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I N A S S E M B L Y

March 10, 2016

Introduced by M. of A. GOTTFRIED, DINOWITZ, HEVESI, LUPARDO, BLAKE, ZEBROWSKI, SKARTADOS, ORTIZ, BRINDISI -- Multi-Sponsored by -- M. of A. CERETTO, SEPULVEDA -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to organizations registered to sell, deliver, distribute or dispense medical marihuana

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

1 Section 1. Subdivisions 4, 6 and 13 of section 3364 of the public
2 health law, as added by chapter 90 of the laws of 2014, are amended and
3 two new subdivisions 14 and 15 are added to read as follows:

4 4. (a) A registered organization may lawfully, in good faith, sell,
5 deliver, distribute or dispense medical marihuana to a certified patient
6 or designated caregiver upon presentation to the registered organization
7 of a valid registry identification card for that certified patient or
8 designated caregiver. When presented with the registry identification
9 card, the registered organization shall provide to the certified patient
10 or designated caregiver a receipt, which shall state: the name, address,
11 and registry identification number of the registered organization; the
12 name and registry identification number of the certified patient and the
13 designated caregiver (if any); the date the marihuana was sold; any
14 recommendation or limitation by the practitioner as to the form or forms
15 of medical marihuana or dosage for the certified patient; and the form
16 and the quantity of medical marihuana sold. The registered organization
17 shall retain a copy of the registry identification card and the receipt
18 for six years.

19 (b) The [proprietor of a] registered organization shall file or cause
20 to be filed any receipt and certification information with the depart-
21 ment by electronic means on a real time basis as the commissioner shall
22 require by regulation. When filing receipt and certification information
23 electronically pursuant to this paragraph, the proprietor of the regis-
24 tered organization shall dispose of any electronically recorded
25 prescription information in such manner as the commissioner shall by
26 regulation require.

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

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1 6. When a registered organization sells, delivers, distributes or
2 dispenses medical marihuana to a certified patient or designated care-
3 giver, it shall provide to that individual a safety insert, which will
4 be developed and approved by the commissioner and include, but not be
5 limited to, information on:

6 (a) methods for administering medical marihuana in individual doses,
7 (b) any potential dangers stemming from the use of medical marihuana,
8 (c) how to recognize what may be problematic usage of medical marihua-
9 na and obtain appropriate services or treatment for problematic usage,
10 and
11 (d) other information as determined by the commissioner IN
12 REGULATIONS.

13 13. The commissioner is authorized to make [rules and] regulations
14 restricting the advertising and marketing of medical marihuana, which
15 shall be consistent with the federal regulations governing prescription
16 drug advertising and marketing.

17 14. A REGISTERED ORGANIZATION MAY CONTRACT WITH A PERSON OR ENTITY TO
18 PROVIDE FACILITIES, EQUIPMENT OR SERVICES THAT ARE PART OF OR INCIDENTAL
19 TO THE REGISTERED ORGANIZATION'S FUNCTIONS OR ACTIVITIES UNDER THIS
20 SECTION. ALL LAWS AND REGULATIONS APPLICABLE TO THE REGISTERED ORGANIZA-
21 TION SHALL APPLY TO THE CONTRACT. THE REGISTERED ORGANIZATION AND OTHER
22 PARTIES TO THE CONTRACT SHALL EACH BE RESPONSIBLE AND ACCOUNTABLE FOR
23 COMPLIANCE WITH SUCH LAWS AND REGULATIONS UNDER THE CONTRACT. THE
24 COMMISSIONER MAY MAKE REGULATIONS CONSISTENT WITH THIS TITLE RELATING TO
25 CONTRACTS AND PARTIES TO CONTRACTS UNDER THIS SUBDIVISION.

26 15. A REGISTERED ORGANIZATION MAY LAWFULLY, IN GOOD FAITH, SELL,
27 DELIVER, OR DISTRIBUTE MEDICAL MARIHUANA TO A REGISTERED ORGANIZATION
28 AND MAY ACQUIRE MEDICAL MARIHUANA FROM A REGISTERED ORGANIZATION, IN
29 ACCORDANCE WITH THE REGISTRATION OF BOTH REGISTERED ORGANIZATIONS.

30 S 2. Subdivisions 1, 3, 8 and 9 of section 3365 of the public health
31 law, as added by chapter 90 of the laws of 2014, are amended to read as
32 follows:

33 1. Application for initial registration. (a) An applicant for regis-
34 tration as a registered organization under section thirty-three hundred
35 sixty-four of this title shall include such information prepared in such
36 manner and detail as the commissioner may require, including but not
37 limited to:

38 (i) a description of the activities in which it intends to engage as a
39 registered organization;

40 (ii) that the applicant:

41 (A) is of good moral character;

42 (B) possesses or has the right to use sufficient land, buildings, and
43 other premises (which shall be specified in the application) and equip-
44 ment to properly carry on the activity OR ACTIVITIES described in the
45 application, or in the alternative posts a bond of not less than two
46 million dollars;

47 (C) is able to maintain effective security and control to prevent
48 diversion, abuse, and other illegal conduct relating to the marihuana;

49 (D) is able to comply with all applicable state laws and regulations
50 relating to the activities in which it intends to engage under the
51 registration;

52 (iii) that the applicant has entered into a labor peace agreement with
53 a bona-fide labor organization that is actively engaged in representing
54 or attempting to represent the applicant's employees. The maintenance of
55 such a labor peace agreement shall be an ongoing material condition of
56 certification.

1 (iv) the applicant's status under subdivision one of section thirty-
2 three hundred sixty-four of this title; and

3 (v) the application shall include the name, residence address and
4 title of each of the officers and directors and the name and residence
5 address of any person or entity that is a member of the applicant. Each
6 such person, if an individual, or lawful representative if a legal enti-
7 ty, shall submit an affidavit with the application setting forth:

8 (A) any position of management or ownership during the preceding ten
9 years of a ten per centum or greater interest in any other business,
10 located in or outside this state, manufacturing or distributing drugs;

11 (B) whether such person or any such business has been convicted of a
12 felony or had a registration or license suspended or revoked in any
13 administrative or judicial proceeding; and

14 (C) such other information as the commissioner may reasonably require.

15 3. Granting of registration. (a) The commissioner shall grant a regis-
16 tration or amendment to a registration under this section if he or she
17 is satisfied that:

18 (i) the applicant will be able to maintain effective control against
19 diversion of marihuana;

20 (ii) the applicant will be able to comply with all applicable state
21 laws;

22 (iii) the applicant and its officers are ready, willing and able to
23 properly carry on the manufacturing or distributing activity for which a
24 registration is sought;

25 (iv) the applicant possesses or has the right to use sufficient land,
26 buildings and equipment to properly carry on the activity OR ACTIVITIES
27 described in the application;

28 (v) it is in the public interest that such registration be granted;
29 the commissioner may consider whether the number of registered organiza-
30 tions in an area will be adequate or excessive to reasonably serve the
31 area;

32 (vi) the applicant and its managing officers are of good moral charac-
33 ter;

34 (vii) the applicant has entered into a labor peace agreement with a
35 bona-fide labor organization that is actively engaged in representing or
36 attempting to represent the applicant's employees; and

37 (viii) the applicant satisfies any other conditions as determined by
38 the commissioner.

39 (b) If the commissioner is not satisfied that the applicant should be
40 issued a registration, he or she shall notify the applicant in writing
41 of those factors upon which further evidence is required. Within thirty
42 days of the receipt of such notification, the applicant may submit addi-
43 tional material to the commissioner or demand a hearing, or both.

44 (c) The fee for a registration under this section shall be a reason-
45 able amount determined by the department in regulations; provided,
46 however, if the registration is issued for a period greater than two
47 years the fee shall be increased, pro rata, for each additional month of
48 validity.

49 (d) Registrations issued under this section shall be effective only
50 for the registered organization and shall specify:

51 (i) the name and address of the registered organization;

52 (ii) which activities of a registered organization are permitted by
53 the registration;

54 (iii) the land, buildings and facilities that may be used for the
55 permitted activities of the registered organization; and

1 (iv) such other information as the commissioner shall reasonably
2 provide to assure compliance with this title.

3 (e) Upon application of a registered organization, a registration may
4 be amended to allow the registered organization to relocate within the
5 state or to add or delete permitted registered organization activities
6 or facilities. The fee for such amendment shall be two hundred fifty
7 dollars.

8 8. The department shall begin issuing registrations for registered
9 organizations as soon as practicable after the [certifications] CERTIF-
10 ICATION required by section thirty-three hundred sixty-nine-b of this
11 title [are] IS given.

12 9. The commissioner shall register [no more than five] registered
13 organizations [that manufacture medical marihuana with no more than four
14 dispensing sites wholly owned and operated by such registered organiza-
15 tion] AND FACILITIES TO PROMOTE REASONABLE ACCESS TO MEDICAL MARIHUANA
16 IN THE INTEREST OF CERTIFIED PATIENTS AND THE PUBLIC. The commissioner
17 shall ensure that [such] registered organizations and dispensing sites
18 are geographically distributed across the state AND SHALL NOT REQUIRE
19 THAT DISPENSING SITES BE OWNED OR OPERATED BY THE REGISTERED ORGANIZA-
20 TION LICENSED TO MANUFACTURE MEDICAL MARIHUANA. [The commission may
21 register additional registered organizations.]

22 S 3. This act shall take effect immediately; provided that the amend-
23 ments to title 5-a of article 33 of the public health law made by this
24 act shall not affect the expiration and repeal of such title and shall
25 expire and be deemed repealed therewith.