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

7060

2015-2016 Regular Sessions

I N A S S E M B L Y

April 22, 2015

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

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

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

Section 1. Legislative findings and intent. The Legislature hereby finds and declares it necessary to establish an emergency program to provide appropriate medical marihuana for certain patients whose serious condition is progressive and degenerative or for whom delay in the patient's certified medical use of marihuana poses a serious risk to the patient's life or health, and that emergency action is needed before the full medical marihuana program established under title V-A of article 33 of the public health law is implemented, to protect the life and health of these patients.

S 2 Section 3360 of the public health law is amended by adding a new subdivision 18 to read as follows:

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

S 3. Section 3361 of the public health law is amended by adding a new subdivision 9 to read as follows:

9.(A) A CERTIFICATION MAY BE A SPECIAL CERTIFICATION IF, IN ADDITION TO THE OTHER REQUIREMENTS FOR A CERTIFICATION, THE PRACTITIONER CERTIFIES IN THE CERTIFICATION THAT THE PATIENT'S SERIOUS CONDITION IS PROGRESSIVE AND DEGENERATIVE OR THAT DELAY IN THE PATIENT'S CERTIFIED MEDICAL USE OF MARIHUANA POSES A SERIOUS RISK TO THE PATIENT'S LIFE OR HEALTH.

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

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

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

16. THE COMMISSIONER SHALL MAKE REGULATIONS FOR SPECIAL CERTIFICATIONS, WHICH SHALL INCLUDE EXPEDITED PROCEDURES AND WHICH MAY REQUIRE THE APPLICANT TO SUBMIT ADDITIONAL DOCUMENTATION ESTABLISHING THE CLINICAL BASIS FOR THE SPECIAL CERTIFICATION. IF THE DEPARTMENT HAS NOT ESTABLISHED AND MADE AVAILABLE A FORM FOR A REGISTRY APPLICATION OR RENEWAL APPLICATION AND DETERMINED THE APPLICATION FEE IF ANY, OR ESTABLISHED AND MADE AVAILABLE A FORM FOR A REGISTRY APPLICATION OR RENEWAL APPLICATION AND DETERMINED THE APPLICATION FEE FOR A SPECIAL CERTIFICATION, THEN IN THE CASE OF A SPECIAL CERTIFICATION, A REGISTRY APPLICATION OR RENEWAL APPLICATION THAT OTHERWISE CONFORMS WITH THE REQUIREMENTS OF THIS SECTION SHALL NOT REQUIRE THE USE OF A FORM OR THE PAYMENT OF AN APPLICATION FEE.

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

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

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

3. FOR THE PURPOSES OF THIS SECTION, AND FOR SPECIFIED LIMITED TIMES, THE COMMISSIONER MAY WAIVE OR MODIFY THE REQUIREMENTS OF THIS ARTICLE RELATING TO REGISTERED ORGANIZATIONS, CONSISTENT WITH THE LEGISLATIVE INTENT AND PURPOSE OF THIS TITLE AND THIS SECTION. WHERE AN ENTITY SEEKING TO BE A REGISTERED ORGANIZATION UNDER THE PROGRAM OPERATES IN A JURISDICTION OTHER THAN THE STATE OF NEW YORK, UNDER LICENSURE OR OTHER GOVERNMENTAL RECOGNITION OF THAT JURISDICTION, AND THE LAWS OF THAT JURISDICTION ARE ACCEPTABLE TO THE COMMISSIONER AS CONSISTENT WITH THE LEGISLATIVE INTENT AND PURPOSE OF THIS TITLE AND THIS SECTION, THEN THE COMMISSIONER MAY ACCEPT THAT LICENSURE OR RECOGNITION AS WHOLLY OR PARTIALLY SATISFYING THE REQUIREMENTS OF THIS TITLE, FOR PURPOSES OF THE REGISTRATION AND OPERATION OF THE REGISTERED ORGANIZATION UNDER THE PROGRAM AND THIS SECTION.

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

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

(B) AN APPLICANT THAT IS ABLE AND QUALIFIED TO BOTH PRODUCE, DISTRIBUTE, AND DISPENSE MEDICAL MARIHUANA TO PATIENTS EXPEDITIOUSLY;

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

5. THE COMMISSIONER MAY MAKE REGULATIONS UNDER THIS SECTION:

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

(B) LIMITING THE ALLOWABLE LEVELS OF CANNABIDIOL AND TETRAHYDROCANNABINOL THAT MAY BE CONTAINED IN MEDICAL MARIHUANA AUTHORIZED UNDER THE PROGRAM, BASED ON THERAPEUTICS AND PATIENT SAFETY.

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

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

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. PRIOR TO MAKING A GENERAL CERTIFICATION UNDER THIS SECTION, THE COMMISSIONER AND THE SUPERINTENDENT OF STATE POLICE MAY MAKE A CERTIFICATION LIMITED TO ACCOMMODATING EXPEDITED ACCESS FOR PATIENTS WITH SPECIAL CERTIFICATIONS AND FOR REGISTERED ORGANIZATIONS UNDER THE EMERGENCY MEDICAL MARIHUANA ACCESS PROGRAM UNDER SECTION THIRTY-THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE.

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