE, 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 GROUNDS FOR SUSPENSION OR TERMINATION OF THE REGISTERED ORGANIZATION'S REGISTRATION AS DETERMINED BY THE COMMISSIONER. THE REGISTERED ORGANIZATION SHALL ALSO BE UNDER A CONTINUING DUTY TO REPORT TO THE DEPARTMENT ANY MATERIAL CHANGE OR FACT OR CIRCUM-

STANCE TO THE INFORMATION PROVIDED IN THE REGISTERED ORGANIZATION'S APPLICATION.

7. 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. THE DEPARTMENT SHALL SUSPEND OR TERMINATE THE REGISTRATION IN THE EVENT THAT A REGISTERED ORGANIZATION VIOLATES OR TERMINATES THE APPLICABLE LABOR PEACE AGREEMENT. CONDUCT IN COMPLIANCE WITH THIS TITLE WHICH MAY VIOLATE CONFLICTING FEDERAL LAW, SHALL NOT BE GROUNDS TO SUSPEND OR TERMINATE A REGISTRATION.

8. THE DEPARTMENT SHALL BEGIN ISSUING REGISTRATIONS FOR REGISTERED ORGANIZATIONS AS SOON AS PRACTICABLE AFTER THE CERTIFICATIONS REQUIRED BY SECTION THIRTY-THREE HUNDRED SIXTY-NINE-B OF THIS TITLE ARE GIVEN.

9. THE COMMISSIONER SHALL REGISTER NO MORE THAN FIVE REGISTERED ORGANIZATIONS THAT MANUFACTURE MEDICAL MARIHUANA WITH NO MORE THAN FOUR DISPENSING SITES WHOLLY OWNED AND OPERATED BY SUCH REGISTERED ORGANIZATION. THE COMMISSIONER SHALL ENSURE THAT SUCH REGISTERED ORGANIZATIONS AND DISPENSING SITES ARE GEOGRAPHICALLY DISTRIBUTED ACROSS THE STATE. THE COMMISSION MAY REGISTER ADDITIONAL REGISTERED ORGANIZATIONS.

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, RECORD KEEPING, RECORD RETENTION 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. (A) 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.

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

2. NOTHING IN THIS TITLE SHALL BE CONSTRUED TO REQUIRE 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.

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.

2. NON-DISCRIMINATION. BEING A CERTIFIED PATIENT SHALL BE DEEMED TO BE HAVING A "DISABILITY" UNDER ARTICLE FIFTEEN OF THE EXECUTIVE LAW (HUMAN RIGHTS LAW), SECTION FORTY-C OF THE CIVIL RIGHTS LAW, SECTIONS 240.00, 485.00, AND 485.05 OF THE PENAL LAW, AND SECTION 200.50 OF THE CRIMINAL PROCEDURE LAW. THIS SUBDIVISION SHALL NOT BAR THE ENFORCEMENT OF A POLICY PROHIBITING AN EMPLOYEE FROM PERFORMING HIS OR HER EMPLOYMENT DUTIES WHILE IMPAIRED BY A CONTROLLED SUBSTANCE. THIS SUBDIVISION SHALL NOT REQUIRE ANY PERSON OR ENTITY TO DO ANY ACT THAT WOULD PUT THE PERSON OR ENTITY IN VIOLATION OF FEDERAL LAW OR CAUSE IT TO LOSE A FEDERAL CONTRACT OR FUNDING.

3. THE FACT THAT A PERSON IS A CERTIFIED PATIENT AND/OR ACTING IN ACCORDANCE WITH THIS TITLE, SHALL NOT BE A CONSIDERATION IN A PROCEEDING PURSUANT TO APPLICABLE SECTIONS OF THE DOMESTIC RELATIONS LAW, THE SOCIAL SERVICES LAW AND THE FAMILY COURT ACT.

4. CERTIFICATION APPLICATIONS, CERTIFICATION FORMS, ANY CERTIFIED PATIENT INFORMATION CONTAINED WITHIN A DATABASE, AND COPIES OF REGISTRY IDENTIFICATION CARDS SHALL BE DEEMED EXEMPT FROM PUBLIC DISCLOSURE UNDER SECTIONS EIGHTY-SEVEN AND EIGHTY-NINE OF THE PUBLIC OFFICERS LAW.

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

S 3369-B. EFFECTIVE DATE. REGISTRY IDENTIFICATION CARDS OR REGISTERED ORGANIZATION REGISTRATIONS SHALL BE ISSUED OR BECOME EFFECTIVE NO LATER THAN EIGHTEEN MONTHS FROM SIGNING OR UNTIL SUCH TIME AS THE COMMISSIONER AND THE SUPERINTENDENT OF STATE POLICE CERTIFY THAT THIS TITLE CAN BE IMPLEMENTED IN ACCORDANCE WITH PUBLIC HEALTH AND SAFETY INTERESTS, WHICHEVER EVENT COMES LATER.

S 3369-C. SUSPEND; TERMINATE. BASED UPON THE RECOMMENDATION OF THE COMMISSIONER AND/OR THE SUPERINTENDENT OF STATE POLICE THAT THERE IS A RISK TO THE PUBLIC HEALTH OR SAFETY, THE GOVERNOR MAY IMMEDIATELY TERMINATE ALL LICENSES ISSUED TO REGISTERED ORGANIZATIONS.

S 3369-D. PRICING. 1. EVERY SALE OF MEDICAL MARIHUANA SHALL BE AT THE PRICE DETERMINED BY THE COMMISSIONER. EVERY CHARGE MADE OR DEMANDED FOR MEDICAL MARIHUANA NOT IN ACCORDANCE WITH THE PRICE DETERMINED BY THE COMMISSIONER, IS PROHIBITED.

2. THE COMMISSIONER IS HEREBY AUTHORIZED TO SET THE PER DOSE PRICE OF EACH FORM OF MEDICAL MARIHUANA SOLD BY ANY REGISTERED ORGANIZATION. IN SETTING THE PER DOSE PRICE OF EACH FORM OF MEDICAL MARIHUANA, THE COMMISSIONER SHALL CONSIDER THE FIXED AND VARIABLE COSTS OF PRODUCING THE FORM OF MARIHUANA AND ANY OTHER FACTOR THE COMMISSIONER, IN HIS OR HER DISCRETION, DEEMS RELEVANT TO DETERMINING THE PER DOSE PRICE OF EACH FORM OF MEDICAL MARIHUANA.

S 3369-E. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART OF THIS ACT SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID, THE JUDGMENT SHALL NOT AFFECT, IMPAIR, OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH THE JUDGMENT SHALL HAVE BEEN RENDERED.

S 3. Subdivision 2 of section 3371 of the public health law, as added by section 5 of part A of chapter 447 of the laws of 2012, is amended to read as follows:

2. The prescription monitoring program registry may be accessed, under such terms and conditions as are established by the department for purposes of maintaining the security and confidentiality of the information contained in the registry, by:

(a) a practitioner, or a designee authorized by such practitioner pursuant to paragraph (b) of subdivision two of section thirty-three hundred forty-three-a OR SECTION THIRTY-THREE HUNDRED SIXTY-ONE of this article, for the purposes of: (i) informing the practitioner that a patient may be under treatment with a controlled substance by another practitioner; (ii) providing the practitioner with notifications of controlled substance activity as deemed relevant by the department, including but not limited to a notification made available on a monthly or other periodic basis through the registry of controlled substances activity pertaining to his or her patient; (iii) allowing the practitioner, through consultation of the prescription monitoring program registry, to review his or her patient's controlled substances history as required by section thirty-three hundred forty-three-a OR SECTION THIRTY-THREE HUNDRED SIXTY-ONE of this article; and (iv) providing to his or her patient, or person authorized pursuant to paragraph (j) of subdivision one of this section, upon request, a copy of such patient's controlled substance history as is available to the practitioner through the prescription monitoring program registry; or

(b) a pharmacist, pharmacy intern or other designee authorized by the pharmacist pursuant to paragraph (b) of subdivision three of section thirty-three hundred forty-three-a of this article, for the purposes of: (i) consulting the prescription monitoring program registry to review the controlled substances history of an individual for whom one or more prescriptions for controlled substances OR CERTIFICATIONS FOR MARIHUANA is presented to the pharmacist, pursuant to section thirty-three hundred forty-three-a of this article; and (ii) receiving from the department such notifications of controlled substance activity as are made available by the department[.]; OR

(C) AN INDIVIDUAL EMPLOYED BY A REGISTERED ORGANIZATION FOR THE PURPOSE OF CONSULTING THE PRESCRIPTION MONITORING PROGRAM REGISTRY TO REVIEW THE CONTROLLED SUBSTANCES HISTORY OF AN INDIVIDUAL FOR WHOM ONE OR MORE CERTIFICATIONS FOR MARIHUANA IS PRESENTED TO THAT REGISTERED ORGANIZATION, PURSUANT TO SECTION THIRTY-THREE HUNDRED SIXTY-FOUR OF THIS ARTICLE. UNLESS OTHERWISE AUTHORIZED BY THIS ARTICLE, AN INDIVIDUAL EMPLOYED BY A REGISTERED ORGANIZATION WILL BE PROVIDED ACCESS TO THE PRESCRIPTION MONITORING PROGRAM IN THE SOLE DISCRETION OF THE COMMISSIONER.

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

ARTICLE 20-B

EXCISE TAX ON MEDICAL MARIHUANA

SECTION 490. DEFINITIONS.

491. RETURNS TO BE SECRET.

S 490. DEFINITIONS. 1. (A) ALL DEFINITIONS OF TERMS APPLICABLE TO TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW SHALL APPLY TO THIS ARTICLE.

(B) AS USED IN THIS SECTION, WHERE NOT OTHERWISE SPECIFICALLY DEFINED AND UNLESS A DIFFERENT MEANING IS CLEARLY REQUIRED "GROSS RECEIPT" MEANS THE AMOUNT RECEIVED IN OR BY REASON OF ANY SALE, CONDITIONAL OR OTHER-

WISE, OF MEDICAL MARIHUANA OR IN OR BY REASON OF THE FURNISHING OF MEDICAL MARIHUANA FROM THE SALE OF MEDICAL MARIHUANA PROVIDED BY A REGISTERED ORGANIZATION TO A CERTIFIED PATIENT OR DESIGNATED CAREGIVER. GROSS RECEIPT IS EXPRESSED IN MONEY, WHETHER PAID IN CASH, CREDIT OR PROPERTY OF ANY KIND OR NATURE, AND SHALL BE DETERMINED WITHOUT ANY DEDUCTION THEREFROM ON ACCOUNT OF THE COST OF THE SERVICE SOLD OR THE COST OF MATERIALS, LABOR OR SERVICES USED OR OTHER COSTS, INTEREST OR DISCOUNT PAID, OR ANY OTHER EXPENSES WHATSOEVER. "AMOUNT RECEIVED" FOR THE PURPOSE OF THE DEFINITION OF GROSS RECEIPT, AS THE TERM GROSS RECEIPT IS USED THROUGHOUT THIS ARTICLE, MEANS THE AMOUNT CHARGED FOR THE PROVISION OF MEDICAL MARIHUANA.

2. THERE IS HEREBY IMPOSED AN EXCISE TAX ON THE GROSS RECEIPTS FROM THE SALE OF MEDICAL MARIHUANA BY A REGISTERED ORGANIZATION TO A CERTIFIED PATIENT OR DESIGNATED CAREGIVER, TO BE PAID BY THE REGISTERED ORGANIZATION, AT THE RATE OF SEVEN PERCENT. THE TAX IMPOSED BY THIS ARTICLE SHALL BE CHARGED AGAINST AND BE PAID BY THE REGISTERED ORGANIZATION AND SHALL NOT BE ADDED AS A SEPARATE CHARGE OR LINE ITEM ON ANY SALES SLIP, INVOICE, RECEIPT OR OTHER STATEMENT OR MEMORANDUM OF THE PRICE GIVEN TO THE RETAIL CUSTOMER.

3. THE COMMISSIONER MAY MAKE, ADOPT AND AMEND RULES, REGULATIONS, PROCEDURES AND FORMS NECESSARY FOR THE PROPER ADMINISTRATION OF THIS ARTICLE.

4. EVERY REGISTERED ORGANIZATION THAT MAKES SALES OF MEDICAL MARIHUANA SUBJECT TO THE TAX IMPOSED BY THIS ARTICLE SHALL, ON OR BEFORE THE TWENTIETH DATE OF EACH MONTH, FILE WITH THE COMMISSIONER A RETURN ON FORMS TO BE PRESCRIBED BY THE COMMISSIONER, SHOWING ITS RECEIPTS FROM THE RETAIL SALE OF MEDICAL MARIHUANA DURING THE PRECEDING CALENDAR MONTH AND THE AMOUNT OF TAX DUE THEREON. SUCH RETURNS SHALL CONTAIN SUCH FURTHER INFORMATION AS THE COMMISSIONER MAY REQUIRE. EVERY REGISTERED ORGANIZATION REQUIRED TO FILE A RETURN UNDER THIS SECTION SHALL, AT THE TIME OF FILING SUCH RETURN, PAY TO THE COMMISSIONER THE TOTAL AMOUNT OF TAX DUE ON ITS RETAIL SALES OF MEDICAL MARIHUANA FOR THE PERIOD COVERED BY SUCH RETURN. IF A RETURN IS NOT FILED WHEN DUE, THE TAX SHALL BE DUE ON THE DAY ON WHICH THE RETURN IS REQUIRED TO BE FILED.

5. WHENEVER THE COMMISSIONER SHALL DETERMINE THAT ANY MONEYS RECEIVED UNDER THE PROVISIONS OF THIS ARTICLE WERE PAID IN ERROR, HE MAY CAUSE THE SAME TO BE REFUNDED, WITH INTEREST, IN ACCORDANCE WITH SUCH RULES AND REGULATIONS AS HE MAY PRESCRIBE, EXCEPT THAT NO INTEREST SHALL BE ALLOWED OR PAID IF THE AMOUNT THEREOF WOULD BE LESS THAN ONE DOLLAR. SUCH INTEREST SHALL BE AT THE OVERPAYMENT RATE SET BY THE COMMISSIONER PURSUANT TO SUBDIVISION TWENTY-SIXTH OF SECTION ONE HUNDRED SEVENTY-ONE OF THIS CHAPTER, OR IF NO RATE IS SET, AT THE RATE OF SIX PERCENT PER ANNUM, FROM THE DATE WHEN THE TAX, PENALTY OR INTEREST TO BE REFUNDED WAS PAID TO A DATE PRECEDING THE DATE OF THE REFUND CHECK BY NOT MORE THAN THIRTY DAYS. PROVIDED, HOWEVER, THAT FOR THE PURPOSES OF THIS SUBDIVISION, ANY TAX PAID BEFORE THE LAST DAY PRESCRIBED FOR ITS PAYMENT SHALL BE DEEMED TO HAVE BEEN PAID ON SUCH LAST DAY. SUCH MONEYS RECEIVED UNDER THE PROVISIONS OF THIS ARTICLE WHICH THE COMMISSIONER SHALL DETERMINE WERE PAID IN ERROR, MAY BE REFUNDED OUT OF FUNDS IN THE CUSTODY OF THE COMPTROLLER TO THE CREDIT OF SUCH TAXES PROVIDED AN APPLICATION THEREFOR IS FILED WITH THE COMMISSIONER WITHIN TWO YEARS FROM THE TIME THE ERRONEOUS PAYMENT WAS MADE.

6. THE PROVISIONS OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER SHALL APPLY TO THE TAX IMPOSED BY THIS ARTICLE IN THE SAME MANNER AND WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF SUCH ARTICLE HAD BEEN INCORPORATED IN FULL INTO THIS SECTION AND HAD EXPRESSLY REFERRED TO THE TAX

IMPOSED BY THIS ARTICLE, EXCEPT TO THE EXTENT THAT ANY PROVISION OF SUCH ARTICLE IS EITHER INCONSISTENT WITH A PROVISION OF THIS ARTICLE OR IS NOT RELEVANT TO THIS ARTICLE.

7. ALL TAXES, INTEREST AND PENALTIES COLLECTED OR RECEIVED BY THE COMMISSIONER UNDER THIS ARTICLE SHALL BE DEPOSITED AND DISPOSED OF PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED SEVENTY-ONE-A OF THIS CHAPTER, PROVIDED THAT AN AMOUNT EQUAL TO ONE HUNDRED PERCENT COLLECTED UNDER THIS ARTICLE LESS ANY AMOUNT DETERMINED BY THE COMMISSIONER TO BE RESERVED BY THE COMPTROLLER FOR REFUNDS OR REIMBURSEMENTS SHALL BE PAID BY THE COMPTROLLER TO THE CREDIT OF THE MEDICAL MARIHUANA TRUST FUND ESTABLISHED BY SECTION EIGHTY-NINE-H OF THE STATE FINANCE LAW.

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

S 491. RETURNS TO BE SECRET. 1. EXCEPT IN ACCORDANCE WITH PROPER JUDICIAL ORDER OR AS IN THIS SECTION OR OTHERWISE PROVIDED BY LAW, IT SHALL BE UNLAWFUL FOR THE COMMISSIONER, ANY OFFICER OR EMPLOYEE OF THE DEPARTMENT, OR ANY OFFICER OR PERSON WHO, PURSUANT TO THIS SECTION, IS PERMITTED TO INSPECT ANY RETURN OR REPORT OR TO WHOM A COPY, AN ABSTRACT OR A PORTION OF ANY RETURN OR REPORT IS FURNISHED, OR TO WHOM ANY INFORMATION CONTAINED IN ANY RETURN OR REPORT IS FURNISHED, OR ANY PERSON ENGAGED OR RETAINED BY SUCH DEPARTMENT ON AN INDEPENDENT CONTRACT BASIS OR ANY PERSON WHO IN ANY MANNER MAY ACQUIRE KNOWLEDGE OF THE CONTENTS OF A RETURN OR REPORT FILED PURSUANT TO THIS ARTICLE TO DIVULGE OR MAKE KNOWN IN ANY MANNER THE CONTENTS OR ANY OTHER INFORMATION RELATING TO THE BUSINESS OF A DISTRIBUTOR, OWNER OR OTHER PERSON CONTAINED IN ANY RETURN OR REPORT REQUIRED UNDER THIS ARTICLE. THE OFFICERS CHARGED WITH THE CUSTODY OF SUCH RETURNS OR REPORTS SHALL NOT BE REQUIRED TO PRODUCE ANY OF THEM OR EVIDENCE OF ANYTHING CONTAINED IN THEM IN ANY ACTION OR PROCEEDING IN ANY COURT, EXCEPT ON BEHALF OF THE STATE, THE STATE DEPARTMENT OF HEALTH, OR THE COMMISSIONER IN AN ACTION OR PROCEEDING UNDER THE PROVISIONS OF THIS CHAPTER OR ON BEHALF OF THE STATE OR THE COMMISSIONER IN ANY OTHER ACTION OR PROCEEDING INVOLVING THE COLLECTION OF A TAX DUE UNDER THIS CHAPTER TO WHICH THE STATE OR THE COMMISSIONER IS A PARTY OR A CLAIMANT OR ON BEHALF OF ANY PARTY TO ANY ACTION OR PROCEEDING UNDER THE PROVISIONS OF THIS ARTICLE, WHEN THE RETURNS OR THE REPORTS OR THE FACTS SHOWN THEREBY ARE DIRECTLY INVOLVED IN SUCH ACTION OR PROCEEDING, OR IN AN ACTION OR PROCEEDING RELATING TO THE REGULATION OR TAXATION OF MEDICAL MARIHUANA ON BEHALF OF OFFICERS TO WHOM INFORMATION SHALL HAVE BEEN SUPPLIED AS PROVIDED IN SUBDIVISION TWO OF THIS SECTION, IN ANY OF WHICH EVENTS THE COURT MAY REQUIRE THE PRODUCTION OF, AND MAY ADMIT IN EVIDENCE SO MUCH OF SAID RETURNS OR REPORTS OR OF THE FACTS SHOWN THEREBY AS ARE PERTINENT TO THE ACTION OR PROCEEDING AND NO MORE. NOTHING HEREIN SHALL BE CONSTRUED TO PROHIBIT THE COMMISSIONER, IN HIS OR HER DISCRETION, FROM ALLOWING THE INSPECTION OR DELIVERY OF A CERTIFIED COPY OF ANY RETURN OR REPORT FILED UNDER THIS ARTICLE OR OF ANY INFORMATION CONTAINED IN ANY SUCH RETURN OR REPORT BY OR TO A DULY AUTHORIZED OFFICER OR EMPLOYEE OF THE STATE DEPARTMENT OF HEALTH; OR BY OR TO THE ATTORNEY GENERAL OR OTHER LEGAL REPRESENTATIVES OF THE STATE WHEN AN ACTION SHALL HAVE BEEN RECOMMENDED OR COMMENCED PURSUANT TO THIS CHAPTER IN WHICH SUCH RETURNS OR REPORTS OR THE FACTS SHOWN THEREBY ARE DIRECTLY INVOLVED; OR THE INSPECTION OF THE RETURNS OR REPORTS REQUIRED UNDER THIS ARTICLE BY THE COMPTROLLER OR DULY DESIGNATED OFFICER OR

EMPLOYEE OF THE STATE DEPARTMENT OF AUDIT AND CONTROL, FOR PURPOSES OF THE AUDIT OF A REFUND OF ANY TAX PAID BY A REGISTERED ORGANIZATION OR OTHER PERSON UNDER THIS ARTICLE; NOR TO PROHIBIT THE DELIVERY TO A REGISTERED ORGANIZATION, OR A DULY AUTHORIZED REPRESENTATIVE OF SUCH REGISTERED ORGANIZATION, A CERTIFIED COPY OF ANY RETURN OR REPORT FILED BY SUCH REGISTERED ORGANIZATION PURSUANT TO THIS ARTICLE, NOR TO PROHIBIT THE PUBLICATION OF STATISTICS SO CLASSIFIED AS TO PREVENT THE IDENTIFICATION OF PARTICULAR RETURNS OR REPORTS AND THE ITEMS THEREOF.

2. THE COMMISSIONER, IN HIS OR HER DISCRETION AND PURSUANT TO SUCH RULES AND REGULATIONS AS HE OR SHE MAY ADOPT, MAY PERMIT THE COMMISSIONER OF INTERNAL REVENUE OF THE UNITED STATES, OR THE APPROPRIATE OFFICERS OF ANY OTHER STATE WHICH REGULATES OR TAXES MEDICAL MARIHUANA, OR THE DULY AUTHORIZED REPRESENTATIVES OF SUCH COMMISSIONER OR OF ANY SUCH OFFICERS, TO INSPECT RETURNS OR REPORTS MADE PURSUANT TO THIS ARTICLE, OR MAY FURNISH TO SUCH COMMISSIONER OR OTHER OFFICERS, OR DULY AUTHORIZED REPRESENTATIVES, A COPY OF ANY SUCH RETURN OR REPORT OR AN ABSTRACT OF THE INFORMATION THEREIN CONTAINED, OR ANY PORTION THEREOF, OR MAY SUPPLY SUCH COMMISSIONER OR ANY SUCH OFFICERS OR SUCH REPRESENTATIVES WITH INFORMATION RELATING TO THE BUSINESS OF A REGISTERED ORGANIZATION MAKING RETURNS OR REPORTS HEREUNDER. THE COMMISSIONER MAY REFUSE TO SUPPLY INFORMATION PURSUANT TO THIS SUBDIVISION TO THE COMMISSIONER OF INTERNAL REVENUE OF THE UNITED STATES OR TO THE OFFICERS OF ANY OTHER STATE IF THE STATUTES OF THE UNITED STATES, OR OF THE STATE REPRESENTED BY SUCH OFFICERS, DO NOT GRANT SUBSTANTIALLY SIMILAR PRIVILEGES TO THE COMMISSIONER, BUT SUCH REFUSAL SHALL NOT BE MANDATORY. INFORMATION SHALL NOT BE SUPPLIED TO THE COMMISSIONER OF INTERNAL REVENUE OF THE UNITED STATES OR THE APPROPRIATE OFFICERS OF ANY OTHER STATE WHICH REGULATES OR TAXES MEDICAL MARIHUANA, OR THE DULY AUTHORIZED REPRESENTATIVES OF SUCH COMMISSIONER OR OF ANY OF SUCH OFFICERS, UNLESS SUCH COMMISSIONER, OFFICER OR OTHER REPRESENTATIVES SHALL AGREE NOT TO DIVULGE OR MAKE KNOWN IN ANY MANNER THE INFORMATION SO SUPPLIED, BUT SUCH OFFICERS MAY TRANSMIT SUCH INFORMATION TO THEIR EMPLOYEES OR LEGAL REPRESENTATIVES WHEN NECESSARY, WHO IN TURN SHALL BE SUBJECT TO THE SAME RESTRICTIONS AS THOSE HEREBY IMPOSED UPON SUCH COMMISSIONER, OFFICER OR OTHER REPRESENTATIVES.

3. (A) ANY OFFICER OR EMPLOYEE OF THE STATE WHO WILLFULLY VIOLATES THE PROVISIONS OF SUBDIVISION ONE OR TWO OF THIS SECTION SHALL BE DISMISSED FROM OFFICE AND BE INCAPABLE OF HOLDING ANY PUBLIC OFFICE IN THIS STATE FOR A PERIOD OF FIVE YEARS THEREAFTER.

(B) CROSS-REFERENCE: FOR CRIMINAL PENALTIES, SEE ARTICLE THIRTY-SEVEN OF THIS CHAPTER.

S 5. The state finance law is amended by adding a new section 89-h to read as follows:

S 89-H. MEDICAL MARIHUANA TRUST FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "MEDICAL MARIHUANA TRUST FUND."

2. THE MEDICAL MARIHUANA TRUST FUND SHALL CONSIST OF ALL MONEYS REQUIRED TO BE DEPOSITED IN THE MEDICAL MARIHUANA TRUST FUND PURSUANT TO THE PROVISIONS OF SECTION FOUR HUNDRED NINETY OF THE TAX LAW.

3. THE MONEYS IN THE MEDICAL MARIHUANA TRUST FUND SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE STATE COMPTROLLER.

4. THE MONEYS OF THE MEDICAL MARIHUANA TRUST FUND, FOLLOWING APPROPRIATION BY THE LEGISLATURE, SHALL BE ALLOCATED UPON A CERTIFICATE OF APPROVAL OF AVAILABILITY BY THE DIRECTOR OF THE BUDGET AS FOLLOWS: (A) TWENTY-TWO AND FIVE-TENTHS PERCENT OF THE MONIES SHALL BE TRANSFERRED TO

THE COUNTIES IN NEW YORK STATE IN WHICH THE MEDICAL MARIHUANA WAS MANUFACTURED AND ALLOCATED IN PROPORTION TO THE GROSS SALES ORIGINATING FROM MEDICAL MARIHUANA MANUFACTURED IN EACH SUCH COUNTY; (B) TWENTY-TWO AND FIVE-TENTHS PERCENT OF THE MONEYS SHALL BE TRANSFERRED TO THE COUNTIES IN NEW YORK STATE IN WHICH THE MEDICAL MARIHUANA WAS DISPENSED AND ALLOCATED IN PROPORTION TO THE GROSS SALES OCCURRING IN EACH SUCH COUNTY; (C) FIVE PERCENT OF THE MONIES SHALL BE TRANSFERRED TO THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, WHICH SHALL USE THAT REVENUE FOR ADDITIONAL DRUG ABUSE PREVENTION, COUNSELING AND TREATMENT SERVICES; AND (D) FIVE PERCENT OF THE REVENUE RECEIVED BY THE DEPARTMENT SHALL BE TRANSFERRED TO THE DIVISION OF CRIMINAL JUSTICE SERVICES, WHICH SHALL USE THAT REVENUE FOR A PROGRAM OF DISCRETIONARY GRANTS TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES THAT DEMONSTRATE A NEED RELATING TO TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW; SAID GRANTS COULD BE USED FOR PERSONNEL COSTS OF STATE AND LOCAL LAW ENFORCEMENT AGENCIES. FOR PURPOSES OF THIS SUBDIVISION, THE CITY OF NEW YORK SHALL BE DEEMED TO BE A COUNTY.

S 6. Subdivision 1 of section 171-a of the tax law, as amended by section 1 of part R of chapter 60 of the laws of 2004, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), TWENTY-B twenty-one, twenty-two, twenty-six, twenty-six-B, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-two, thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter and article ten thereof out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter and article ten thereof. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on

such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this chapter, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this chapter, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B, thirty-two or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B, thirty-two, or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

S 7. Subdivision 1 of section 171-a of the tax law, as amended by section 54 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), TWENTY-B, twenty-one, twenty-two, twenty-six, twenty-six-B, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he

shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

S 7-a. 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 8. 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 9. The penal law is amended by adding a new article 179 to read as follows:

ARTICLE 179

CRIMINAL DIVERSION OF MEDICAL MARIHUANA

SECTION 179.00 CRIMINAL DIVERSION OF MEDICAL MARIHUANA; DEFINITIONS.
179.05 CRIMINAL DIVERSION OF MEDICAL MARIHUANA; LIMITATIONS.
179.10 CRIMINAL DIVERSION OF MEDICAL MARIHUANA IN THE FIRST DEGREE.
179.11 CRIMINAL DIVERSION OF MEDICAL MARIHUANA IN THE SECOND DEGREE.
179.15 CRIMINAL RETENTION OF MEDICAL MARIHUANA.

S 179.00 CRIMINAL DIVERSION OF MEDICAL MARIHUANA; DEFINITIONS.
THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS ARTICLE:
1. "MEDICAL MARIHUANA" MEANS MEDICAL MARIHUANA AS DEFINED IN SUBDIVISION EIGHT OF SECTION THIRTY-THREE HUNDRED SIXTY OF THE PUBLIC HEALTH LAW.
2. "CERTIFICATION" MEANS A CERTIFICATION, MADE UNDER SECTION THIRTY-THREE HUNDRED SIXTY-ONE OF THE PUBLIC HEALTH LAW.
S 179.05 CRIMINAL DIVERSION OF MEDICAL MARIHUANA; LIMITATIONS.
THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO:
1. A PRACTITIONER AUTHORIZED TO ISSUE A CERTIFICATION WHO ACTED IN GOOD FAITH IN THE LAWFUL COURSE OF HIS OR HER PROFESSION; OR
2. A REGISTERED ORGANIZATION AS THAT TERM IS DEFINED IN SUBDIVISION NINE OF SECTION THIRTY-THREE HUNDRED SIXTY OF THE PUBLIC HEALTH LAW WHO ACTED IN GOOD FAITH IN THE LAWFUL COURSE OF THE PRACTICE OF PHARMACY; OR
3. A PERSON WHO ACTED IN GOOD FAITH SEEKING TREATMENT FOR MEDICAL CONDITION OR ASSISTING ANOTHER PERSON TO OBTAIN TREATMENT FOR A MEDICAL CONDITION.
S 179.10 CRIMINAL DIVERSION OF MEDICAL MARIHUANA IN THE FIRST DEGREE.
A PERSON IS GUILTY OF CRIMINAL DIVERSION OF MEDICAL MARIHUANA IN THE FIRST DEGREE WHEN HE OR SHE IS A PRACTITIONER, AS THAT TERM IS DEFINED IN SUBDIVISION TWELVE OF SECTION THIRTY-THREE HUNDRED SIXTY OF THE PUBLIC HEALTH LAW, WHO ISSUES A CERTIFICATION WITH KNOWLEDGE OF REASONABLE GROUNDS TO KNOW THAT (I) THE RECIPIENT HAS NO MEDICAL NEED FOR IT, OR (II) IT IS FOR A PURPOSE OTHER THAN TO TREAT A SERIOUS CONDITION AS DEFINED IN SUBDIVISION SEVEN OF SECTION THIRTY-THREE HUNDRED SIXTY OF THE PUBLIC HEALTH LAW.
CRIMINAL DIVERSION OF MEDICAL MARIHUANA IN THE FIRST DEGREE IS A CLASS E FELONY.
S 179.11 CRIMINAL DIVERSION OF MEDICAL MARIHUANA IN THE SECOND DEGREE.
A PERSON IS GUILTY OF CRIMINAL DIVERSION OF MEDICAL MARIHUANA IN THE SECOND DEGREE WHEN HE OR SHE SELLS, TRADES, DELIVERS, OR OTHERWISE PROVIDES MEDICAL MARIHUANA TO ANOTHER WITH KNOWLEDGE OR REASONABLE GROUNDS TO KNOW THAT THE RECIPIENT IS NOT REGISTERED UNDER TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW.
CRIMINAL DIVERSION OF MEDICAL MARIHUANA IN THE SECOND DEGREE IS A CLASS B MISDEMEANOR.
S 179.15 CRIMINAL RETENTION OF MEDICAL MARIHUANA.
A PERSON IS GUILTY OF CRIMINAL RETENTION OF MEDICAL MARIHUANA WHEN, BEING A CERTIFIED PATIENT OR DESIGNATED CAREGIVER, AS THOSE TERMS ARE DEFINED IN SUBDIVISIONS THREE AND FIVE OF SECTION THIRTY-THREE HUNDRED SIXTY OF THE PUBLIC HEALTH LAW, RESPECTIVELY, HE OR SHE KNOWINGLY OBTAINS, POSSESSES, STORES OR MAINTAINS AN AMOUNT OF MARIHUANA IN EXCESS OF THE AMOUNT HE OR SHE IS AUTHORIZED TO POSSESS UNDER THE PROVISIONS OF TITLE FIVE-A OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW.
CRIMINAL RETENTION OF MEDICAL MARIHUANA IS A CLASS A MISDEMEANOR.
S 10. The opening paragraph of subdivision 1 of section 216.00 of the criminal procedure law, as added by section 4 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:
"Eligible defendant" means any person who stands charged in an indictment or a superior court information with a class B, C, D or E felony offense defined in article ONE HUNDRED SEVENTY-NINE, two hundred twenty or two hundred twenty-one of the penal law or any other specified offense as defined in subdivision four of section 410.91 of this chapter, provided, however, a defendant is not an "eligible defendant" if he or she:

S 11. Subdivision 5 of section 410.91 of the criminal procedure law, as amended by section 8 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

5. For the purposes of this section, a "specified offense" is an offense defined by any of the following provisions of the penal law: burglary in the third degree as defined in section 140.20, criminal mischief in the third degree as defined in section 145.05, criminal mischief in the second degree as defined in section 145.10, grand larceny in the fourth degree as defined in subdivision one, two, three, four, five, six, eight, nine or ten of section 155.30, grand larceny in the third degree as defined in section 155.35 (except where the property consists of one or more firearms, rifles or shotguns), unauthorized use of a vehicle in the second degree as defined in section 165.06, criminal possession of stolen property in the fourth degree as defined in subdivision one, two, three, five or six of section 165.45, criminal possession of stolen property in the third degree as defined in section 165.50 (except where the property consists of one or more firearms, rifles or shotguns), forgery in the second degree as defined in section 170.10, criminal possession of a forged instrument in the second degree as defined in section 170.25, unlawfully using slugs in the first degree as defined in section 170.60, CRIMINAL DIVERSION OF MEDICAL MARIHUANA IN THE FIRST DEGREE AS DEFINED IN SECTION 179.10 or an attempt to commit any of the aforementioned offenses if such attempt constitutes a felony offense; or a class B felony offense defined in article two hundred twenty where a sentence is imposed pursuant to paragraph (a) of subdivision two of section 70.70 of the penal law; or any class C, class D or class E controlled substance or marihuana felony offense as defined in article two hundred twenty or two hundred twenty-one.

S 12. This act shall take effect immediately and shall expire and be deemed repealed seven years after such date; provided that the amendments to section 171-a of the tax law made by section seven of this act shall take effect on the same date and in the same manner as section 54 of part A of chapter 59 of the laws of 2014 takes effect; and provided, further, that the amendments to subdivision 5 of section 410.91 of the criminal procedure law made by section eleven of this act shall not affect the expiration and repeal of such section and shall expire and be deemed repealed therewith.