STATE OF NEW YORK

1088

2017-2018 Regular Sessions

IN SENATE

January 6, 2017

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed 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:

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

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

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

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prescription information in such manner as the commissioner shall by regulation require.

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 **in regulations**.

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.

14. A registered organization may contract with a person or entity to provide facilities, equipment or services that are part of or incidental to the registered organization's functions or activities under this section. All laws and regulations applicable to the registered organization shall apply to the contract. The registered organization and other parties to the contract shall each be responsible and accountable for compliance with such laws and regulations under the contract. The commissioner may make regulations consistent with this title relating to contracts and parties to contracts under this subdivision.

15. A registered organization may lawfully, in good faith, sell, deliver, or distribute medical marihuana to a registered organization and may acquire medical marihuana from a registered organization, in accordance with the registration of both registered organizations.

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

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 **or activities** 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.

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 **or activities** 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.

8. The department shall begin issuing registrations for registered organizations as soon as practicable after the [~~certifications~~] **certification** required by section thirty-three hundred sixty-nine-b of this title [~~are~~] **is** 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~~] **and facilities to promote reasonable access to medical marihuana in the interest of certified patients and the public**. The commissioner shall ensure that [~~such~~] registered organizations and dispensing sites are geographically distributed across the state **and shall not require that dispensing sites be owned or operated by the registered organization licensed to manufacture medical marihuana**. [~~The commission may register additional registered organizations.~~]

§ 3. This act shall take effect immediately; provided that the amendments to title 5-A of article 33 of the public health law made by this act shall not affect the expiration and repeal of such title and shall expire and be deemed repealed therewith.