

ARTICLE 33- Title 5-a: Medical Marijuana Use

* § 3360. **Definitions.** As used in this title, the following terms shall have the following meanings, unless the context clearly requires otherwise:

1. "Certified medical use" means the acquisition, possession, use, or transportation of medical marijuana by a certified patient, or the acquisition, possession, delivery, transportation or administration of medical marijuana 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.
2. "Caring for" means treating a patient, in the course of which the practitioner has completed a full assessment of the patient's medical history and current medical condition.
3. "Certified patient" means a patient who is a resident of New York state or receiving care and treatment in New York state as determined by the commissioner in regulation, and is certified under section thirty-three hundred sixty-one of this title.
4. "Certification" means a certification, made under section thirty-three hundred sixty-one of this title.
5. "Designated caregiver" means the individual designated by a certified patient in a registry application. A certified patient may designate up to two designated caregivers.
6. "Public place" means a public place as defined in regulation by the commissioner.
7. (a) "Serious 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 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.
8. "Medical marijuana" means marijuana as defined in subdivision twenty-one of section thirty-three hundred two of this article, intended for a certified medical use, as determined by the commissioner in his or her sole discretion. Any form of medical marijuana not approved by the commissioner is expressly prohibited.
9. "Registered organization" means a registered organization under sections thirty-three hundred sixty-four and thirty-three hundred sixty-five of this title.
10. "Registry application" means an application properly completed and filed with the department by a certified patient under section thirty-three hundred sixty-three of this title.
11. "Registry identification card" means a document that identifies a certified patient or designated caregiver, as provided under section thirty-three hundred sixty-three of this title.
12. "Practitioner" means a practitioner who (i) is a physician licensed by New York state and practicing within the state, (ii) who by training or experience is qualified to treat a serious condition as defined in subdivision seven of this section; 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.

13. "Terminally ill" means an individual has a medical prognosis that the individual's life expectancy is approximately one year or less if the illness runs its normal course.
14. "Labor peace agreement" means an agreement between an entity and a labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the registered organization's business.
15. "Individual dose" means a single measure of raw medical marijuana or non-infused concentrates to be determined and clearly identified by a patient's practitioner for the patient's specific certified condition. For ingestible or sub-lingual medical marijuana products, no individual dose may contain more than ten milligrams of tetrahydrocannabinol.
16. "Form of medical marijuana" means characteristics of the medical marijuana recommended or limited for a particular certified patient, including the method of consumption and any particular strain, variety, and quantity or percentage of marijuana or particular active ingredient.
17. "Applicant" means a for-profit entity or not-for-profit corporation and includes: board members, officers, managers, owners, partners, principal stakeholders and members who submit an application to become a registered organization.
18. "Special certification" means a special certification made under subdivision nine of section thirty-three hundred sixty-one of this title.

*** NB Repealed July 5, 2021**

*** § 3361 Certification of patients.** 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 marijuana 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 and the patient is under the practitioner's 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 marijuana 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. In making a certification, the practitioner shall consider the form of medical marijuana the patient should consume, including the method of consumption and any particular strain, variety, and quantity or percentage of marijuana or particular active ingredient, and appropriate dosage. The practitioner shall state in the certification any recommendation or limitation the practitioner makes, in his or her professional opinion, concerning the appropriate form or forms of medical marijuana and dosage.

4. Every practitioner shall consult the prescription monitoring drug program registry prior to making or issuing a certification, for the purpose of reviewing a patient's controlled substance history. For purposes of this section, a practitioner may authorize a designee to consult the prescription monitoring program registry on his or her behalf, provided that such designation is in accordance with section thirty-three hundred forty-three-a of this article.

5. The practitioner shall give the certification to the certified patient, and place a copy in the patient's health care record.

6. No practitioner shall issue a certification under this section for himself or herself.

7. A registry identification card based on a certification shall expire one year after the date the certification is signed by the practitioner.

8. (a) If the practitioner states in the certification that, in the practitioner's professional opinion, the patient would benefit from medical marijuana only until a specified earlier date, then the registry identification card shall expire on that date;

(b) If the practitioner states 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, then the registry identification card shall state that the patient is terminally ill and that the registration card shall not expire until the patient dies;

(c) If the practitioner re-issues the certification to terminate the certification on an earlier date, then the registry identification card shall expire on that date and shall be promptly returned by the certified patient to the department;

(d) If the certification so provides, the registry identification card shall state any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient; and

(e) The commissioner shall make regulations to implement this subdivision.

9.(a) A certification may be a special certification if, in addition to the other requirements for a certification, the practitioner certifies in the certification that the patient's serious condition is progressive and degenerative or that delay in the patient's certified medical use of marijuana poses a serious risk to the patient's life or health.

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

*** NB Repealed July 5, 2021**

*** § 3362. Lawful medical use.** 1. The possession, acquisition, use, delivery, transfer, transportation, or administration of medical marijuana by a certified patient or designated caregiver possessing a valid registry identification card, for certified medical use, shall be lawful under this title; provided that: (a) the marijuana that may be possessed by a certified patient shall not exceed a thirty day supply of the dosage as determined by the practitioner, consistent with any guidance and regulations issued by the commissioner, provided that during the last seven days of any thirty day period, the certified patient may also possess up to such amount for the next thirty day period;

(b) the marijuana that may be possessed by designated caregivers does not exceed the quantities referred to in paragraph (a) of this subdivision for each certified patient for whom the caregiver possesses a valid registry identification card, up to five certified patients;

(c) the form or forms of medical marijuana that may be possessed by the certified patient or designated caregiver pursuant to a certification shall be in compliance with any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient in the certification; and

(d) the medical marijuana shall be kept in the original package in which it was dispensed under subdivision twelve of section thirty-three hundred sixty-four of this title, except for the portion removed for immediate consumption for certified medical use by the certified patient.

2. Notwithstanding subdivision one of this section:

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

(b) a person possessing medical marijuana under this title shall possess his or her registry identification card at all times when in immediate possession of medical marijuana.

*** NB Repealed July 5, 2021**

*** § 3363. Registry identification cards.** 1. Upon approval of the certification, the department shall issue registry identification cards for certified patients and designated caregivers. A registry identification card shall expire as provided in section thirty-three hundred sixty-one of

this title or as otherwise provided in this section. The department shall begin issuing registry identification cards as soon as practicable after the certifications required by section thirty-three hundred sixty-nine-b are granted. The department may specify a form for a registry application, in which case the department shall provide the form on request, reproductions of the form may be used, and the form shall be available for downloading from the department's website.

2. To obtain, amend or renew a registry identification card, a certified patient or designated caregiver shall file a registry application with the department. The registry application or renewal application shall include:

(a) in the case of a certified patient:

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

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

(iii) the date of the certification;

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

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

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

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

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

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

(c) in the case of a designated caregiver:

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

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

(iii) other individual identifying information required by the department;

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

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

(f) a fifty dollar application fee, provided, that the department may waive or reduce the fee in cases of financial hardship; and

(g) any other requirements determined by the commissioner.

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

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

(b) The designated caregiver shall be (i) a parent or legal guardian of the certified patient, (ii) a person designated by a parent or legal guardian, or (iii) an appropriate person approved by the department upon a sufficient showing that no parent or legal guardian is appropriate or available.

4. No person may be a designated caregiver if the person is under twenty-one years of age unless a sufficient showing is made to the department that the person should be permitted to serve as a designated caregiver. The requirements for such a showing shall be determined by the commissioner.

5. No person may be a designated caregiver for more than five certified patients at one time.

6. If a certified patient wishes to change or terminate his or her designated caregiver, for whatever reason, the certified patient shall notify the department as soon as practicable. The department shall issue a notification to the designated caregiver that their registration card is invalid and must be promptly returned to the department. The newly designated caregiver must comply with all requirements set forth in this section.

7. If the certification so provides, the registry identification card shall contain any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient.

8. The department shall issue separate registry identification cards for certified patients and designated caregivers as soon as reasonably practicable after receiving a complete application under this section, unless it determines that the application is incomplete or factually inaccurate, in which case it shall promptly notify the applicant.

9. If the application of a certified patient designates an individual as a designated caregiver who is not authorized to be a designated caregiver, that portion of the application shall be denied by the department but that shall not affect the approval of the balance of the application.

10. A registry identification card shall:

(a) contain the name of the certified patient or the designated caregiver as the case may be;

(b) contain the date of issuance and expiration date of the registry identification card;

(c) contain a registry identification number for the certified patient or designated caregiver, as the case may be and a registry identification number;

(d) contain a photograph of the individual to whom the registry identification card is being issued, which shall be obtained by the department in a manner specified by the commissioner in regulations; provided, however, that if the department requires certified patients to submit photographs for this purpose, there shall be a reasonable accommodation of certified patients who are confined to their homes due to their medical conditions and may therefore have difficulty procuring photographs;

(e) be a secure document as determined by the department;

(f) plainly state any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient; and

(g) any other requirements determined by the commissioner.

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.

12. If a certified patient or designated caregiver loses his or her registry identification card, he or she shall notify the department and submit a twenty-five dollar fee within ten days of losing the card to maintain the registration. The department may establish higher fees for issuing a new registry identification card for second and subsequent replacements for a lost card, provided, that the department may waive or reduce the fee in cases of financial hardship. The department shall issue a new registry identification card as soon as practicable, which may contain a new registry identification number, to the certified patient or designated caregiver, as the case may be. The certified patient or designated caregiver shall not be able to obtain medical marijuana until the certified patient receives a new card.

13. The department shall maintain a confidential list of the persons to whom it has issued registry identification cards. Individual identifying information obtained by the department under this title shall be confidential and exempt from disclosure under article six of the public officers law. Notwithstanding this subdivision, the department may notify any appropriate law enforcement agency of information relating to any violation or suspected violation of this title.

14. The department shall verify to law enforcement personnel in an appropriate case whether a registry identification card is valid.

15. If a certified patient or designated caregiver willfully violates any provision of this title as determined by the department, his or her registry identification card may be suspended or revoked. This is in addition to any other penalty that may apply.

16. The commissioner shall make regulations for special certifications, which shall include expedited procedures and which may require the applicant to submit additional documentation establishing the clinical basis for the special certification. If the department has not established and made available a form for a registry application or renewal application and determined the application fee if any, or established and made available a form for a registry application or renewal application and determined the application fee for a special certification, then in the case of a special certification, a registry application or renewal application that otherwise conforms with the requirements of this section shall not require the use of a form or the payment of an application fee.

*** NB Repealed July 5, 2021**

*** § 3364. Registered organizations.** 1. A registered organization shall be a for-profit business entity or not-for-profit corporation organized for the purpose of acquiring, possessing, manufacturing, selling, delivering, transporting, distributing or dispensing marihuana for certified medical use.

2. The acquiring, possession, manufacture, sale, delivery, transporting, distributing or dispensing of marihuana by a registered organization under this title in accordance with its registration under section thirty-three hundred sixty-five of this title or a renewal thereof shall be lawful under this title.

3. Each registered organization shall contract with an independent laboratory to test the medical marihuana produced by the registered organization. The commissioner shall approve the laboratory and require that the laboratory report testing results in a manner determined by the commissioner. The commissioner is authorized to issue regulation requiring the laboratory to perform certain tests and services.

4. (a) A registered organization may lawfully, in good faith, sell, deliver, distribute or dispense medical marihuana to a certified patient or designated caregiver upon presentation to the registered organization of a valid registry identification card for that certified patient or designated caregiver. When presented with the registry identification card, the registered organization shall provide to the certified patient or designated caregiver a receipt, which shall state: the name, address, and registry identification number of the registered organization; the name and registry identification number of the certified patient and the designated caregiver (if any); the date the marihuana was sold; any recommendation or limitation by the practitioner as to the form or forms of medical marihuana or dosage for the certified patient; and the form and the quantity of medical marihuana sold. The registered organization shall retain a copy of the registry identification card and the receipt for six years.

(b) The proprietor of a registered organization shall file or cause to be filed any receipt and certification information with the department by electronic means on a real time basis as the commissioner shall require by regulation. When filing receipt and certification information electronically pursuant to this paragraph, the proprietor of the registered organization shall dispose of any electronically recorded prescription information in such manner as the commissioner shall by regulation require.

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

(b) When dispensing medical marihuana to a certified patient or designated caregiver, the registered organization (i) shall not dispense an amount greater than a thirty day supply to a certified patient until the certified patient has exhausted all but a seven day supply provided pursuant to a previously issued certification, and (ii) shall verify the information in subparagraph (i) of this paragraph by consulting the prescription monitoring program registry under section thirty-three hundred forty-three-a of this article.

(c) Medical marijuana dispensed to a certified patient or designated caregiver by a registered organization shall conform to any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient.

6. When a registered organization sells, delivers, distributes or dispenses medical marijuana to a certified patient or designated caregiver, it shall provide to that individual a safety insert, which will be developed and approved by the commissioner and include, but not be limited to, information on:

- (a) methods for administering medical marijuana in individual doses,
- (b) any potential dangers stemming from the use of medical marijuana,
- (c) how to recognize what may be problematic usage of medical marijuana and obtain appropriate services or treatment for problematic usage, and
- (d) other information as determined by the commissioner.

7. Registered organizations shall not be managed by or employ anyone who has been convicted of any felony of sale or possession of drugs, narcotics, or controlled substances provided that this subdivision only applies to (a) managers or employees who come into contact with or handle medical marijuana, and (b) a conviction less than ten years (not counting time spent in incarceration) prior to being employed, for which the person has not received a certificate of relief from disabilities or a certificate of good conduct under article twenty-three of the correction law.

8. Manufacturing of medical marijuana by a registered organization shall only be done in an indoor, enclosed, secure facility located in New York state, which may include a greenhouse. The commissioner shall promulgate regulations establishing requirements for such facilities.

9. Dispensing of medical marijuana by a registered organization shall only be done in an indoor, enclosed, secure facility located in New York state, which may include a greenhouse. The commissioner shall promulgate regulations establishing requirements for such facilities.

10. A registered organization shall determine the quality, safety, and clinical strength of medical marijuana manufactured or dispensed by the registered organization, and shall provide documentation of that quality, safety and clinical strength to the department and to any person or entity to which the medical marijuana is sold or dispensed.

11. A registered organization shall be deemed to be a "health careprovider" for the purposes of title two-D of article two of this chapter.

12. Medical marijuana shall be dispensed to a certified patient or designated caregiver in a sealed and properly labeled package. The labeling shall contain:

- (a) the information required to be included in the receipt provided to the certified patient or designated caregiver by the registered organization;
- (b) the packaging date;
- (c) any applicable date by which the medical marijuana should be used;
- (d) a warning stating, "This product is for medicinal use only. Women should not consume during pregnancy or while breastfeeding except on the advice of the certifying health care practitioner, and in the case of breastfeeding mothers, including the infant's pediatrician. This product might impair the ability to drive. Keep out of reach of children."; (e) the amount of individual doses contained within; and (f) a warning that the medical marijuana must be kept in the original container in which it was dispensed.

13. The commissioner is authorized to make rules and regulations restricting the advertising and marketing of medical marijuana, which shall be consistent with the federal regulations governing prescription drug advertising and marketing.

*** NB Repealed July 5, 2021**

*** § 3365. Registering of registered organizations.** 1. Application for initial registration. (a) An applicant for registration as a registered organization under section thirty-three hundred sixty-four of this title shall include such information prepared in such manner and detail as the commissioner may require, including but not limited to:

(i) a description of the activities in which it intends to engage as a registered organization;

(ii) that the applicant:

(A) is of good moral character;

(B) possesses or has the right to use sufficient land, buildings, and other premises (which shall be specified in the application) and equipment to properly carry on the activity described in the application, or in the alternative posts a bond of not less than two million dollars;

(C) is able to maintain effective security and control to prevent diversion, abuse, and other illegal conduct relating to the marihuana;

(D) is able to comply with all applicable state laws and regulations relating to the activities in which it intends to engage under the registration;

(iii) that the applicant has entered into a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees. The maintenance of such a labor peace agreement shall be an ongoing material condition of certification.

(iv) the applicant's status under subdivision one of section thirty-three hundred sixty-four of this title; and

(v) the application shall include the name, residence address and title of each of the officers and directors and the name and residence address of any person or entity that is a member of the applicant. Each such person, if an individual, or lawful representative if a legal entity, shall submit an affidavit with the application setting forth:

(A) any position of management or ownership during the preceding ten years of a ten per centum or greater interest in any other business, located in or outside this state, manufacturing or distributing drugs;

(B) whether such person or any such business has been convicted of a felony or had a registration or license suspended or revoked in any administrative or judicial proceeding; and

(C) such other information as the commissioner may reasonably require.

2. Duty to report. The applicant shall be under a continuing duty to report to the department any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application.

3. Granting of registration. (a) The commissioner shall grant a registration or amendment to a registration under this section if he or she is satisfied that:

(i) the applicant will be able to maintain effective control against diversion of marihuana;

(ii) the applicant will be able to comply with all applicable state laws;

(iii) the applicant and its officers are ready, willing and able to properly carry on the manufacturing or distributing activity for which a registration is sought;

(iv) the applicant possesses or has the right to use sufficient land, buildings and equipment to properly carry on the activity described in the application;

(v) it is in the public interest that such registration be granted; the commissioner may consider whether the number of registered organizations in an area will be adequate or excessive to reasonably serve the area;

(vi) the applicant and its managing officers are of good moral character;

(vii) the applicant has entered into a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees; and

(viii) the applicant satisfies any other conditions as determined by the commissioner.

(b) If the commissioner is not satisfied that the applicant should be issued a registration, he or she shall notify the applicant in writing of those factors upon which further evidence is required. Within thirty days of the receipt of such notification, the applicant may submit additional material to the commissioner or demand a hearing, or both.

(c) The fee for a registration under this section shall be a reasonable amount determined by the department in regulations; provided, however, if the registration is issued for a period greater than two years the fee shall be increased, pro rata, for each additional month of validity.

(d) Registrations issued under this section shall be effective only for the registered organization and shall specify:

(i) the name and address of the registered organization;

(ii) which activities of a registered organization are permitted by the registration;

(iii) the land, buildings and facilities that may be used for the permitted activities of the registered organization; and

(iv) such other information as the commissioner shall reasonably provide to assure compliance with this title.

(e) Upon application of a registered organization, a registration may be amended to allow the registered organization to relocate within the state or to add or delete permitted registered organization activities or facilities. The fee for such amendment shall be two hundred fifty dollars.

4. A registration issued under this section shall be valid for two years from the date of issue, except that in order to facilitate the renewals of such registrations, the commissioner may upon the initial application for a registration, issue some registrations which may remain valid for a period of time greater than two years but not exceeding an additional eleven months.

5. Applications for renewal of registrations. (a) An application for the renewal of any registration issued under this section shall be filed with the department not more than six months nor less than four months prior to the expiration thereof. A late-filed application for the renewal of a registration may, in the discretion of the commissioner, be treated as an application for an initial license.

(b) The application for renewal shall include such information prepared in the manner and detail as the commissioner may require, including but not limited to:

(i) any material change in the circumstances or factors listed in subdivision one of this section; and

(ii) every known charge or investigation, pending or concluded during the period of the registration, by any governmental or administrative agency with respect to:

(A) each incident or alleged incident involving the theft, loss, or possible diversion of marihuana manufactured or distributed by the applicant; and

(B) compliance by the applicant with the laws of the state with respect to any substance listed in section thirty-three hundred six of this article.

(c) An applicant for renewal shall be under a continuing duty to report to the department any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application.

(d) If the commissioner is not satisfied that the applicant is entitled to a renewal of the registration, he or she shall within a reasonably practicable time as determined by the commissioner, serve upon the applicant or his or her attorney of record in person or by registered or certified mail an order directing the applicant to show cause why his or her application for renewal should not be denied. The order shall specify in detail the respects in which the applicant has not satisfied the commissioner that the registration should be renewed.

(e) Within a reasonably practicable time as determined by the commissioner of such order, the applicant may submit additional material to the commissioner or demand a hearing or both. If a hearing is demanded the commissioner shall fix a date as soon as reasonably practicable.

6. Granting of renewal of registrations. (a) The commissioner shall renew a registration unless he or she determines and finds that:

(i) the applicant is unlikely to maintain or be able to maintain effective control against diversion; or

(ii) the applicant is unlikely to comply with all state laws applicable to the activities in which it may engage under the registration; or

(iii) it is not in the public interest to renew the registration because the number of registered organizations in an area is excessive to reasonably serve the area; or

(iv) the applicant has either violated or terminated its labor peace agreement.

(b) For purposes of this section, proof that a registered organization, during the period of its registration, has failed to maintain effective control against diversion, violates any provision of this article, or has knowingly or negligently failed to comply with applicable state laws relating to the activities in which it engages under the registration, shall constitute grounds for suspension or termination of the registered organization's registration as determined

by the commissioner. The registered organization shall also be under a continuing duty to report to the department any material change or fact or circumstance to the information provided in the registered organization's application.

7. The department may suspend or terminate the registration of a registered organization, on grounds and using procedures under this article relating to a license, to the extent consistent with this title. The department shall suspend or terminate the registration in the event that a registered organization violates or terminates the applicable labor peace agreement. Conduct in compliance with this title which may violate conflicting federal law, shall not be grounds to suspend or terminate a registration.

8. The department shall begin issuing registrations for registered organizations as soon as practicable after the certifications required by section thirty-three hundred sixty-nine-b of this title are given.

9. The commissioner shall register no more than five registered organizations that manufacture medical marihuana with no more than four dispensing sites wholly owned and operated by such registered organization. The commissioner shall ensure that such registered organizations and dispensing sites are geographically distributed across the state. The commission may register additional registered organizations.

*** NB Repealed July 5, 2021**

*** § 3365-a. Expedited registration of registered organizations. 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.

2. The department shall begin accepting and acting on applications under this section for registered organizations as soon as practicable after the effective date of this section.

3. For the purposes of this section, and for specified limited times, the commissioner may waive or modify the requirements of this article relating to registered organizations, consistent with the legislative intent and purpose of this title and this section. Where an entity seeking to be a registered organization under the program operates in a jurisdiction other than the state of New York, under licensure or other governmental recognition of that jurisdiction, and the laws of that jurisdiction are acceptable to the commissioner as consistent with the legislative intent and purpose of this title and this section, then the commissioner may accept that licensure or recognition as wholly or partially satisfying the requirements of this title, for purposes of the registration and operation of the registered organization under the program and this section.

4. In considering an application for registration as a registered organization under this section, the commissioner shall give preference to the following:

(a) an applicant that is currently producing or providing or has a history of producing or providing medical marihuana in another jurisdiction in full compliance with the laws of the jurisdiction;

(b) an applicant that is able and qualified to both produce, distribute, and dispense medical marihuana to patients expeditiously;

(c) an applicant that proposes a location or locations for dispensing by the registered organization, which ensure, to the greatest extent possible, that certified patients with a special certification have access to a registered organization.

5. The commissioner may make regulations under this section:

(a) limiting registered organizations registered under this section to serving patients with special certifications;

(b) limiting the allowable levels of cannabidiol and tetrahydrocannabinol that may be contained in medical marijuana authorized under the program, based on therapeutics and patient safety.

6. A registered organization under this section may apply under section thirty-three hundred sixty-five of this title to receive or renew registration.

*** NB Repealed July 5, 2021**

*** § 3366. Reports by registered organizations.** 1. The commissioner shall, by regulation, require each registered organization to file reports by the registered organization during a particular period. The commissioner shall determine the information to be reported and the forms, time, and manner of the reporting.

2. The commissioner shall, by regulation, require each registered organization to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all medical marijuana at every stage of acquiring, possession, manufacture, sale, delivery, transporting, distributing, or dispensing by the registered organization, subject to regulations of the commissioner.

*** NB Repealed July 5, 2021**

*** § 3367. Evaluation; research programs; report by department.** 1. The commissioner may provide for the analysis and evaluation of the operation of this title. The commissioner may enter into agreements with one or more persons, not-for-profit corporations or other organizations, for the performance of an evaluation of the implementation and effectiveness of this title.

2. The department may develop, seek any necessary federal approval for, and carry out research programs relating to medical use of marijuana. Participation in any such research program shall be voluntary on the part of practitioners, patients, and designated caregivers.

3. The department shall report every two years, beginning two years after the effective date of this title, to the governor and the legislature on the medical use of marijuana under this title and make appropriate recommendations.

*** NB Repealed July 5, 2021**

*** § 3368. Relation to other laws.** 1. (a) The provisions of this article shall apply to this title, except that where a provision of this title conflicts with another provision of this article, this title shall apply.

(b) Medical marijuana shall not be deemed to be a "drug" for purposes of article one hundred thirty-seven of the education law.

2. Nothing in this title shall be construed to require an insurer or health plan under this chapter or the insurance law to provide coverage for medical marijuana. Nothing in this title shall be construed to require coverage for medical marijuana under article twenty-five of this chapter or article five of the social services law.

*** NB Repealed July 5, 2021**

*** § 3369. Protections for the medical use of marijuana.** 1. Certified patients, designated caregivers, practitioners, registered organizations and the employees of registered organizations shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for the certified medical use or manufacture of marijuana, or for any other action or conduct in accordance with this title.

2. Non-discrimination. Being a certified patient shall be deemed to be having a "disability" under article fifteen of the executive law (human rights law), section forty-c of the civil rights law, sections 240.00, 485.00, and 485.05 of the penal law, and section 200.50 of the criminal procedure law. This subdivision shall not bar the enforcement of a policy prohibiting an employee from performing his or her employment duties while impaired by a controlled substance. This subdivision shall not require any person or entity to do any act that would put the person or entity in violation of federal law or cause it to lose a federal contract or funding.

3. The fact that a person is a certified patient and/or acting in accordance with this title, shall not be a consideration in a proceeding pursuant to applicable sections of the domestic relations law, the social services law and the family court act.

4. Certification applications, certification forms, any certified patient information contained within a database, and copies of registry identification cards shall be deemed exempt from public disclosure under sections eighty-seven and eighty-nine of the public officers law.

*** NB Repealed July 5, 2021**

*** § 3369-a. Regulations.** The commissioner shall make regulations to implement this title.

*** NB Repealed July 5, 2021**

*** § 3369-b. Effective date.** Registry identification cards or registered organization registrations shall be issued or become effective no later than eighteen months from signing or until such time as the commissioner and the superintendent of state police certify that this title can be implemented in accordance with public health and safety interests, whichever event comes later.

*** NB Repealed July 5, 2021**

*** § 3369-c. Suspend; terminate.** Based upon the recommendation of the commissioner and/or the superintendent of state police that there is a risk to the public health or safety, the governor may immediately terminate all licenses issued to registered organizations.

*** NB Repealed July 5, 2021**

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

2. The commissioner is hereby authorized to set the per dose price of each form of medical marihuana sold by any registered organization. In setting the per dose price of each form of medical marihuana, the commissioner shall consider the fixed and variable costs of producing the form of marihuana and any other factor the commissioner, in his or her discretion, deems relevant to determining the per dose price of each form of medical marihuana.

*** NB Repealed July 5, 2021**

*** § 3369-e. Severability.** If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

*** NB Repealed July 5, 2021**

