

Medical Marijuana *in New York:* Safeguards in A.6357-A/S.4406-A



Protections Related to Patient Access

- Only certified patients or their designated caregiver who have registered with the state are permitted access to medical marijuana.
- To purchase medical marijuana, patients or designated caregivers must show a valid registry card that includes their photo and other identifying information.
- Patients and caregivers are not allowed to grow their own medical marijuana.
- Medical marijuana can only be obtained from a state-regulated dispensary.
- Patients and caregivers may not sell or give their medical marijuana to anyone who is not a certified patient.
- Patients and caregivers may only possess up to 2.5 ounce of medical marijuana at any one time
- Patients and caregivers may not sell or give their medical marijuana to anyone who is not a certified patient.
- Penalties for violating this act are more stringent than those for possession of marijuana under New York State law

Protections Related to Patient Eligibility

- Only a physician, nurse practitioner or physician's assistant can certify that a patient is eligible to receive medical marijuana
- Only a practitioner who is treating a patient for the conditions for which the medical marijuana is being sought can certify that patient
- A practitioner can only certify his or her patients who a "serious condition" for which medical marijuana is likely to have a therapeutic or palliative benefit
- "Serious condition" means a severe debilitating or life-threatening condition, including, but not limited to, cancer, glaucoma, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, Parkinson's disease, multiple sclerosis, damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity, epilepsy, cachexia, wasting syndrome, Crohn's disease, post-traumatic stress disorder, neuropathy, arthritis, lupus, and diabetes, or a condition associated with or a complication of such a condition or its treatment subject to limitation in regulation of the commissioner.
- The Commissioner of Health has the ability to further limit "serious conditions."
- All certifications must be made in writing and submitted to NYS DOH
- All certifications are time limited and cannot exceed one year, unless the patient is terminally ill
- Certifications must be included as part of the patient's health record

Protections Against Diversion by Patients

- Only patients with a valid registry card are protected from laws penalizing the possession and use of marijuana, and the registration system includes a number of safeguards and protections.

- All patients must apply to NYS DOH to receive a registry identification card (after receiving a practitioner's certification in writing).
- The card must include the patient's name, photo, date of certification and its expiration, physician contact information, and registry number of the designated caregiver, if any.
- NYS DOH will maintain a list of all registered patients.
- Patients must renew their certification annually unless terminally ill.
- Any willful violation of the law can result in the revocation of the registry identification card as well as additional penalties that may apply.
- False statements made an application to DOH is punishable under section 210.45 of the penal law.
- DOH must verify to law enforcement personal as needed whether a registry identification card is valid.

Diversion or Misuse by Doctors & Other Practitioners

- Because all certification and sales of medical marijuana will be monitored by DOH and tracked through ISTOP, NYS DOH will be able to easily identify doctors and patients who are obtaining excessive amounts of medical marijuana from one source or from multiple sources.
- All patient registry identification cards also include the certification from the healthcare practitioner; DOH will easily be able to tell if one practitioner is certifying an excessive number of patients.
- Healthcare providers are not permitted to certify patients for use of medical marijuana if they have any financial interest in the production or dispensing of medical marijuana.

Protections Against Diversion by Producers or Dispensaries

- All sales must be tracked, including name, address, registry identification number of the patient, quantity sold.
- Registered organizations(a producer or dispensary) must verify to DOH that they are able to maintain effective security and control to prevent diversion and other illegal activity as part of their application process, and no registration will be granted until the Commissioner is satisfied that the applicant can maintain effective control against diversion.
- Registered organizations must apply to DOH and renew their applications every two years, and a false statement related to an application is a felony under section 210.45 of the Penal Law.
- DOH can suspend or terminate the registration of a registered organization.
- The number of producers is limited to ten for the first two years after the act takes effect; the Commissioner also has the ability to limit the number of registered organizations (producers and dispensaries) in an area.
- Registrations are valid for 2 years and must be renewed.
- As part of their renewal application, registered organizations must report each incident or alleged incident involving theft, loss or possible diversion of marijuana.
- All registered organizations are required to adopt and maintain "seed to sale" tracking and surveillance systems that monitor every stage of production, sale, delivery, transportation and dispensing.
- All manufacturing of medical marijuana must be done in an indoor, secure facility.

ISTOP

- All of the provisions of ISTOP apply to medical marijuana; medical marijuana is reportable under ISTOP and treated like other controlled substances.
- Healthcare practitioners, pharmacies, and medical marijuana dispensaries will be able to monitor certifications and sales of medical marijuana as well as other medications.

Protection for Minors

- No one under 18 can apply for a registry card on their own behalf.
- The application must be made by a parent, or legal guardian or their designee who must be over 21 years of age.

Restrictions Beyond Those for Other Medications

- Unlike other medications, healthcare practitioners can only recommend and certify patients for use of medical marijuana for a specific condition (see above section on patient eligibility).
- Practitioners cannot certify patients for “off label” use – that is, an unapproved indication or illness.
- Under this bill, medical marijuana will be more tightly regulated than other more dangerous medications, such as morphine, Oxycontin®, and Vicodin®.

Medical Marijuana Safeguards: New York versus California	NY	CA
State Limit on Possession Amount	✓	
Requires Written Patient Certification by Health Provider	✓	
Requires Patients to Register with the State	✓	
Statewide System for Tracking Number of Patients	✓	
Statewide Regulation of Producers	✓	
Statewide Regulated Dispensaries	✓	
Patient Identification Card Required by State for Sales	✓	
Statewide System for Tracking Sales	✓	
Statewide System for Tracking Patient Certifications by Practitioners	✓	
Statewide System for Tracking Number of Dispensaries	✓	
Statewide System for Tracking the Type & Number of Medical Conditions Being Certified	✓	
“Seed to sale” tracking of medical marijuana	✓	
Prohibits Home Cultivation	✓	