STATE OF NEW YORK

8598

2017-2018 Regular Sessions

IN ASSEMBLY

July 10, 2017

Introduced by M. of A. GOTTFRIED, LUPARDO, ABINANTI, DINOWITZ, ROSENTHAL, ORTIZ, McDONALD, SIMON, SKOUFIS, CAHILL, BRONSON, D'URSO -- Multi-Sponsored by -- M. of A. COOK, CRESPO -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to defining certain terms regarding the use of medical marihuana

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 1, 7 and 12 of section 3360 of the public health law, as added by chapter 90 of the laws of 2014, are amended to read as follows:

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.

7. [~~(a) "Serious condition"~~] **"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~~

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

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~~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~~] a condition, or symptom or complication of the condition or its treatment, for which, in the practitioner's professional opinion and review of past treatments, the patient is likely to receive therapeutic or palliative benefit from primary or adjunctive treatment with medical use of medical marihuana.

12. "Practitioner" means a practitioner who [~~(i) is a physician licensed by New York state and practicing within the state, (ii) who~~] is authorized to prescribe a controlled substance by training or experience and legal scope of practice, and is qualified to treat [~~a serious~~] the condition [~~as defined in subdivision seven of this section;~~] that is the basis for a patient's certification 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.~~]

§ 2. Subdivisions 1 and 2 of section 3361 of the public health law, as added by chapter 90 of the laws of 2014, are amended to read as follows:

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 as defined in this title and the patient is under the practitioner's continuing 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. Subdivision 11 of section 3363 of the public health law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

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.

§ 4. Subdivision 1 of section 3365-a of the public health law, as added by chapter 416 of the laws of 2015, is amended to read as follows:

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.

§ 5. 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 this act shall not affect the expiration and repeal of such title and shall expire and be deemed repealed therewith.