

# STATE OF NEW YORK

8349--A

2023-2024 Regular Sessions

## IN ASSEMBLY

December 13, 2023

Introduced by M. of A. BURKE, LUPARDO -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to establishing a psilocybin assisted therapy pilot program for veterans and first responders

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

1 Section 1. The public health law is amended by adding a new section  
2 3309-c to read as follows:

3 § 3309-c. Psilocybin assisted therapy pilot program. 1. For the  
4 purposes of this section, the following terms shall have the following  
5 meanings:

6 (a) "Certified medical use" includes use of medical psilocybin for a  
7 patient to treat or alleviate a patient's medical condition or symptoms  
8 associated with the patient's medical condition.

9 (b) "Facilitator" shall mean a mental health counselor, psychoanalyst,  
10 psychologist, physician, physician assistant, registered professional  
11 nurse, clinical nurse specialist, nurse practitioner, occupational ther-  
12 apist, occupational therapy assistant, licensed clinical social worker,  
13 or an individual with evidence of prior experience and knowledge in the  
14 field of psychedelic assisted therapy who has completed all requirements  
15 under subdivision three of this section.

16 (c) "Medical psilocybin" shall mean psilocybin intended for a certi-  
17 fied medical use, as determined by the department.

18 (d) "Psilocybin" shall mean a naturally occurring psychedelic prodrug  
19 compound produced by fungi, including but not limited to members of the  
20 genus Psilocybe. Such term shall include psilocin, the substance into  
21 which psilocybin is converted in the human body.

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

LBD13531-03-4

1 2. (a) The department shall establish a psilocybin assisted therapy  
2 pilot program. Such pilot program shall provide ten thousand patient  
3 participants, as described in paragraph (b) of this subdivision, with  
4 the funding necessary to receive psilocybin assisted therapy. Such pilot  
5 program shall be terminated upon the approval of psilocybin for medical  
6 use by the federal drug enforcement administration, or any successor  
7 agency.

8 (b) Participants in the pilot program shall include veterans and their  
9 families, first responders, retired first responders, and those suffer-  
10 ing from cluster headaches; provided, however, that such participants  
11 reside in the western region of New York.

12 (c) The department shall promulgate any necessary rules and regu-  
13 lations for the application and distribution of any funds pursuant to  
14 this subdivision.

15 3. Prior to facilitating a psilocybin session, a facilitator shall  
16 complete a course as determined by the department in regulation.

17 4. (a) The department may provide for the analysis and evaluation of  
18 the operation of this section. The department may enter into agreements  
19 with one or more persons, not-for-profit corporations, universities or  
20 other organizations, for the performance of an evaluation of the imple-  
21 mentation and effectiveness of this section.

22 (b) The department may develop, seek any necessary federal approval  
23 for, and carry out research programs relating to medical use of psilocy-  
24 bin. Participation in any such research program shall be voluntary on  
25 the part of facilitators, patients, and designated caregivers.

26 (c) No later than two years after the effective date of this section  
27 and every two years thereafter, the department shall report to the  
28 governor and the legislature on the medical use of psilocybin under this  
29 section and make appropriate recommendations.

30 5. (a) The provisions of this section shall take precedence over any  
31 conflicting provisions of this chapter.

32 (b) For the purposes of this section, medical psilocybin shall not be  
33 deemed to be a "drug" for purposes of article one hundred thirty-seven  
34 of the education law.

35 6. (a) Patients, practitioners and facilitators shall not be subject  
36 to arrest, prosecution, or penalty in any manner, or denied any right or  
37 privilege, including but not limited to civil penalty or disciplinary  
38 action by a business or occupational or professional licensing board or  
39 bureau, solely for the certified medical use of psilocybin or for any  
40 other action or conduct in accordance with this section.

41 (b) This subdivision shall not bar the enforcement of a policy prohib-  
42 iting an employee from performing his or her employment duties while  
43 impaired by a controlled substance. This subdivision shall not require  
44 any person or entity to do any act that would put the person or entity  
45 in direct violation of federal law or cause it to lose a federal  
46 contract or funding.

47 (c) The fact that a person is a patient and/or acting in accordance  
48 with this section, shall not be a consideration in a proceeding pursuant  
49 to applicable sections of the domestic relations law, the social  
50 services law, and the family court act.

51 (d) (i) Certification forms and any patient information contained  
52 within a database shall be deemed exempt from public disclosure under  
53 sections eighty-seven and eighty-nine of the public officers law. Upon  
54 specific request by a patient to the department, the department shall  
55 verify the requesting patient's status as a valid patient to the

1 patient's school or employer or other designated party, to ensure  
2 compliance with the protections afforded by this subdivision.

3 (ii) The name, contact information, and other information relating to  
4 facilitators registered with the department under this section shall be  
5 public information and shall be maintained on the department's website  
6 accessible to the public in searchable form. However, if a facilitator  
7 notifies the department in writing that he or she does not want his or  
8 her name and other information disclosed, such facilitator's name and  
9 other information shall thereafter not be public information or main-  
10 tained on the department's website, unless such facilitator cancels the  
11 request.

12 (e) A person currently under parole, probation or other state or local  
13 supervision, or released on bail awaiting trial may not be punished or  
14 otherwise penalized for conduct allowed under this section.

15 7. The department shall promulgate any rules and regulations necessary  
16 to implement the provisions of this section.

17 § 2. This act shall take effect immediately.