

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

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

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

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

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

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

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

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

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

3 16. THE COMMISSIONER SHALL MAKE REGULATIONS FOR SPECIAL CERTIF-
4 ICATIONS, WHICH SHALL INCLUDE EXPEDITED PROCEDURES AND WHICH MAY REQUIRE
5 THE APPLICANT TO SUBMIT ADDITIONAL DOCUMENTATION ESTABLISHING THE CLIN-
6 ICAL BASIS FOR THE SPECIAL CERTIFICATION. IF THE DEPARTMENT HAS NOT
7 ESTABLISHED AND MADE AVAILABLE A FORM FOR A REGISTRY APPLICATION OR
8 RENEWAL APPLICATION AND DETERMINED THE APPLICATION FEE IF ANY, OR ESTAB-
9 LISHED AND MADE AVAILABLE A FORM FOR A REGISTRY APPLICATION OR RENEWAL
10 APPLICATION AND DETERMINED THE APPLICATION FEE FOR A SPECIAL CERTIF-
11 ICATION, THEN IN THE CASE OF A SPECIAL CERTIFICATION, A REGISTRY APPLI-
12 CATION OR RENEWAL APPLICATION THAT OTHERWISE CONFORMS WITH THE REQUIRE-
13 MENTS OF THIS SECTION SHALL NOT REQUIRE THE USE OF A FORM OR THE PAYMENT
14 OF AN APPLICATION FEE.

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

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

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

31 3. FOR THE PURPOSES OF THIS SECTION, AND FOR SPECIFIED LIMITED TIMES,
32 THE COMMISSIONER MAY WAIVE OR MODIFY THE REQUIREMENTS OF THIS ARTICLE
33 RELATING TO REGISTERED ORGANIZATIONS, CONSISTENT WITH THE LEGISLATIVE
34 INTENT AND PURPOSE OF THIS TITLE AND THIS SECTION. WHERE AN ENTITY SEEK-
35 ING TO BE A REGISTERED ORGANIZATION UNDER THE PROGRAM OPERATES IN A
36 JURISDICTION OTHER THAN THE STATE OF NEW YORK, UNDER LICENSURE OR OTHER
37 GOVERNMENTAL RECOGNITION OF THAT JURISDICTION, AND THE LAWS OF THAT
38 JURISDICTION ARE ACCEPTABLE TO THE COMMISSIONER AS CONSISTENT WITH THE
39 LEGISLATIVE INTENT AND PURPOSE OF THIS TITLE AND THIS SECTION, THEN THE
40 COMMISSIONER MAY ACCEPT THAT LICENSURE OR RECOGNITION AS WHOLLY OR
41 PARTIALLY SATISFYING THE REQUIREMENTS OF THIS TITLE, FOR PURPOSES OF THE
42 REGISTRATION AND OPERATION OF THE REGISTERED ORGANIZATION UNDER THE
43 PROGRAM AND THIS SECTION.

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

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

50 (B) AN APPLICANT THAT IS ABLE AND QUALIFIED TO BOTH PRODUCE, DISTRIB-
51 UTE, AND DISPENSE MEDICAL MARIHUANA TO PATIENTS EXPEDITIOUSLY;

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

56 5. THE COMMISSIONER MAY MAKE REGULATIONS UNDER THIS SECTION:

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

3 (B) LIMITING THE ALLOWABLE LEVELS OF CANNABIDIOL AND TETRAHYDROCANNA-
4 BINOL THAT MAY BE CONTAINED IN MEDICAL MARIHUANA AUTHORIZED UNDER THE
5 PROGRAM, BASED ON THERAPEUTICS AND PATIENT SAFETY.

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

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

11 S 3369-b. Effective date. Registry identification cards or registered
12 organization registrations shall be issued or become effective no later
13 than eighteen months from signing or until such time as the commissioner
14 and the superintendent of state police certify that this title can be
15 implemented in accordance with public health and safety interests,
16 whichever event comes later. PRIOR TO MAKING A GENERAL CERTIFICATION
17 UNDER THIS SECTION, THE COMMISSIONER AND THE SUPERINTENDENT OF STATE
18 POLICE MAY MAKE A CERTIFICATION LIMITED TO ACCOMMODATING EXPEDITED
19 ACCESS FOR PATIENTS WITH SPECIAL CERTIFICATIONS AND FOR REGISTERED
20 ORGANIZATIONS UNDER THE EMERGENCY MEDICAL MARIHUANA ACCESS PROGRAM UNDER
21 SECTION THIRTY-THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE.

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