

S T A T E O F N E W Y O R K

1682

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. MONTGOMERY, KRUEGER, SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Health

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

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings and intent. The legislature finds that
2 thousands of New Yorkers have serious medical conditions that can be
3 improved by medically-approved use of marihuana. The law should not
4 stand between them and life and health-sustaining treatment under a
5 practitioner's supervision. Many controlled substances that are legal
6 for medical use (such as morphine and steroids) are otherwise illegal.
7 This legislation follows the well-established public policy that a
8 controlled substance can have a legitimate medical use. The purposes of
9 article 33 of the public health law are to allow legitimate use of
10 controlled substances in health care, including palliative care; veteri-
11 nary care; research and other uses authorized by this article or other
12 law; under appropriate regulation. This policy and this legislation do
13 not in any way diminish New York state's strong public policy and laws
14 against illegal drug use.

15 It is the legislative intent that this act be implemented consistently
16 with these findings and principles, through a reasonable and workable
17 system with appropriate oversight, evaluation and continuing research.

18 S 2. Article 33 of the public health law is amended by adding a new
19 title V-A to read as follows:

20 TITLE V-A
21 MEDICAL USE OF MARIHUANA
22 SECTION 3360. DEFINITIONS.

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

LBD05429-01-3

S. 1682

2

- 1 3361. CERTIFICATION OF PATIENTS.
- 2 3362. POSSESSION AND SALE.
- 3 3363. REGISTERED ORGANIZATIONS.
- 4 3364. REGISTERING OF REGISTERED ORGANIZATIONS.
- 5 3365. REPORTS BY PRACTITIONERS.
- 6 3366. EVALUATION; RESEARCH PROGRAMS; REPORT BY DEPARTMENT.
- 7 3367. APPLICABILITY OF OTHER PROVISIONS OF THIS ARTICLE.
- 8 S 3360. DEFINITIONS. AS USED IN THIS TITLE, THE FOLLOWING TERMS SHALL
- 9 HAVE THE FOLLOWING MEANINGS, UNLESS THE CONTEXT CLEARLY REQUIRES OTHER-

10 WISE:

11 1. "CAREGIVER" MEANS A PERSON ASSISTING A CERTIFIED PATIENT IN CARE OR
12 TREATMENT OF A SERIOUS CONDITION WHO IS A HEALTH CARE PROVIDER (INCLUD-
13 ING AN EMPLOYEE OF A HEALTH CARE PROVIDER) OR A PERSON DESIGNATED IN
14 WRITING BY THE CERTIFIED PATIENT.

15 2. "CERTIFIED MEDICAL USE" MEANS THE MEDICAL USE OF MARIHUANA BY A
16 CERTIFIED PATIENT FOR THE SERIOUS CONDITION SPECIFIED IN A CERTIFICATION
17 UNDER SECTION THIRTY-THREE HUNDRED SIXTY-ONE OF THIS TITLE.

18 3. "CERTIFIED PATIENT" MEANS A PATIENT CERTIFIED UNDER SECTION THIR-
19 TY-THREE HUNDRED SIXTY-ONE OF THIS TITLE.

20 4. "MEDICAL USE" MEANS USE AS PART OF THE TREATMENT OF A SERIOUS
21 CONDITION, INCLUDING ENABLING A PATIENT TO TOLERATE TREATMENT FOR A
22 SERIOUS CONDITION.

23 5. "PUBLIC PLACE" MEANS A PUBLIC PLACE AS DEFINED IN SECTION 240.00 OF
24 THE PENAL LAW.

25 6. "REGISTERED ORGANIZATION" MEANS A REGISTERED ORGANIZATION UNDER
26 SECTION THIRTY-THREE HUNDRED SIXTY-THREE OF THIS TITLE.

27 7. "SERIOUS CONDITION" MEANS A LIFE-THREATENING, DEGENERATIVE OR
28 PERMANENTLY DISABLING CONDITION, OR A CONDITION ASSOCIATED WITH OR A
29 COMPLICATION OF SUCH A CONDITION.

30 S 3361. CERTIFICATION OF PATIENTS. 1. A PRACTITIONER MAY CERTIFY: THAT
31 A PATIENT HAS A SERIOUS CONDITION, WHICH SHALL BE SPECIFIED IN THE
32 CERTIFICATION; THAT THE PATIENT IS UNDER THE PRACTITIONER'S CARE FOR THE
33 SERIOUS CONDITION; AND THAT, IN THE PRACTITIONER'S PROFESSIONAL JUDG-
34 MENT, THE SERIOUS CONDITION CAN AND SHOULD BE TREATED WITH THE MEDICAL
35 USE OF MARIHUANA, AND THAT OTHER DRUGS OR TREATMENTS WOULD NOT BE AS
36 EFFECTIVE.

37 2. THE CERTIFICATION SHALL BE IN WRITING AND INCLUDE THE DATE; THE
38 NAME, ADDRESS, FEDERAL REGISTRATION NUMBER, TELEPHONE NUMBER, AND THE
39 HANDWRITTEN SIGNATURE OF THE CERTIFYING PRACTITIONER; SPECIFIC
40 DIRECTIONS FOR USE, INCLUDING BUT NOT LIMITED TO, THE DOSAGE AND
41 FREQUENCY OF DOSAGE AND THE MAXIMUM DAILY DOSAGE; THE NUMBER OF RENEWALS
42 AUTHORIZED BY THE PRACTITIONER, PROVIDED THAT NO SUCH AUTHORIZATION
43 SHALL BE EFFECTIVE FOR A PERIOD GREATER THAN SIX MONTHS FROM THE DATE
44 THE CERTIFICATION IS SIGNED; AND THE NAME AND ADDRESS OF THE PATIENT.
45 THE COMMISSIONER MAY REQUIRE BY REGULATION THAT THE CERTIFICATION SHALL
46 BE ON A FORM PROVIDED BY THE DEPARTMENT. THE CERTIFICATION SHALL BE
47 GIVEN TO THE CERTIFIED PATIENT OR A CAREGIVER FOR THE PATIENT, A COPY
48 SHALL BE SENT TO THE DEPARTMENT, AND A COPY SHALL BE PLACED IN THE
49 PATIENT'S HEALTH CARE RECORD.

50 3. NO CERTIFICATION UNDER THIS SECTION SHALL BE MADE FOR A QUANTITY OF
51 MARIHUANA THAT WOULD EXCEED A THIRTY DAY SUPPLY IF IT WERE USED IN
52 ACCORDANCE WITH THE DIRECTIONS FOR USE SPECIFIED ON THE CERTIFICATION.

53 4. NO PRACTITIONER SHALL ISSUE A CERTIFICATION UNDER THIS SECTION FOR
54 HIMSELF OR HERSELF.

55 S 3362. POSSESSION AND SALE. 1. POSSESSION. (A) POSSESSION OR MANUFAC-
56 TURE OF MARIHUANA SHALL BE LAWFUL UNDER THIS ARTICLE WHERE IT IS:

S. 1682

3

1 (I) BY A CERTIFIED PATIENT, FOR HIS OR HER CERTIFIED MEDICAL USE; OR
2 (II) BY A CAREGIVER OF A CERTIFIED PATIENT, FOR THE PURPOSE OF DELIV-
3 ERING OR ADMINISTERING IT TO THE CERTIFIED PATIENT FOR HIS OR HER CERTI-
4 FIED MEDICAL USE; OR

5 (III) BY A REGISTERED ORGANIZATION, FOR THE PURPOSE OF LAWFUL
6 POSSESSION, SALE, ADMINISTERING, DELIVERING, DISPENSING OR DISTRIBUTING
7 UNDER THIS TITLE.

8 (B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, POSSESSION OR
9 MANUFACTURE OF MARIHUANA SHALL NOT BE LAWFUL UNDER THIS TITLE IF:

10 (I) IT IS CONSUMED OR DISPLAYED IN A PUBLIC PLACE; OR

11 (II) IN THE CASE OF POSSESSION OR MANUFACTURE BY A CERTIFIED PATIENT
12 OR CAREGIVER, THE AGGREGATE WEIGHT OF THE PREPARATION, COMPOUND, MIXTURE
13 OR SUBSTANCE CONTAINING MARIHUANA IS MORE THAN EIGHT OUNCES, EXCLUDING

14 THE WEIGHT OF ANY FOOD OTHER THAN MARIHUANA.

15 2. SALE. IT SHALL BE LAWFUL UNDER THIS ARTICLE TO SELL, ADMINISTER,
16 DELIVER, DISPENSE, OR DISTRIBUTE MARIHUANA WHERE IT IS:

17 (A) BY A REGISTERED ORGANIZATION, TO A CERTIFIED PATIENT OR A CAREGIV-
18 ER OF A CERTIFIED PATIENT, FOR A CERTIFIED MEDICAL USE;

19 (B) BY ANY FEDERAL, STATE OR LOCAL LAW ENFORCEMENT AGENCY, TO A REGIS-
20 TERED ORGANIZATION; OR

21 (C) BY A CAREGIVER OF A CERTIFIED PATIENT, TO THE CERTIFIED PATIENT,
22 FOR A CERTIFIED MEDICAL USE.

23 S 3363. REGISTERED ORGANIZATIONS. 1. A REGISTERED ORGANIZATION SHALL
24 BE:

25 (A) A NOT-FOR-PROFIT CORPORATION ORGANIZED FOR THE PURPOSE OF LAWFULLY
26 SELLING, ADMINISTERING, DELIVERING, DISPENSING OR DISTRIBUTING MARIHUA-
27 NA;

28 (B) THE DEPARTMENT; OR

29 (C) A LOCAL HEALTH DEPARTMENT.

30 2. A REGISTERED ORGANIZATION SHALL NOT POSSESS, SELL, ADMINISTER,
31 DELIVER, DISPENSE OR DISTRIBUTE MARIHUANA UNDER THIS TITLE, EXCEPT UNDER
32 A REGISTRATION UNDER SECTION THIRTY-THREE HUNDRED SIXTY-FOUR OF THIS
33 TITLE OR A RENEWAL THEREOF.

34 3. A REGISTERED ORGANIZATION MAY, IN GOOD FAITH, SELL AND DISPENSE TO
35 A CERTIFIED PATIENT OR A CAREGIVER OF A CERTIFIED PATIENT MARIHUANA UPON
36 DELIVERY TO THE REGISTERED ORGANIZATION OF A WRITTEN CERTIFICATION WITH-
37 IN THIRTY DAYS OF THE DATE THE CERTIFICATION WAS SIGNED BY A PRACTITION-
38 ER. NO REGISTERED ORGANIZATION MAY SELL OR DISPENSE GREATER THAN A THIR-
39 TY DAY SUPPLY OF MARIHUANA TO A CERTIFIED PATIENT OR A CAREGIVER OF A
40 CERTIFIED PATIENT UNLESS AND UNTIL THE PATIENT HAS EXHAUSTED ALL BUT A
41 SEVEN DAY SUPPLY OF MARIHUANA PROVIDED PURSUANT TO ANY PREVIOUSLY ISSUED
42 WRITTEN CERTIFICATION.

43 4. A CERTIFICATION MAY BE RENEWED NOT MORE THAN THE NUMBER OF TIMES
44 SPECIFICALLY AUTHORIZED BY THE PRACTITIONER UPON THE CERTIFICATION,
45 PROVIDED, HOWEVER, THAT NO AUTHORIZATION SHALL BE EFFECTIVE FOR A PERIOD
46 GREATER THAN SIX MONTHS FROM THE DATE THE CERTIFICATION IS SIGNED.
47 UNLESS AN EARLIER RENEWING IS AUTHORIZED BY THE PRACTITIONER, NO CERTIF-
48 ICATION MAY BE RENEWED EARLIER THAN SEVEN DAYS PRIOR TO THE DATE THE
49 PREVIOUSLY DISPENSED SUPPLY WOULD BE EXHAUSTED IF USED IN CONFORMITY
50 WITH THE DIRECTIONS FOR USE.

51 5. MARIHUANA MAY BE DISPENSED ONLY IF ENCLOSED IN A SUITABLE CONTAIN-
52 ER, AND:

53 (A) AFFIXED TO SUCH CONTAINER IS A LABEL UPON WHICH IS INDELIBLY
54 TYPED, PRINTED, OR OTHERWISE LEGIBLY WRITTEN THE FOLLOWING:

55 (I) THE NAME AND ADDRESS OF THE CERTIFIED PATIENT FOR WHOM THE MARI-
56 HUANA IS INTENDED;

S. 1682

1 (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE REGISTERED ORGAN-
2 IZATION FROM WHICH SUCH MARIHUANA IS DISPENSED;

3 (III) SPECIFIC DIRECTIONS FOR USE AS STATED ON THE CERTIFICATION;

4 (IV) THE NAME OF THE PRACTITIONER;

5 (V) THE LEGEND, PROMINENTLY MARKED OR PRINTED IN EITHER BOLDFACE OR
6 UPPER CASE LETTERING: "CONTROLLED SUBSTANCE, DANGEROUS UNLESS USED AS
7 DIRECTED";

8 (B) THE CONTAINER SHALL BE IDENTIFIED AS MEDICAL MARIHUANA BY EITHER:

9 (I) AN ORANGE LABEL;

10 (II) A LABEL OF ANOTHER COLOR OVER WHICH IS SUPERIMPOSED AN ORANGE
11 TRANSPARENT ADHESIVE TAPE; OR

12 (III) AN AUXILIARY ORANGE LABEL AFFIXED TO THE FRONT OF THE CONTAINER
13 AND BEARING THE LEGEND, PROMINENTLY MARKED OR PRINTED "CONTROLLED
14 SUBSTANCE, DANGEROUS UNLESS USED AS DIRECTED";

15 (C) ANY LABEL, TRANSPARENCY, OR AUXILIARY LABEL SHALL BE APPLIED IN A
16 MANNER WHICH WOULD INHIBIT ITS REMOVAL.

17 6. THE DEPARTMENT MAY SUSPEND OR TERMINATE THE REGISTRATION OF A

18 REGISTERED ORGANIZATION, ON GROUNDS AND USING PROCEDURES UNDER THIS
19 ARTICLE RELATING TO A LICENSE, TO THE EXTENT CONSISTENT WITH THIS TITLE.
20 S 3364. REGISTERING OF REGISTERED ORGANIZATIONS. 1. APPLICATION FOR
21 INITIAL REGISTRATION. (A) AN APPLICANT FOR REGISTRATION AS A REGISTERED
22 ORGANIZATION UNDER SECTION THIRTY-THREE HUNDRED SIXTY-THREE OF THIS
23 TITLE SHALL FURNISH TO THE DEPARTMENT ANY INFORMATION IT SHALL REASON-
24 ABLY REQUIRE AND EVIDENCE THAT THE APPLICANT:

- 25 (I) AND ITS MANAGING OFFICERS ARE OF GOOD MORAL CHARACTER;
- 26 (II) POSSESSES SUFFICIENT LAND, BUILDINGS AND EQUIPMENT TO PROPERLY
27 CARRY ON THE ACTIVITY DESCRIBED IN THE APPLICATION;
- 28 (III) IS ABLE TO MAINTAIN EFFECTIVE CONTROL AGAINST DIVERSION OF THE
29 MARIHUANA; AND
- 30 (IV) IS ABLE TO COMPLY WITH ALL APPLICABLE STATE LAWS AND REGULATIONS
31 RELATING TO THE MANUFACTURE OR DISTRIBUTION OF MARIHUANA.

32 (B) THE APPLICATION SHALL ESTABLISH THE APPLICANT'S STATUS UNDER PARA-
33 GRAPH (A), (B) OR (C) OF SUBDIVISION ONE OF SECTION THIRTY-THREE HUNDRED
34 SIXTY-THREE OF THIS TITLE.

35 (C) THE APPLICATION SHALL INCLUDE THE NAME, RESIDENCE ADDRESS AND
36 TITLE OF EACH OF THE OFFICERS AND DIRECTORS AND THE NAME AND RESIDENCE
37 ADDRESS OF ANY PERSON OR ENTITY THAT IS A MEMBER OF THE APPLICANT. EACH
38 SUCH PERSON, IF AN INDIVIDUAL, OR LAWFUL REPRESENTATIVE IF A LEGAL ENTI-
39 TY, SHALL SUBMIT AN AFFIDAVIT WITH THE APPLICATION SETTING FORTH:

- 40 (I) ANY POSITION OF MANAGEMENT OR OWNERSHIP DURING THE PRECEDING TEN
41 YEARS OF A TEN PER CENTUM OR GREATER INTEREST IN ANY OTHER BUSINESS,
42 LOCATED IN OR OUTSIDE THIS STATE, MANUFACTURING OR DISTRIBUTING DRUGS;
- 43 (II) WHETHER SUCH PERSON OR ANY SUCH BUSINESS HAS BEEN CONVICTED,
44 FINED, CENSURED OR HAD A REGISTRATION SUSPENDED OR REVOKED IN ANY ADMIN-
45 ISTRATIVE OR JUDICIAL PROCEEDING RELATING TO OR ARISING OUT OF THE MANU-
46 FACTURE OR DISTRIBUTION OF DRUGS; AND

47 (III) SUCH OTHER INFORMATION AS THE COMMISSIONER MAY REASONABLY
48 REQUIRE.

49 (D) THE APPLICANT SHALL BE UNDER A CONTINUING DUTY TO REPORT TO THE
50 DEPARTMENT ANY CHANGE IN FACTS OR CIRCUMSTANCES REFLECTED IN THE APPLI-
51 CATION OR ANY NEWLY DISCOVERED OR OCCURRING FACT OR CIRCUMSTANCE WHICH
52 IS REQUIRED TO BE INCLUDED IN THE APPLICATION.

53 2. GRANTING OF REGISTRATION. (A) THE COMMISSIONER SHALL GRANT A REGIS-
54 TRATION OR AMENDMENT TO A REGISTRATION UNDER THIS SECTION IF HE OR SHE
55 IS SATISFIED THAT:

S. 1682

1 (I) THE APPLICANT WILL BE ABLE TO MAINTAIN EFFECTIVE CONTROL AGAINST
2 DIVERSION OF MARIHUANA;

3 (II) THE APPLICANT WILL BE ABLE TO COMPLY WITH ALL APPLICABLE STATE
4 LAWS;

5 (III) THE APPLICANT AND ITS OFFICERS ARE READY, WILLING AND ABLE TO
6 PROPERLY CARRY ON THE MANUFACTURING OR DISTRIBUTING ACTIVITY FOR WHICH A
7 REGISTRATION IS SOUGHT;

8 (IV) THE APPLICANT POSSESSES SUFFICIENT LAND, BUILDINGS AND EQUIPMENT
9 TO PROPERLY CARRY ON THE ACTIVITY DESCRIBED IN THE APPLICATION;

10 (V) IT IS IN THE PUBLIC INTEREST THAT SUCH REGISTRATION BE GRANTED;
11 AND

12 (VI) THE APPLICANT AND ITS MANAGING OFFICERS ARE OF GOOD MORAL CHARAC-
13 TER.

14 (B) IF THE COMMISSIONER IS NOT SATISFIED THAT THE APPLICANT SHOULD BE
15 ISSUED A REGISTRATION, HE OR SHE SHALL NOTIFY THE APPLICANT IN WRITING
16 OF THOSE FACTORS UPON WHICH FURTHER EVIDENCE IS REQUIRED. WITHIN THIRTY
17 DAYS OF THE RECEIPT OF SUCH NOTIFICATION, THE APPLICANT MAY SUBMIT ADDI-
18 TIONAL MATERIAL TO THE COMMISSIONER OR DEMAND A HEARING OR BOTH.

19 3. APPLICATIONS FOR RENEWAL OF REGISTRATIONS. (A) AN APPLICATION FOR
20 THE RENEWAL OF ANY REGISTRATION ISSUED UNDER THIS TITLE SHALL BE FILED
21 WITH THE DEPARTMENT NOT MORE THAN SIX MONTHS NOR LESS THAN FOUR MONTHS
22 PRIOR TO THE EXPIRATION THEREOF.

23 (B) THE APPLICATION FOR RENEWAL SHALL INCLUDE SUCH INFORMATION
24 PREPARED IN THE MANNER AND DETAIL AS THE COMMISSIONER MAY REQUIRE,
25 INCLUDING BUT NOT LIMITED TO:

26 (I) ANY MATERIAL CHANGE IN THE CIRCUMSTANCES OR FACTORS LISTED IN
27 SUBDIVISION ONE OF THIS SECTION; AND

28 (II) EVERY KNOWN CHARGE OR INVESTIGATION, PENDING OR CONCLUDED DURING
29 THE PERIOD OF THE REGISTRATION, BY ANY GOVERNMENTAL AGENCY WITH RESPECT
30 TO:

31 (1) EACH INCIDENT OR ALLEGED INCIDENT INVOLVING THE THEFT, LOSS, OR
32 POSSIBLE DIVERSION OF MARIHUANA MANUFACTURED OR DISTRIBUTED BY THE
33 APPLICANT; AND

34 (2) COMPLIANCE BY THE APPLICANT WITH THE LAWS OF THE STATE WITH
35 RESPECT TO ANY SUBSTANCE LISTED IN SECTION THIRTY-THREE HUNDRED SIX OF
36 THIS ARTICLE.

37 (C) AN APPLICANT FOR RENEWAL SHALL BE UNDER A CONTINUING DUTY TO
38 REPORT TO THE DEPARTMENT ANY CHANGE IN FACTS OR CIRCUMSTANCES REFLECTED
39 IN THE APPLICATION OR ANY NEWLY DISCOVERED OR OCCURRING FACT OR CIRCUM-
40 STANCE WHICH IS REQUIRED TO BE INCLUDED IN THE APPLICATION.

41 (D) IF THE COMMISSIONER IS NOT SATISFIED THAT THE APPLICANT IS ENTI-
42 TLED TO A RENEWAL OF THE REGISTRATION, HE OR SHE SHALL WITHIN FORTY-FIVE
43 DAYS AFTER THE FILING OF THE APPLICATION SERVE UPON THE APPLICANT OR HIS
44 OR HER ATTORNEY OF RECORD IN PERSON OR BY REGISTERED OR CERTIFIED MAIL
45 AN ORDER DIRECTING THE APPLICANT TO SHOW CAUSE WHY HIS OR HER APPLICA-
46 TION FOR RENEWAL SHOULD NOT BE DENIED. THE ORDER SHALL SPECIFY IN DETAIL
47 THE RESPECTS IN WHICH THE APPLICANT HAS NOT SATISFIED THE COMMISSIONER
48 THAT THE REGISTRATION SHOULD BE RENEWED.

49 (E) WITHIN THIRTY DAYS OF SERVICE OF SUCH ORDER, THE APPLICANT MAY
50 EITHER SUBMIT ADDITIONAL MATERIAL TO THE COMMISSIONER OR DEMAND A HEAR-
51 ING OR BOTH. IF A HEARING IS DEMANDED, THE COMMISSIONER SHALL FIX A DATE
52 FOR A HEARING NOT SOONER THAN FIFTEEN DAYS NOR LATER THAN THIRTY DAYS
53 AFTER RECEIPT OF THE DEMAND, UNLESS SUCH TIME LIMITATION IS WAIVED BY
54 THE APPLICANT.

S. 1682

1 4. GRANTING OF RENEWAL OF REGISTRATIONS. (A) THE COMMISSIONER SHALL
2 RENEW A REGISTRATION UNLESS HE OR SHE DETERMINES AND FINDS THAT THE
3 APPLICANT:

4 (I) IS UNLIKELY TO MAINTAIN OR BE ABLE TO MAINTAIN EFFECTIVE CONTROL
5 AGAINST DIVERSION; OR

6 (II) IS UNLIKELY TO COMPLY WITH ALL STATE LAWS APPLICABLE TO THE MANU-
7 FACTURE OR DISTRIBUTION OF MARIHUANA.

8 (B) FOR PURPOSES OF THIS SECTION, PROOF THAT A REGISTERED ORGANIZA-
9 TION, DURING THE PERIOD OF ITS REGISTRATION, HAS FAILED TO MAINTAIN
10 EFFECTIVE CONTROL AGAINST DIVERSION OR HAS KNOWINGLY OR NEGLIGENTLY
11 FAILED TO COMPLY WITH APPLICABLE STATE LAWS RELATING TO THE MANUFACTURE
12 OR DISTRIBUTION OF MARIHUANA, SHALL CONSTITUTE SUBSTANTIAL EVIDENCE THAT
13 THE APPLICANT WILL BE UNLIKELY TO MAINTAIN EFFECTIVE CONTROL AGAINST
14 DIVERSION OR WILL BE UNLIKELY TO COMPLY WITH THE APPLICABLE STATE STAT-
15 UTES DURING THE PERIOD OF PROPOSED RENEWAL.

16 S 3365. REPORTS BY PRACTITIONERS. THE DEPARTMENT SHALL, BY REGULATION,
17 REQUIRE EACH PRACTITIONER WHO MAKES A CERTIFICATION UNDER THIS TITLE TO
18 FILE REPORTS OF EACH CERTIFICATION, ON FORMS PROVIDED BY THE DEPARTMENT,
19 INCLUDING AN INITIAL REPORT AND PERIODIC FOLLOW-UP REPORTS NOT MORE
20 FREQUENTLY THAN EVERY NINETY DAYS, COVERING THE EFFECTIVE PERIOD OF THE
21 CERTIFICATION. EACH REPORT SHALL INCLUDE THE DATE, EFFECTIVE PERIOD, AND
22 SPECIFIED CONDITION OF THE CERTIFICATION, THE NAME AND ADDRESS OF THE
23 CERTIFYING PRACTITIONER, AND THE NAME AND ADDRESS OF THE PATIENT. EACH
24 FOLLOW-UP REPORT SHALL INCLUDE A BRIEF STATEMENT OF THE LEVEL AND
25 PATTERN OF MARIHUANA USE BY THE PATIENT AND THE EFFECTIVENESS OF THE
26 MEDICAL USE OF MARIHUANA FOR THE PATIENT.

27 S 3366. EVALUATION; RESEARCH PROGRAMS; REPORT BY DEPARTMENT. 1. THE
28 DEPARTMENT MAY PROVIDE FOR THE ANALYSIS AND EVALUATION OF REPORTS FILED

29 BY PRACTITIONERS AND REGISTERED ORGANIZATIONS UNDER THIS TITLE.

30 2. THE DEPARTMENT MAY DEVELOP, SEEK ANY NECESSARY FEDERAL APPROVAL
31 FOR, AND CARRY OUT RESEARCH PROGRAMS RELATING TO MEDICAL USE OF MARIHUA-
32 NA. PARTICIPATION IN ANY SUCH RESEARCH PROGRAM SHALL BE VOLUNTARY ON THE
33 PART OF PRACTITIONERS, PATIENTS, AND REGISTERED ORGANIZATIONS.

34 3. THE DEPARTMENT SHALL REPORT EVERY TWO YEARS, BEGINNING ONE YEAR
35 AFTER THIS TITLE BECOMES A LAW, TO THE GOVERNOR AND THE LEGISLATURE ON
36 THE MEDICAL USE OF MARIHUANA UNDER THIS TITLE AND MAKE APPROPRIATE
37 RECOMMENDATIONS.

38 S 3367. APPLICABILITY OF OTHER PROVISIONS OF THIS ARTICLE. THE
39 PROVISIONS OF THIS ARTICLE SHALL APPLY TO THIS TITLE, EXCEPT THAT WHERE
40 A PROVISION OF THIS TITLE CONFLICTS WITH ANOTHER PROVISION OF THIS ARTI-
41 CLE, THIS TITLE SHALL APPLY.

42 S 3. The commissioner of health shall enter into agreements with one
43 or more persons, not-for-profit corporations or other organizations,
44 other than a state employee, official or agency, for the performance of
45 an evaluation of the implementation and effectiveness of the provisions
46 of this act. Such evaluation shall include, but not be limited to, an
47 analysis of the practical operation of this act, the clinical value of
48 medical use of marihuana under this act, and the effect (if any) on
49 illegal use of controlled substances.

50 S 4. This act shall take effect immediately; provided that the depart-
51 ment of health shall make regulations and issue forms provided for in
52 this act within 180 days after this act shall have become a law; and
53 provided that no certification under section 3361 of the public health
54 law, as added by section two of this act, may be made on or after the
55 thirty-first of December of the fifth year after this act shall have
56 become a law.