

STATE OF NEW YORK

5657--B

2019-2020 Regular Sessions

IN SENATE

May 10, 2019

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to medical marihuana

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

1 Section 1. Legislative intent. The compassionate care act provides
2 patients with necessary access to medical marihuana. While the program
3 has provided relief to numerous patients, several improvements are
4 necessary. Specifically, the program has suffered from overly restric-
5 tive requirements regarding market participation and product regulation.
6 Currently, the program restricts access by only permitting one dispen-
7 sary for every 500,000 New Yorkers - leaving both urban and rural commu-
8 nities drastically underserved. This act will improve the existing
9 program by providing opportunities for social equity applicants to
10 participate in the marketplace in a manner that more accurately repres-
11 ents the demographics of the state. Social equity applicants will
12 include applicants from communities disproportionately impacted by
13 cannabis law enforcement. This act will also provide necessary flexi-
14 bility for market participants to offer products that are more accessi-
15 ble and affordable to some of New York's most vulnerable citizens.
16 Specifically, current restrictions on the sale of whole flower result in
17 medical products that are cost-prohibitive to many. Moreover, this act
18 will provide greater access to individuals who are unable to enroll in
19 the program including those with Alzheimer's disease and who have been
20 diagnosed with autism spectrum disorder. Much like the addition of
21 chronic pain as a qualifying condition, this will allow medical practi-

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

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1 tioners to recommend an alternative to addictive opiates. These changes
2 will give New Yorkers access to quality care they deserve.

3 § 2. Subdivisions 1, 5, 7 and 12 of section 3360 of the public health
4 law, subdivisions 1, 5, 7 and 12 as added by chapter 90 of the laws of
5 2014, paragraph (a) of subdivision 7 as amended by chapter 273 of the
6 laws of 2018, are amended and three new subdivisions 5-a, 5-b and 19 are
7 added to read as follows:

8 1. "Certified medical use" means the acquisition, possession, use, or,
9 transportation of medical marihuana by a certified patient, or the
10 acquisition, possession, delivery, transportation or administration of
11 medical marihuana by a designated caregiver, for use as part of the
12 treatment of the patient's [~~serious~~] condition, as authorized in a
13 certification under this title including enabling the patient to toler-
14 ate treatment for the [~~serious~~] condition. [~~A certified medical use does~~
15 ~~not include smoking.~~]

16 5. "Designated caregiver" means the individual or caregiver facility
17 designated by a certified patient in a registry application. A certified
18 patient may designate up to two designated caregivers, not counting a
19 designated caregiver facility or designated caregiver facility employee.

20 5-a. "Designated caregiver facility" means an entity that registers
21 with the commissioner to assist one or more certified patients with the
22 acquisition, possession, delivery, transportation or administration of
23 medical marihuana and is: a general hospital or residential health care
24 facility operating under article twenty-eight of this chapter; an adult
25 care facility operating under title two of article seven of the social
26 services law; a community mental health residence established under
27 section 41.44 of the mental hygiene law; a hospital operating under
28 section 7.17 of the mental hygiene law; a mental hygiene facility oper-
29 ating under article thirty-one of the mental hygiene law; an inpatient
30 or residential treatment program certified under article thirty-two of
31 the mental hygiene law; a residential facility for the care and treat-
32 ment of persons with developmental disabilities operating under article
33 sixteen of the mental hygiene law; a residential treatment facility for
34 children and youth operating under article thirty-one of the mental
35 hygiene law; a public school or private school operating under the
36 education law; a research institution with an internal review board; a
37 medical marihuana research program licensed under section thirty-three
38 hundred sixty-four-a of this title; or any other facility as determined
39 by the commissioner in regulation.

40 5-b. "Designated caregiver facility employee" means an employee of a
41 designated caregiver facility.

42 7. (a) [~~"Serious condition"~~] "Condition" means:

43 (i) having one of the following [~~severe debilitating or life-threaten-~~
44 ~~ing~~] conditions: cancer, positive status for human immunodeficiency
45 virus or acquired immune deficiency syndrome, amyotrophic lateral scler-
46 osis, Parkinson's disease, multiple sclerosis, damage to the nervous
47 tissue of the spinal cord with objective neurological indication of
48 intractable spasticity, epilepsy, inflammatory bowel disease, neuropa-
49 thies, Huntington's disease, post-traumatic stress disorder, pain that
50 degrades health and functional capability where the use of medical mari-
51 huana is an alternative to opioid use, substance use disorder,
52 Alzheimer's, muscular dystrophy, dystonia, rheumatoid arthritis, autism,
53 or [~~as added by the commissioner; and~~

54 (ii) ~~any of the following conditions where it is clinically associated~~
55 ~~with, or a complication of, a condition under this paragraph or its~~
56 ~~treatment: cachexia or wasting syndrome, severe or chronic pain, severe~~

1 ~~nausea, seizures, severe or persistent muscle spasms, or such conditions~~
2 ~~as are added by the commissioner.~~

3 ~~(b) No later than eighteen months from the effective date of this~~
4 ~~section, the commissioner shall determine whether to add the following~~
5 ~~serious conditions: Alzheimer's, muscular dystrophy, dystonia, post-~~
6 ~~traumatic stress disorder and rheumatoid arthritis] any other condition~~
7 certified by the practitioner.

8 12. "Practitioner" means a practitioner who (i) ~~[is a physician~~
9 ~~licensed by New York state and practicing within the state,]~~ is author-
10 ized to prescribe controlled substances within the state; (ii) ~~[who]~~ by
11 training or experience is qualified to treat a ~~[serious]~~ condition as
12 defined in subdivision seven of this section; and (iii) ~~[has completed a~~
13 ~~two to four hour course as determined by the commissioner in regulation~~
14 ~~and registered with the department; provided however, a registration~~
15 ~~shall not be denied without cause. Such course may count toward board~~
16 ~~certification requirements. The commissioner shall consider the inclu-~~
17 ~~sion of nurse practitioners under this title based upon considerations~~
18 ~~including access and availability. After such consideration the commis-~~
19 ~~sioner is authorized to deem nurse practitioners as practitioners under~~
20 ~~this title]~~ completes, at a minimum, a two hour course as determined by
21 the commissioner. A person's status as a practitioner under this title
22 is deemed to be a "license" for purposes of section thirty-three hundred
23 ninety of this article.

24 19. "Medical marihuana research program" means a medical marihuana
25 research program licensed under section thirty-three hundred
26 sixty-four-a of this title.

27 § 3. Subdivisions 1, 2, and 9 of section 3361 of the public health
28 law, subdivisions 1 and 2 as added by chapter 90 of the laws of 2014 and
29 subdivision 9 as added by chapter 416 of the laws of 2015, are amended
30 to read as follows:

31 1. A patient certification may only be issued if: (a) a practitioner
32 has been registered with the department to issue a certification as
33 determined by the commissioner; (b) the patient has a ~~[serious]~~ condi-
34 tion, which shall be specified in the patient's health care record; (c)
35 the practitioner by training or experience is qualified to treat the
36 ~~[serious]~~ condition; (d) the patient is under the practitioner's contin-
37 uing care for the ~~[serious]~~ condition; and (e) in the practitioner's
38 professional opinion and review of past treatments, the patient is like-
39 ly to receive therapeutic or palliative benefit from the primary or
40 adjunctive treatment with medical use of marihuana for the ~~[serious]~~
41 condition.

42 2. The certification shall include (a) the name, date of birth and
43 address of the patient; (b) a statement that the patient has a ~~[serious]~~
44 condition and the patient is under the practitioner's care for the
45 ~~[serious]~~ condition; (c) a statement attesting that all requirements of
46 subdivision one of this section have been satisfied; (d) the date; and
47 (e) the name, address, federal registration number, telephone number,
48 and the handwritten signature of the certifying practitioner. The
49 commissioner may require by regulation that the certification shall be
50 on a form provided by the department. The practitioner may state in the
51 certification that, in the practitioner's professional opinion, the
52 patient would benefit from medical marihuana only until a specified
53 date. The practitioner may state in the certification that, in the prac-
54 titioner's professional opinion, the patient is terminally ill and that
55 the certification shall not expire until the patient dies.

1 9.(a) A certification may be a special certification if, in addition
2 to the other requirements for a certification, the practitioner certi-
3 fies in the certification that the patient's [~~serious~~] condition is
4 progressive and degenerative or that delay in the patient's certified
5 medical use of marihuana poses a serious risk to the patient's life or
6 health.

7 (b) The department shall create the form to be used for a special
8 certification and shall make that form available to be downloaded from
9 the department's website.

10 § 4. Subdivisions 1 and 2 of section 3362 of the public health law, as
11 added by chapter 90 of the laws of 2014, are amended and a new subdivi-
12 sion 3 is added to read as follows:

13 1. The possession, acquisition, use, delivery, transfer, transporta-
14 tion, or administration of medical marihuana by a certified patient or
15 designated caregiver possessing a valid registry identification card,
16 for certified medical use, shall be lawful under this title; provided
17 that:

18 (a) the marihuana that may be possessed by a certified patient shall
19 not exceed a [~~thirty~~] sixty day supply of the dosage as determined by
20 the practitioner, consistent with any guidance and regulations issued by
21 the commissioner, provided that during the last seven days of any [~~thir-~~
22 ~~ty~~] sixty day period, the certified patient may also possess up to such
23 amount for the next [~~thirty~~] sixty day period;

24 (b) the marihuana that may be possessed by designated caregivers does
25 not exceed the quantities referred to in paragraph (a) of this subdivi-
26 sion for each certified patient for whom the caregiver possesses a valid
27 registry identification card, up to five certified patients;

28 (c) the marihuana that may be possessed by designated caregiver facil-
29 ities does not exceed the quantities referred to in paragraph (a) of
30 this subdivision for each certified patient under care or treatment of
31 the facility;

32 (d) the form or forms of medical marihuana that may be possessed by
33 the certified patient [~~or~~], designated caregiver, or designated caregiv-
34 er facility pursuant to a certification shall be in compliance with any
35 recommendation or limitation by the practitioner as to the form or forms
36 of medical marihuana or dosage for the certified patient in the certif-
37 ication; and

38 [~~(d)~~] (e) the medical marihuana shall be kept in the original package
39 in which it was dispensed under subdivision twelve of section thirty-
40 three hundred sixty-four of this title, except for the portion removed
41 for immediate consumption for certified medical use by the certified
42 patient.

43 2. Notwithstanding subdivision one of this section:

44 (a) possession of medical marihuana shall not be lawful under this
45 title if it is smoked, consumed, vaporized, or grown in a public place,
46 regardless of the form of medical marihuana stated in the patient's
47 certification.

48 (b) a [~~person~~] certified patient or designated caregiver possessing
49 medical marihuana under this title shall possess his or her registry
50 identification card at all times when in immediate possession of medical
51 marihuana.

52 (c) medical marihuana may not be smoked in any place where tobacco may
53 not be smoked under article thirteen-E of this chapter, regardless of
54 the form of medical marihuana stated in the patient's certification.

55 3. The possession, acquisition, delivery, transfer, transportation, or
56 administration of medical marihuana by a designated caregiver facility

1 or designated caregiver facility employee shall be lawful under this
2 title provided that:

3 (a) the designated caregiver facility registers with the department on
4 a form provided by the commissioner;

5 (b) such possession, acquisition, delivery, transfer, transportation,
6 or administration is on behalf of a certified patient possessing a
7 registry identification card;

8 (c) the designated caregiver facility maintains a copy of the registry
9 identification card of each certified patient for which it possesses,
10 acquires, delivers, transfers, transports, or administers medical mari-
11 huana; and

12 (d) a designated caregiver facility employee shall be identified as an
13 employee when necessary, as provided by the commissioner.

14 § 5. Subdivisions 2, 3, 5, and 11 of section 3363 of the public health
15 law, as added by chapter 90 of the laws of 2014, are amended to read as
16 follows:

17 2. To obtain, amend or renew a registry identification card, a certi-
18 fied patient or designated caregiver shall file a registry application
19 with the department. The registry application or renewal application
20 shall include:

21 (a) in the case of a certified patient:

22 (i) the patient's certification (a new written certification shall be
23 provided with a renewal application);

24 (ii) the name, address, and date of birth of the patient;

25 (iii) the date of the certification;

26 (iv) if the patient has a registry identification card based on a
27 current valid certification, the registry identification number and
28 expiration date of that registry identification card;

29 (v) the specified date until which the patient would benefit from
30 medical marihuana, if the certification states such a date;

31 (vi) the name, address, federal registration number, and telephone
32 number of the certifying practitioner;

33 (vii) any recommendation or limitation by the practitioner as to the
34 form or forms of medical marihuana or dosage for the certified patient;
35 and

36 (viii) other individual identifying information required by the
37 department;

38 (b) (i) in the case of a certified patient, if the patient designates
39 a designated caregiver, the name, address, and date of birth of the
40 designated caregiver, and other individual identifying information
41 required by the department;

42 (ii) if the designated caregiver is a medical marihuana research
43 program, the name of the organization conducting the research; the
44 address, phone number, and name of the individual leading the research
45 or appropriate designee; and other identifying information required by
46 the department;

47 (c) in the case of a designated caregiver:

48 (i) the name, address, and date of birth of the designated caregiver;

49 (ii) if the designated caregiver has a registry identification card,
50 the registry identification number and expiration date of that registry
51 identification card; and

52 (iii) other individual identifying information required by the depart-
53 ment;

54 (d) a statement that a false statement made in the application is
55 punishable under section 210.45 of the penal law;

1 (e) the date of the application and the signature of the certified
2 patient or designated caregiver, as the case may be; and

3 (f) [~~a fifty dollar application fee, provided, that the department may~~
4 ~~waive or reduce the fee in cases of financial hardship; and~~
5 ~~(g)~~] any other requirements determined by the commissioner.

6 3. Where a certified patient is under the age of eighteen:

7 (a) The application for a registry identification card shall be made
8 by an appropriate person over twenty-one years of age. The application
9 shall state facts demonstrating that the person is appropriate.

10 (b) The designated caregiver shall be (i) a parent or legal guardian
11 of the certified patient, (ii) a person designated by a parent or legal
12 guardian, [~~or~~] (iii) in the case of such a certified patient being cared
13 for by a designated caregiver facility, the designated caregiver facili-
14 ty designated by the parent or legal guardian; or (iv) an appropriate
15 person approved by the department upon a sufficient showing that no
16 parent or legal guardian is appropriate or available.

17 5. No person may be a designated caregiver for more than five certi-
18 fied patients at one time; provided however that this limitation shall
19 not apply to a designated caregiver facility or designated caregiver
20 facility employee.

21 11. A certified patient or designated caregiver who has been issued a
22 registry identification card shall notify the department of any change
23 in his or her name or address or, with respect to the patient, if he or
24 she ceases to have the [~~serious~~] condition noted on the certification
25 within ten days of such change. The certified patient's or designated
26 caregiver's registry identification card shall be deemed invalid and
27 shall be returned promptly to the department.

28 § 6. Subdivisions 3 and 5 of section 3364 of the public health law, as
29 added by chapter 90 of the laws of 2014, are amended and a new subdivi-
30 sion 14 is added to read as follows:

31 3. Each registered organization shall contract with an independent
32 laboratory permitted under section thirty-three hundred sixty-four-c of
33 this title to test the medical marihuana produced by the registered
34 organization. The commissioner shall approve the laboratory and require
35 that the laboratory report testing results in a manner determined by the
36 commissioner. The commissioner is authorized to issue regulation requir-
37 ing the laboratory to perform certain tests and services.

38 5. (a) No registered organization may sell, deliver, distribute or
39 dispense to any certified patient or designated caregiver a quantity of
40 medical marihuana larger than that individual would be allowed to
41 possess under this title.

42 (b) When dispensing medical marihuana to a certified patient or desig-
43 nated caregiver, the registered organization (i) shall not dispense an
44 amount greater than a [~~thirty~~] sixty day supply to a certified patient
45 until the certified patient has exhausted all but a seven day supply
46 provided pursuant to a previously issued certification, and (ii) shall
47 verify the information in subparagraph (i) of this paragraph by consult-
48 ing the prescription monitoring program registry under section thirty-
49 three hundred forty-three-a of this article.

50 (c) Medical marihuana dispensed to a certified patient or designated
51 caregiver by a registered organization shall conform to any recommenda-
52 tion or limitation by the practitioner as to the form or forms of
53 medical marihuana or dosage for the certified patient.

54 14. A registered organization may contract with a person or entity to
55 provide facilities, equipment or services that are ancillary to the
56 registered organization's functions or activities under this section

1 (including, but not limited to, shipping, maintenance, construction,
2 repair, and security), but not including any function or activity
3 directly involving the planting, growing, tending, harvesting, process-
4 ing, or packaging of plants; or any other function directly involving
5 manufacturing or retailing of medical marihuana. All laws and regu-
6 lations applicable to such facilities, equipment, or services shall
7 apply to the contract. The registered organization and other parties to
8 the contract shall each be responsible for compliance with such laws and
9 regulations under the contract. The commissioner may make regulations
10 consistent with this title relating to contracts and parties to
11 contracts under this subdivision.

12 § 7. The public health law is amended by adding a new section 3364-a
13 to read as follows:

14 § 3364-a. Medical marihuana research licenses. 1. The commissioner
15 shall establish a medical marihuana research license that permits a
16 licensee to produce, process, purchase, possess, transfer, and sell
17 marihuana, subject to this section, for the following limited research
18 purposes:

- 19 (a) to test chemical potency and composition levels;
20 (b) to conduct clinical investigations of marihuana-derived products;
21 (c) to conduct research on the efficacy and safety of administering
22 marihuana as part of medical treatment; or
23 (d) to conduct genomic or agricultural research relating to medical
24 marihuana.

25 2. As part of the application process for a medical marihuana research
26 license, an applicant must submit to the commissioner a description of
27 the research that is intended to be conducted as well as the amount of
28 marihuana to be grown or purchased. The commissioner shall review an
29 applicant's research project and determine whether it meets the require-
30 ments of subdivision one of this section. In addition, the commissioner
31 shall assess the application based on the following criteria:

- 32 (a) project quality, study design, value, and impact;
33 (b) whether the applicant has the appropriate personnel, expertise,
34 facilities and infrastructure, funding, and (to the extent legally
35 available) approvals relating to human or animal research, in place to
36 successfully conduct the project; and
37 (c) whether the amount of marihuana to be grown or purchased by the
38 applicant is consistent with the project's scope and goals.

39 3. If the commissioner determines that the research project meets the
40 requirements of subdivision one of this section, the commissioner may
41 approve the application. If not, the application shall be denied.

42 4. A medical marihuana research licensee may only sell or transfer
43 marihuana grown or produced within its operation to other medical mari-
44 huana research licensees, or otherwise for purposes of the licensee's
45 research.

46 5. In establishing a medical marihuana research license, the commis-
47 sioner may make regulations on the following:

- 48 (a) application requirements;
49 (b) license renewal requirements, including whether additional
50 research projects may be added or considered;
51 (c) conditions for license revocation;
52 (d) security measures to ensure marihuana is not diverted to purposes
53 other than research;
54 (e) amount of plants, useable marihuana, marihuana concentrates, or
55 marihuana-infused products a licensee may have on its premises;
56 (f) licensee reporting requirements;

1 (g) conditions under which marihuana grown by licensed medical mari-
2 huana producers and other product types from licensed medical marihuana
3 processors may be donated to medical marihuana research licensees; and

4 (h) any additional requirements deemed necessary by the commissioner.

5 6. A marihuana research license issued under this section shall be
6 issued in the name of the applicant or applicants, specify the location
7 at which the marihuana researcher intends to operate, which shall be
8 within the state, and shall not allow any other person to use the
9 license except as under subdivision four of this section.

10 7. Participation by certified patients in any medical marihuana
11 research program shall be voluntary.

12 8. The application fee for a medical marihuana research license shall
13 be determined by the commissioner on an annual basis.

14 9. Each medical marihuana research licensee shall issue an annual
15 report to the commissioner. The commissioner shall review such report
16 and make a determination as to whether the research project continues to
17 meet the research qualifications under this section.

18 § 8. The public health law is amended by adding a new section 3364-b
19 to read as follows:

20 § 3364-b. Registration of designated caregiver facilities. 1. To
21 obtain, amend or renew a registration as a designated caregiver facili-
22 ty, the facility shall file an application with the commissioner. The
23 application shall include:

24 (a) the facility's full name and address;

25 (b) operating certificate or license number where appropriate;

26 (c) name, title, and signature of an authorized facility represen-
27 tative;

28 (d) a statement that the facility agrees to secure and ensure proper
29 handling of all medical marihuana products;

30 (e) an acknowledgement that a false statement in the application is
31 punishable under section 210.45 of the penal law; and

32 (f) any other information that may be required by the commissioner.

33 2. Prior to issuing or renewing a designated caregiver facility regis-
34 tration, the commissioner may verify the information submitted by the
35 applicant. The applicant shall provide, at the commissioner's request,
36 such information and documentation, including any consents or authori-
37 zations, that may be necessary for the commissioner to verify the infor-
38 mation.

39 3. The application shall be approved, denied or determined incomplete
40 or inaccurate by the commissioner within thirty days of receipt of the
41 application. If the application is approved, the commissioner shall
42 issue a registration as soon as is reasonably practicable.

43 4. Registrations under this section shall remain valid for two years
44 from the date of issuance.

45 § 9. The public health law is amended by adding a new section 3364-c
46 to read as follows:

47 § 3364-c. Laboratory permits. 1. The commissioner shall approve and
48 permit one or more independent laboratories to test medical marihuana.
49 To be permitted as an independent laboratory under this section, a labo-
50 ratory must apply to the department in a form and manner prescribed by
51 the commissioner and must demonstrate the following to the satisfaction
52 of the commissioner:

53 (a) the owners and directors of the laboratory are of good moral char-
54 acter;

1 (b) the laboratory and its staff have the skills, resources, and
2 expertise needed to accurately and consistently perform all testing
3 required;

4 (c) the laboratory has in place and will maintain adequate policies,
5 procedures, and facility security to ensure proper collection, labeling,
6 accessioning, preparation, analysis, result reporting, disposal, and
7 storage of medical marihuana;

8 (d) the laboratory is physically located in New York state;

9 (e) the laboratory has a certificate of approval as an environmental
10 laboratory issued by the commissioner under title one of article five of
11 this chapter; and

12 (f) the laboratory meets all requirements prescribed by this chapter
13 and the commissioner in regulation.

14 2. The owner of an independent laboratory permitted under this section
15 shall not hold a registration as a registered organization and shall not
16 have any direct or indirect ownership interest in such registered organ-
17 ization. No board member, manager, owner, partner, principal stakehold-
18 er, or member of a registered organization, or such person's immediate
19 family, shall have an interest or voting rights in any independent labo-
20 ratory permittee. No registered organization shall have any direct or
21 indirect ownership interest in such laboratory.

22 3. An independent laboratory shall not be required to be licensed by
23 the federal drug enforcement administration.

24 § 10. Subdivision 9 of section 3365 of the public health law, as added
25 by chapter 90 of the laws of 2014, is amended to read as follows:

26 9. [~~The commissioner shall register no more than five~~] A registered
27 [~~organizations~~] organization that [~~manufacture~~] manufactures medical
28 marihuana [~~with~~] may have no more than [~~four~~] eight dispensing sites
29 wholly owned and operated by [~~such~~] the registered organization.
30 Provided, however, that any dispensing site opened pursuant to this
31 section by a registered organization licensed prior to the effective
32 date of the chapter of the laws of two thousand twenty that amended this
33 subdivision shall not be approved by the department until such regis-
34 tered organizations establishes a subsidy program to provide assistance
35 and increase access to patients. The commissioner shall ensure that such
36 [~~registered organizations and~~] dispensing sites are geographically
37 distributed across the state. The commission [~~may~~] shall register addi-
38 tional registered organizations reflecting the demographics of the
39 state.

40 (a) The department shall implement a social and economic equity plan
41 and actively promote applications from communities disproportionately
42 impacted by cannabis production, and promote racial, ethnic, and gender
43 diversity when issuing the additional four registered organizations
44 licenses, including by prioritizing consideration of applications by
45 applicants who are from communities disproportionately impacted by the
46 enforcement of cannabis prohibition or who qualify as a minority or a
47 women-owned business. Such qualifications shall be determined by the
48 department in regulation.

49 (b) The department shall issue four additional registered organization
50 licenses and create a social and economic equity plan to promote diver-
51 sity in ownership and employment in the medical marihuana industry and
52 ensure inclusion of:

53 (i) individuals from communities disproportionately impacted by the
54 enforcement of cannabis prohibition;

55 (ii) minority-owned businesses;

56 (iii) women-owned businesses;

1 (iv) minority and women-owned businesses, as defined in paragraph (d)
2 of this subdivision; and

3 (c) The social and economic equity plan shall require an analysis of
4 how to prioritize opportunities for applicants that are:

5 (i) a member of a community group that has been disproportionately
6 impacted by the enforcement of cannabis prohibition;

7 (ii) was convicted of a cannabis-related offense prior to the effec-
8 tive date of the chapter of the laws of two thousand twenty that amended
9 this subdivision, or had a parent, guardian, child, spouse, or depend-
10 ent, or was a dependent of an individual who, prior to the effective
11 date of the chapter of the laws of two thousand twenty that amended this
12 subdivision, was convicted of a cannabis-related offense.

13 (d) For the purposes of this section, the following definitions shall
14 apply:

15 (i) "minority-owned business" shall mean a business enterprise,
16 including a sole proprietorship, partnership, limited liability company
17 or corporation that is:

18 (1) at least fifty-one percent owned by one or more minority group
19 members;

20 (2) an enterprise in which such minority ownership is real, substan-
21 tial and continuing;

22 (3) an enterprise in which such minority ownership has and exercises
23 the authority to control independently the day-to-day business decisions
24 of the enterprise;

25 (4) an enterprise authorized to do business in this state and inde-
26 pendently owned and operated; and

27 (5) an enterprise that is a small business.

28 (ii) "minority group member" shall mean a United States citizen or
29 permanent resident alien who is and can demonstrate membership in one of
30 the following groups:

31 (1) black persons having origins in any of the black African racial
32 groups;

33 (2) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban,
34 Central or South American of either Indian or Hispanic origin, regard-
35 less of race;

36 (3) Native American or Alaskan native persons having origins in any of
37 the original peoples of North America; or

38 (4) Asian and Pacific Islander persons having origins in any of the
39 far east countries, south east Asia, the Indian subcontinent or the
40 Pacific islands.

41 (iii) "women-owned business" shall mean a business enterprise, includ-
42 ing a sole proprietorship, partnership, limited liability company or
43 corporation that is:

44 (1) at least fifty-one percent owned by one or more United States
45 citizens or permanent resident aliens who are women;

46 (2) an enterprise in which the ownership interest of such women is
47 real, substantial and continuing;

48 (3) an enterprise in which such women ownership has and exercises the
49 authority to control independently the day-to-day business decisions of
50 the enterprise;

51 (4) an enterprise authorized to do business in this state and inde-
52 pendently owned and operated; and

53 (5) an enterprise that is a small business.

54 (iv) "a firm owned by a minority group member who is also a woman" may
55 include a minority-owned business, a women-owned business, or both.

1 (v) "communities disproportionately impacted" shall mean, but not be
2 limited to, a history of arrests, convictions, and other law enforcement
3 practices in a certain geographic area, such as, but not limited to
4 precincts, zip codes, neighborhoods, and political subdivisions,
5 reflecting a disparate enforcement of cannabis prohibition during a
6 certain time period, when compared to the rest of the state. The
7 department shall issue guidelines to determine how to assess which
8 communities have been disproportionately impacted and how to assess if
9 someone is a member of a community disproportionately impacted.

10 (e) The department shall actively promote applicants that foster
11 racial, ethnic, and gender diversity in their workforce.

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

14 1. There is hereby established in the department an emergency medical
15 marihuana access program (referred to in this section as the "program")
16 under this section. The purpose of the program is to expedite the avail-
17 ability of medical marihuana to avoid suffering and loss of life, during
18 the period before full implementation of and production under this
19 title, especially in the case of patients whose [serious] condition is
20 progressive and degenerative or is such that delay in the patient's
21 medical use of marihuana poses a serious risk to the patient's life or
22 health. The commissioner shall implement the program as expeditiously as
23 practicable, including by emergency regulation.

24 § 12. Subdivision 1 of section 3369 of the public health law, as added
25 by chapter 90 of the laws of 2014, is amended to read as follows:

26 1. Certified patients, designated caregivers, designated caregiver
27 facilities, designated caregiver facility employees, medical marihuana
28 research program employees, practitioners, registered organizations and
29 the employees of registered organizations shall not be subject to
30 arrest, prosecution, or penalty in any manner, or denied any right or
31 privilege, including but not limited to civil penalty or disciplinary
32 action by a business or occupational or professional licensing board or
33 bureau, solely for the certified medical use or manufacture of marihua-
34 na, or for any other action or conduct in accordance with this title.

35 § 13. Section 3369-d of the public health law, as added by chapter 90
36 of the laws of 2014, is amended to read as follows:

37 § 3369-d. Pricing. [~~1. Every sale of medical marihuana shall be at the~~
38 ~~price determined by the commissioner. Every charge made or demanded for~~
39 ~~medical marihuana not in accordance with the price determined by the~~
40 ~~commissioner, is prohibited.~~

41 ~~2. The commissioner is hereby authorized to set the per dose price of~~
42 ~~each form of medical marihuana sold by any registered organization. In~~
43 ~~setting the per dose price of each form of medical marihuana, the~~
44 ~~commissioner shall consider the fixed and variable costs of producing~~
45 ~~the form of marihuana and any other factor the commissioner, in his or~~
46 ~~her discretion, deems relevant to determining the per dose price of each~~
47 ~~form of medical marihuana.] Registered organizations shall submit
48 documentation of any price and change in price per dose for any medical
49 marihuana product to the commissioner within fifteen days of setting or
50 changing the price. Prior approval by the commissioner shall not be
51 required for any price or change of price. However, the commissioner is
52 authorized to modify the price per dose for any medical marihuana prod-
53 uct if necessary to maintain public access to appropriate medication.~~

54 § 14. This act shall take effect immediately; provided, however, that
55 the amendments to title 5-A of article 33 of the public health law made
56 by sections two, three, four, five, six, seven, eight, nine, ten, elev-

1 en, twelve and thirteen of this act shall not affect the repeal of such
2 title and shall be deemed repealed therewith. Effective immediately, the
3 addition, amendment and/or repeal of any rule or regulation necessary
4 for the implementation of this act on its effective date are authorized
5 to be made and completed on or before such effective date.