

# STATE OF NEW YORK

10375

## IN ASSEMBLY

May 21, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Paulin) --  
read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to promoting the health and well-being of the citizens of the state of New York by establishing a comprehensive framework supporting public health and safety through regulated adult use, support services, and cultivation of psilocybin-containing fungi

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

1 Section 1. Article 33 of the public health law is amended by adding a  
2 new title 5-B to read as follows:

3 TITLE V-B

4 REGULATED HEALTH ACCESS AND SUPPORT SERVICES FOR PSILOCYBIN ACT

5 Section 3369-aa. Definitions.

6 3369-bb. Regulation of psilocybin programs.

7 3369-cc. Regulated adult use of psilocybin in connection with  
8 public health framework.

9 3369-dd. Certification and authorized services of support  
10 services provider.

11 3369-ee. Cultivator license and requirements.

12 3369-ff. Relation to other laws.

13 3369-gg. Protections.

14 3369-hh. Regulated psilocybin advisory board.

15 3369-ii. Taxation of psilocybin regulated activities.

16 § 3369-aa. Definitions. For the purposes of this title, the following  
17 terms shall have the following meanings:

18 1. "Business enterprise" means any entity, including a sole proprie-  
19 torship, partnership, limited liability partnership, limited liability  
20 company or corporation, including not-for-profit corporations, which is  
21 authorized to and engages in lawful business transactions in accordance  
22 with New York law.

23 2. "Adult use of psilocybin" means the authorized adult, non-commer-  
24 cial use of psilocybin in connection with a public health framework as  
25 provided under this title.

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

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1 3. "Cultivator license" means a written authorization permitting  
2 natural persons or business enterprises to engage in the specified  
3 activities of cultivation, distribution, and testing of psilocybin, as  
4 authorized pursuant to this title. Only a person or business enterprise  
5 with a cultivator license may engage in commercial transactions with  
6 psilocybin-containing fungi.

7 4. "Department" shall mean New York state department of health.

8 5. "Exclusion criteria" means certain health conditions, prescription  
9 medications, or consumption of other substances that, based on currently  
10 available medical information and research, are contraindicated or have  
11 a risk of negative interaction with the use of psilocybin. Exclusion  
12 criteria shall be added or removed by the department.

13 6. "Health screening" means a screening form to allow a person to  
14 certify symptoms or prior or current diagnosis of one or more health  
15 conditions or exclusion criteria.

16 7. "Licensed healthcare provider" means a person with a valid license  
17 or certificate from the department of education for a profession  
18 provided in article one hundred thirty-one, one hundred thirty-two, one  
19 hundred thirty-six, one hundred thirty-nine, one hundred forty, one  
20 hundred forty-one, one hundred forty-three, one hundred fifty-three, one  
21 hundred fifty-four, one hundred fifty-seven, one hundred fifty-nine, one  
22 hundred sixty, one hundred sixty-three, one hundred sixty-four, or one  
23 hundred sixty-seven or otherwise related to wellness, medicine, health-  
24 care, mental health, or behavioral health. To be a licensed healthcare  
25 provider under this title, such licensed professional's authorized scope  
26 of practice does not need to but may include medical diagnosis or  
27 prescription of medications.

28 8. "Health conditions" mean certain health conditions that include but  
29 are not limited to:

- 30 (a) adjustment disorder;
- 31 (b) amyotrophic lateral sclerosis;
- 32 (c) attention deficit/hyperactivity disorder;
- 33 (d) arthritis;
- 34 (e) autism;
- 35 (f) Alzheimer's;
- 36 (g) anxiety;
- 37 (h) anorexia nervosa;
- 38 (i) bacterial infection or disease;
- 39 (j) behavioral/process addiction, including gambling, pornography, or  
40 shopping;
- 41 (k) body dysmorphia;
- 42 (l) cataracts;
- 43 (m) cancer;
- 44 (n) cancer-related distress;
- 45 (o) chronic pain;
- 46 (p) chronic fatigue;
- 47 (q) cluster headaches;
- 48 (r) depressive disorder;
- 49 (s) degenerative disc or joint disease;
- 50 (t) eating disorder;
- 51 (u) effects from stroke;
- 52 (v) epilepsy;
- 53 (w) episodic migraines;
- 54 (x) fibromyalgia;
- 55 (y) functional gastrointestinal disorder, including irritable bowel  
56 syndrome (IBS) and inflammatory bowel disease (IBD);

- 1 (z) glaucoma;  
2 (aa) headache disorders;  
3 (bb) HIV/AIDS;  
4 (cc) insomnia;  
5 (dd) Lyme disease;  
6 (ee) mood disorder;  
7 (ff) motor neuron disease;  
8 (gg) migraine;  
9 (hh) multiple sclerosis;  
10 (ii) muscular dystrophy;  
11 (jj) neurodegenerative disease including neuropathy;  
12 (kk) obsessive-compulsive disorder;  
13 (ll) Parkinson's disease;  
14 (mm) panic disorder;  
15 (nn) paresthesia;  
16 (oo) phantom limb pain;  
17 (pp) premenstrual syndrome or premenstrual dysphoric disorder;  
18 (qq) prolonged grief disorder;  
19 (rr) postpartum mental health disorder;  
20 (ss) post-acute COVID-19 infection condition;  
21 (tt) post-traumatic stress disorder (PTSD) or complex post-traumatic  
22 stress disorder;  
23 (uu) psychogenic pain disorder;  
24 (vv) restless leg syndrome;  
25 (ww) rheumatoid arthritis;  
26 (xx) sexual disorder;  
27 (yy) sensory processing disorder;  
28 (zz) sleep disorder;  
29 (aaa) substance use disorder, including for use of opiates, tobacco,  
30 and alcohol;  
31 (bbb) terminal illness or end-of-life distress;  
32 (ccc) traumatic brain injury (TBI), including concussion;  
33 (ddd) treatment resistant depression;  
34 (eee) unspecified mood disorder; and  
35 (fff) any novel or emergent health condition not categorized in the  
36 Diagnostic and Statistical Manual of Mental Disorders or known physical  
37 health conditions where there is evidence of potential use of psilocybin  
38 with positive outcomes in connection with such health conditions that  
39 has been identified in a study published in a medical or scientific  
40 journal, including preprint servers.  
41 9. "Licensed cultivator" means a person or business enterprise,  
42 including a sole proprietorship, partnership, corporation, limited  
43 liability company, or other business enterprise, that possesses a culti-  
44 vator license pursuant to this title.  
45 10. "Noncommercial" means an action or transaction of goods that is  
46 without remuneration or the exchange of money.  
47 11. "Permit course" means the psilocybin regulation educational permit  
48 (PREP) course that includes educational material and a test that must be  
49 successfully completed by a person who has received a health screening  
50 and is applying for a psilocybin permit. There will be no limit in the  
51 number of attempts to complete the test component of the permit course  
52 in order to receive a psilocybin permit, as the purpose of such test is  
53 to enable education and information to increase safety of adult use of  
54 psilocybin.  
55 12. "Person" means a natural person.

1 13. "Psilocybin" means fungi that contain naturally-occurring psilocy-  
2 bin and psilocin compounds produced by such fungi, including but not  
3 limited to members of the genus Psilocybin.

4 14. "Psilocybin permit" means a written authorization from the depart-  
5 ment issued to a person at least eighteen years old who has received a  
6 health screening and successfully completed the permit course to allow  
7 adult use of psilocybin in connection with a public health framework.

8 15. "School grounds" means any building, structure, and surrounding  
9 outdoor grounds, including entrances or exits, contained within a public  
10 or private pre-school, nursery school, elementary or secondary school's  
11 legally defined property boundaries as registered in a county clerk's  
12 office.

13 16. "Support services" mean the services consistent with this title  
14 through actions of supportive care and response to adverse health  
15 circumstances, provision of educational information, and other conduct  
16 provided by a certified support services provider that increase the  
17 safety and reduce potential risks associated with a psilocybin permit  
18 holder's authorized use of psilocybin.

19 17. "Support services provider certification" means a certification  
20 that is regulated and issued by the department that authorizes the  
21 support services of a support services provider.

22 18. "Support services provider" means a person who has been granted a  
23 certification to provide risk reduction support services, upon  
24 completion and continued satisfaction of all requirements under section  
25 thirty-three hundred sixty-nine-cc of this title, including ongoing  
26 education and training in connection with a permit holder's adult use of  
27 psilocybin.

28 § 3369-bb. Regulation of psilocybin programs. 1. The department shall  
29 manage all operations of this title.

30 2. The department shall promulgate regulations to implement this  
31 title.

32 3. The department may provide for the analysis and evaluation of the  
33 operation of this title. The department may enter into agreements with  
34 one or more persons, not-for-profit corporations, universities, or other  
35 organizations, for the performance of an evaluation of the implementa-  
36 tion and effectiveness of this title.

37 4. The department shall be responsible for regulating the adult use of  
38 psilocybin with a permit, cultivation licenses and licensed cultivator  
39 operation requirements, certification of support services providers, and  
40 other authorized and related programs.

41 5. The department shall create a reporting program to allow permit  
42 holders the optional opportunity to identify health and experience data  
43 in connection with adult use of psilocybin, including on health condi-  
44 tions and potential exclusion criteria, and also to make reports about  
45 certified support services providers and the provision of ethical  
46 services.

47 6. The department shall report every two years, beginning two years  
48 after the effective date of this title, to the governor and the legisla-  
49 ture on the regulated access of psilocybin under this title and make  
50 appropriate recommendations.

51 § 3369-cc. Regulated adult use of psilocybin in connection with public  
52 health framework. A psilocybin permit holder shall be permitted to  
53 engage in the adult use of psilocybin in connection with qualifying  
54 health conditions, provided that:

55 1. A person shall be provided a psilocybin permit upon completion of a  
56 health screening and the permit course.

1 2. A person shall complete a health screening that certifies symptoms  
2 or diagnosis of any health conditions and no existence of exclusion  
3 criteria.

4 3. A health screening shall include a structured screening process  
5 with a form where a person applying for a psilocybin permit self-reports  
6 symptoms or diagnosis that indicate any health condition or exclusion  
7 criteria.

8 4. A health screening form shall be updated by the permit holder if  
9 there are any changes to the certifications of health conditions,  
10 including any new symptoms or diagnosis, that constitute exclusion  
11 criteria on the form filed with the department and recompleted biennial-  
12 ly to maintain the psilocybin permit. Any changes to such form shall not  
13 precipitate a requirement to engage in the permit course until the four  
14 year requirement provided in this section.

15 5. A health screening shall include clear disclosure that adult use of  
16 psilocybin under this title is not to treat any health conditions and  
17 the existence of health assessments and treatments for any potential  
18 health conditions.

19 6. A health screening shall include clear disclosure that exclusion  
20 criteria in connection with use of psilocybin may increase significant  
21 health and safety risks.

22 7. Any indication of exclusion criteria shall disqualify a person from  
23 a psilocybin permit due to health risks to such person or others.

24 8. A health screening shall be allowed to be taken in an entirely  
25 online format provided by the department or with a licensed healthcare  
26 provider, who shall then submit such screening to the department.

27 9. The permit course, which shall be no longer than five (5) hours and  
28 allowed to be taken in an in-person or entirely online format, shall  
29 provide the appropriate education and information about psilocybin and  
30 psilocybin-containing fungi using a curriculum developed by the depart-  
31 ment regarding the history of indigenous, religious, and cultural use,  
32 safety, potency and effects of dosing amounts, contraindicated health  
33 conditions and substances, the value of preparation and integration, the  
34 appropriate setting for use, and any medically available evidence of  
35 benefits, health risks, and the sensitivity period subsequent to psilo-  
36 cybin use, and optional support services available, appropriate conduct  
37 and informed consent required for such services, and the department  
38 reporting system established pursuant to this title. The department  
39 shall update the curriculum for the permit course with medically avail-  
40 able information biennially.

41 10. A permit holder must successfully complete an abbreviated renewal  
42 permit course based on changes to the curriculum or this title every  
43 four years to maintain such permit holder's permit.

44 11. The cost of the permit course and the permit application shall not  
45 exceed reasonable, accessible fees consistent with other state permits.  
46 A permit course shall not exceed one hundred dollars and the permit  
47 application shall not exceed eighty dollars.

48 12. The department may approve a permit course developed by a person  
49 or business enterprise that satisfies the curriculum requirements and  
50 will provide certification that such permit course, including the test,  
51 was successfully completed to the department.

52 13. A psilocybin permit may be granted to a citizen of any state, but  
53 such rights granted by the psilocybin permit only authorize the regu-  
54 lated activities in this title within the state of New York.

55 14. A psilocybin permit holder may only lawfully purchase psilocybin  
56 from a licensed cultivator pursuant to this title, cultivate their own

1 psilocybin, or receive it as a non-commercial gift from another permit  
2 holder.

3 15. Permit holders have the option to engage support services provid-  
4 ers for risk reduction support services during adult use of psilocybin.

5 16. Adult use of psilocybin shall not be permitted in a public  
6 location within five hundred feet of a school grounds.

7 17. A permit holder is authorized to purchase from a licensed cultiva-  
8 tor, as provided under this title, an allowable amount of two ounces of  
9 processed, dried psilocybin-containing fungi each calendar month. The  
10 department may increase this allowable amount.

11 18. Measuring weight of psilocybin-containing fungi for adult use  
12 shall be measured based on the dried, processed condition of psilocy-  
13 bin-containing fungi, and does not include the weight of any material of  
14 which the substance is a part or to which the substance is added,  
15 dissolved, held in solution, or suspended, or any ingredient or material  
16 combined with the substance as part of a preparation.

17 19. A permit holder is authorized to personally cultivate psilocybin-  
18 containing fungi in a cultivation space that produces no more than a  
19 limited space in volume, as regulated by the department, for adult use  
20 of psilocybin. No psilocybin permit holder shall be penalized for  
21 possession in excess of the allowable amount if it is stored in a locked  
22 container within their residence for adult use. Notwithstanding any  
23 provision to the contrary, personal cultivation does not permit commer-  
24 cial sales or rights granted by a cultivation license.

25 20. A permit holder may provide psilocybin to other permit holders  
26 only if the psilocybin is a non-commercial transaction and a psilocybin  
27 permit is provided to demonstrate authorization pursuant to this title.  
28 A permit holder is prohibited from the transfer of psilocybin as a  
29 remunerated commercial transaction unless authorized to do so as a  
30 licensed cultivator pursuant to section three thousand three hundred  
31 sixty-nine-ee of this title.

32 21. A licensed healthcare provider may, within the scope of such  
33 healthcare provider's practice, offer professional services to support  
34 patients and clients who are permit holders in such patients' adult use  
35 of psilocybin with respect to the health screening or in preparation or  
36 subsequent to support services.

37 22. Psilocybin permit holders who are in violation of this title in  
38 more than two instances may be penalized by loss of such permit for a  
39 period of two years and, after such penalization period, shall subse-  
40 quently be entitled to apply for a psilocybin permit.

41 § 3369-dd. Certification and authorized services of support services  
42 provider. 1. State-certified support services providers may provide  
43 non-medical, non-therapeutic, and non-directive risk reduction support  
44 services to increase the health and safety of a permit holder.

45 2. No support services certification establishes any licensure,  
46 certification, or other authority to provide therapy, coaching, or  
47 treatment in connection with adult use of psilocybin, but support  
48 services providers are not precluded from contracting or providing sepa-  
49 rately for such services.

50 3. In order to receive a support services provider certification from  
51 the department, a person shall complete a support services training  
52 course with a curriculum and written exam that includes education and  
53 information about psilocybin regarding its history of indigenous use and  
54 cultural relevance, benefits and health risks based on currently avail-  
55 able medical evidence, effects of dosing amounts, contraindicated health  
56 conditions and interacting substances that increase risks, informed

1 consent, risk reduction strategies, and adverse event and emergency  
2 protocol, as determined by the department in regulation.

3 4. The cost of any support services training course shall be a reason-  
4 able, accessible amount and not exceed one thousand five hundred dollars  
5 and the certification application shall not exceed eighty dollars.

6 5. A support services provider is obligated to participate in biennial  
7 continued education courses with a curriculum determined by the depart-  
8 ment in regulation.

9 6. Any training course for support services providers shall be avail-  
10 able for a reasonable fee and may be provided entirely online to create  
11 affordability, accessibility, recognize need for culturally competent  
12 risk reduction support, and diversity.

13 7. The department may approve a support services training course  
14 developed by a person or business enterprise that satisfies the curric-  
15 ulum requirements under this title and will provide certification that  
16 such training course, including the exam, was successfully completed to  
17 the department.

18 8. Support services providers may provide support services in any  
19 location, as determined by the department and to create accessibility,  
20 including but not limited to appropriately zoned settings such as  
21 private offices and commercial use, or residences of the permit holder  
22 or the support services provider where a home occupation is allowed.

23 9. The department shall develop an informed consent document that must  
24 be used and may be modified to include additional but not conflicting  
25 information by a support services provider in each instance of provision  
26 of such services to a psilocybin permit holder.

27 10. One or more support services providers may provide support  
28 services to one or more permit holders simultaneously consistent with  
29 certain rules, such as the proportion of service providers to permit  
30 holders, as determined by the department in regulation.

31 11. A person may, but shall not be required to, have a psilocybin  
32 permit and support services certification concurrently.

33 12. The department may establish additional levels of certification  
34 pursuant to research and medical standards.

35 13. The department shall create a certification board to review  
36 support services provider certification and the compliance of a support  
37 services provider.

38 14. A support services provider shall be entitled to offer support  
39 services in exchange for compensation as a commercial transaction.

40 15. A support services provider may engage in the commercial trans-  
41 action of their authorized support services under this title and, if a  
42 permit holder, simultaneously engage in the noncommercial transaction of  
43 gifting psilocybin to the permit holder engaging such provider for  
44 support services.

45 16. A support services provider shall require confirmation of a valid  
46 psilocybin permit and review the health screening form provided by the  
47 permit holder engaging support services prior to provision of services  
48 during the adult use of psilocybin authorized under this title. A permit  
49 holder shall confirm accuracy of responses on the health screening form  
50 before each instance of support services.

51 17. A support services certification under this title shall not be a  
52 professional license under the education law.

53 18. The department of education, the department, and any applicable  
54 state licensing boards may establish certifications, licensure, or  
55 related regulations to allow a licensed professional to provide profes-  
56 sional services simultaneously with support services with a support

1 services provider certification or as otherwise determined in regu-  
2 lation.

3 19. This title shall allow the licensed professionals to share  
4 patient-approved information with support service providers through  
5 lawful disclosures and agreements, as consistent with the health insur-  
6 ance portability and accountability act, as applicable.

7 § 3369-ee. Cultivator license and requirements. 1. For the purposes  
8 of this title, psilocybin-containing fungi shall not constitute a  
9 "food," or "food product," as defined and regulated by section 161.21 of  
10 title one of the compilation of codes, rules, and regulations of the  
11 state of New York, to be distinguished from fungi that do not contain  
12 psilocybin that are cultivated under controlled conditions.

13 2. The department may issue a cultivator license to a cultivator of  
14 psilocybin-containing fungi to cultivate and engage in commercial trans-  
15 actions of psilocybin-containing fungi consistent with this title to  
16 psilocybin permit holders. Cultivation of psilocybin-containing fungi  
17 includes production, manufacture, processing, and required testing and  
18 disclosures. Commercial transaction of psilocybin-containing fungi  
19 include, sale, distribution, and delivery.

20 3. To obtain a cultivator license, an applicant must show ability to  
21 satisfy the requirements of this section. Maintenance of a cultivator  
22 license requires the demonstration of the satisfaction of all require-  
23 ments of this section and any regulations promulgated by the department  
24 pursuant to this section.

25 4. A licensed cultivator must cultivate psilocybin-containing fungi in  
26 a properly zoned and licensed facility approved for cultivation. Proc-  
27 essing and packaging of psilocybin-containing fungi must be performed in  
28 a manner consistent with the relevant safety regulations. Psilocybin-  
29 containing fungi must be stored under sanitary conditions.

30 5. A licensed cultivator shall cultivate psilocybin-containing fungi  
31 using controlled conditions that adhere to current food safety protocol  
32 in order to reasonably reduce fungi contaminants.

33 6. A licensed cultivator shall clearly label the psilocybin-containing  
34 fungi with the required disclosures, including the full registered name  
35 of the licensed cultivator, such cultivator's office address, a  
36 description of contents providing the disclosure of the strain, and the  
37 culture-specific approximate psilocybin equivalent potency of the psilo-  
38 cybin-containing fungi.

39 7. A licensed cultivator shall engage in annual testing for each  
40 culture used for cultivation in order to reasonably confirm satisfaction  
41 of all relevant protocol, including strain and potency, through author-  
42 ized in-state testing facilities, as regulated by the department. Any  
43 new cultures shall be subject to the requirements of this section.

44 8. A licensed cultivator may sell directly to permit holders within an  
45 intrastate system established by the department. Sales by licensed  
46 cultivators may be accomplished using direct to consumer delivery  
47 services solely to permit holders in the state. Deliveries may be facil-  
48 itated by contracting with additional persons or business enterprises  
49 and remain an authorized activity pursuant to a cultivator license.

50 9. Sales shall not need to be through a dispensary, however the  
51 department may promulgate rules related to a dispensary contracted with  
52 a licensed cultivator and meets other applicable requirements of this  
53 title.

54 10. Any commercial transaction requires provision of an informational  
55 document that gives information about strength of psilocybin-containing  
56 fungi and dosing and identifies optional support service providers.

1 11. Any person or business enterprise that is contracted for services  
2 by a licensed cultivator, for or to accomplish an authorized activity  
3 under such cultivator license, such as delivery services to permit hold-  
4 ers or testing of potency, shall be considered a licensee to the extent  
5 of the performance of the contracted services and shall not be in  
6 violation of this title.

7 12. Licensed cultivators shall maintain secure storage of psilocybin  
8 prior to distribution to prevent diversion and in a manner that will  
9 maintain the disclosed potency and prevent contamination.

10 13. Licensed cultivators must maintain records of all cultivation  
11 production and sales. Upon request by the department, licensed cultiva-  
12 tors must provide these records and engage in annual inspections.

13 14. The department shall maintain a registry of cultivators who are  
14 licensed for permit holders to purchase psilocybin-containing fungi.

15 § 3369-ff. Relation to other laws. 1. Nothing under this title permits  
16 or authorizes the promotion of use of psilocybin as a drug, substance,  
17 or product intended to diagnose, treat, cure, or prevent any disease or  
18 mental health or other health conditions.

19 2. Section three thousand three hundred six of this article shall be  
20 amended to remove "psilocybin" and "psilocin" from the schedules of  
21 controlled substances and to provide an exception for "psilocybin" and  
22 "psilocin" from "hallucinogenic substances".

23 3. For the purposes of this title, psilocybin and psilocin shall not  
24 be deemed to be a "drug" for purposes of subdivision twelve of section  
25 three thousand three hundred two of this article.

26 4. For the purposes of this title, psilocybin-containing mushrooms  
27 shall not be deemed a food or food product under the agriculture and  
28 markets law.

29 5. For the purposes of this title, psilocybin shall not be deemed to  
30 be a "drug" for purposes of article one hundred thirty-seven of the  
31 education law and is not intended to be distributed through any pharma-  
32 cy.

33 6. To use, manufacture, deliver, sell, or distribute psilocybin with-  
34 out authorization by psilocybin permit or cultivator license shall not  
35 exceed a finding of a violation pursuant to section 55.10 of the penal  
36 law.

37 7. Where a provision of this title conflicts with another provision of  
38 this chapter, this title shall apply.

39 § 3369-gg. Protections. 1. Psilocybin permit holders, licensed culti-  
40 vators, and certified support services providers shall not be subject to  
41 arrest, prosecution, or penalty in any manner, or denied any right or  
42 privilege, including but not limited to civil penalty or disciplinary  
43 action by a business or occupational or professional licensing board or  
44 bureau, solely for the adult use of psilocybin or for any other action  
45 or conduct in accordance with this title.

46 2. An applicant or holder of a professional or occupational license,  
47 certification, or registration under state law and through a state  
48 department shall not be subject to disqualification, denial, suspension,  
49 revocation, professional discipline, or loss of a professional license  
50 or certification for any activities authorized under this title.

51 3. No person shall be disqualified from any authorized rights,  
52 programs, or provision of this title due to a violation of any federal  
53 or state laws relating to controlled substances.

54 4. A professional or occupational licensee or any person with licen-  
55 sure, certification, or registration under state law or through a state  
56 department shall have the right to provide services within the scope of

1 such license or certification to support clients or patients who are  
2 seeking to become or are psilocybin permit holders in connection with  
3 conduct authorized under this title, including but not limited to  
4 discussions with such licensee's patients about the potential benefits  
5 and risks of adult use of psilocybin.

6 5. This subdivision shall not bar the enforcement of a policy prohib-  
7 iting an employee from performing such employee's employment duties  
8 while impaired by a controlled substance. This subdivision shall not  
9 require any person or business enterprise to engage in any act that  
10 would put the person or business enterprise in direct violation of  
11 federal law or cause it to lose a federal contract or funding.

12 6. An otherwise enforceable contract related to programs or activities  
13 authorized under this title shall not be unenforceable on the basis of  
14 state or federal controlled substances laws.

15 7. Use of psilocybin by ingestion may only be considered to cause an  
16 intoxicated state when substantially impaired, and any related conduct,  
17 including driving, shall be regulated consistent with applicable state  
18 laws including laws restricting driving under the influence. A drug  
19 screening that contains positive results of the use of psilocybin is not  
20 sufficient evidence to demonstrate intoxication without other conduct  
21 that indicates impairment.

22 8. (a) The fact that a person is a psilocybin permit holder, a support  
23 services provider, a licensed cultivator and/or acting in accordance  
24 with this title shall not be a consideration in a proceeding pursuant to  
25 applicable sections of the domestic relations law, the family court act,  
26 or the social services law.

27 (b) Conduct permitted by this title shall not, by itself:

28 (i) constitute child abuse or neglect without a finding of actual  
29 threat to the health or welfare of a child based on all relevant  
30 factors;

31 (ii) be the basis to restrict parenting time with a child without  
32 finding that the parenting time would endanger such child's emotional  
33 development; or

34 (iii) be the basis to deny eligibility for any public assistance  
35 program, unless required by federal law.

36 9. (a) Information contained in any database created as part of this  
37 title shall be deemed exempt from public disclosure under sections  
38 eighty-seven and eighty-nine of the public officers law.

39 (b) The name, contact information, and other information relating to  
40 support services providers registered with the department under this  
41 title shall be public information and shall be maintained on the depart-  
42 ment's website and accessible to the public in searchable form. Howev-  
43 er, if a support services provider notifies the department in writing  
44 that such support services provider does not want such provider's name  
45 and other information disclosed, such support services provider's name  
46 and other information shall thereafter not be public information or  
47 maintained on the department of education's website, unless the support  
48 services provider cancels the request.

49 § 3369-hh. Regulated psilocybin advisory board. 1. The regulated  
50 psilocybin advisory board or "advisory board" is established within the  
51 department to advise and issue recommendations on the adult use of  
52 psilocybin and all programs under this title in the state of New York.

53 2. The advisory board shall consist of thirteen voting appointed  
54 members, along with the following members serving as non-voting ex-offi-  
55 cio members: (a) the commissioner, or their designee; and (b) a repre-

1 sentative from the department who is familiar with public health  
2 programs and public health activities in the state.

3 3. The governor shall have seven appointments, at least one of which  
4 shall be a member of a federal or state recognized Native American  
5 tribe, the temporary president of the senate and the speaker of the  
6 assembly shall each have three appointments to the board. Advisory board  
7 members shall have statewide geographic representation that is balanced  
8 and diverse in its composition. Appointed members shall have an exper-  
9 tise in agriculture and mycology, public and behavioral health, psilocy-  
10 bin-assisted therapy research, mental health (including PTSD, depression  
11 and anxiety), substance use disorders, pain management, access to care  
12 in underserved communities, veteran health care, policy or legal exper-  
13 tise related to psilocybin, pharmacology, or harm reduction and risk  
14 reduction training.

15 4. The members shall be appointed to the advisory board to each serve  
16 four-year terms and in the event of a vacancy, the vacancy shall be  
17 filled in the manner of the original appointment for the remainder of  
18 the term. The appointed members and representatives shall receive no  
19 compensation for their services but shall be allowed their actual and  
20 necessary expenses incurred in the performance of their duties as board  
21 members.

22 5. The chairperson of the advisory board and the vice chairperson  
23 shall be elected from among the members of the advisory board by the  
24 members of such advisory board. The vice chairperson shall represent the  
25 advisory board in the absence of the chairperson at all official advi-  
26 sory board functions.

27 6. The advisory board shall enact, and from time to time may amend,  
28 bylaws or rules in relation to its meetings and the transaction of its  
29 business. The board may also establish committees and subcommittees  
30 necessary for the operation of the board. The advisory board shall work  
31 with established religious, cultural and community-based psilocybin  
32 groups and cultivators on recommendations to the department regarding  
33 guidelines for safe and effective services, safety standards, industry  
34 best practices, code of professional conduct, education, training, and  
35 examination for support services providers, production, and long-term  
36 strategic plans for service. A majority of the total number of voting  
37 members which the board would have were there no vacancies, shall  
38 constitute a quorum and shall be required for the board to conduct busi-  
39 ness. All meetings of the advisory board shall be conducted in accord-  
40 ance with the provisions of article seven of the public officers law.

41 (a) Within the first two years of the establishment of the advisory  
42 board, the board shall meet at least once every calendar month at a time  
43 and place determined by the chairperson or a majority of the voting  
44 members of the board. After the first two years, the advisory board  
45 shall meet at least once every calendar quarter at a time and place  
46 determined by the chairperson or a majority of the voting members of the  
47 board. The advisory board may also meet at other times and places speci-  
48 fied by the call of the chairperson or of a majority of the voting  
49 members of the board.

50 (b) After the first year of the implementation of the programs, there  
51 shall be: (i) a program audit incorporating permit holder optional feed-  
52 back through the reporting program; and (ii) a state and independent  
53 review of efficacy, efficiency, cost, and equity. The audit will include  
54 consideration of whether and how to expand psilocybin access, including  
55 additional certifications and licenses relating to use of psilocybin in

1 connection with qualifying health conditions and psilocybin assisted  
2 therapy.

3 7. The advisory board shall have the following duties:

4 (a) Provide advice to the department regarding the provisions of this  
5 title and make recommendations on available medical, psychological,  
6 scientific studies, research and other information relating to the safe-  
7 ty of use of psilocybin.

8 (b) Determine exclusion criteria to preclude issuance of psilocybin  
9 permits.

10 (c) Make recommendations to the department on the requirements, spec-  
11 ifications, and guidelines for providing support services to a permit  
12 holder.

13 (d) Make recommendations to the department on public health and safety  
14 standards and industry best practices under this title.

15 (e) Develop a long-term strategic plan for ensuring that psilocybin  
16 services in the state will become and remain a safe, accessible and  
17 affordable therapeutic option, including in therapeutic and medical  
18 treatments, for all persons eighteen years of age and older for whom  
19 psilocybin services may be appropriate.

20 (f) Monitor and study federal laws, regulations and policies regarding  
21 psilocybin.

22 § 3369-ii. Taxation of psilocybin regulated activities. 1. Notwith-  
23 standing any laws to the contrary, persons or business enterprises who  
24 collect any amounts of monies under this title, including but not limit-  
25 ed to for support services, remuneration for psilocybin properly  
26 distributed by a licensed cultivator, and fees for courses, shall be  
27 taxed as income under state law.

28 2. Any expenses incurred in any business operated in accordance with  
29 this title shall be treated as tax-deductible under state law.

30 3. Proceeds and fees under this title shall be used to support the  
31 costs of the department towards administration and other costs relating  
32 to programs pursuant to this title, including but not limited to public  
33 education and risks of using psilocybin.

34 4. The department shall issue regulations to implement and impose the  
35 tax.

36 § 2. This act shall take effect immediately.