

Summary of NYS Medical Marijuana Legislation



Assembly Bill A.6357-A (Gottfried) / S.4406-A (Savino)

Purpose:

- to allow New Yorkers with serious medical conditions access to medical marijuana under the supervision of their healthcare provider

Patients:

- must be certified by a healthcare practitioner (physician, physician assistant or nurse practitioner)
- must have a “serious condition” for which marijuana is likely to have a therapeutic or palliative benefit
 - according to the bill, a “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, fibromyalgia, arthritis, lupus, and diabetes, or a condition associated with or a complication of such a condition or its treatment (including but not limited to inability to tolerate food, nausea, vomiting, dysphoria or pain) subject to limitation in regulation of the commissioner.”

Healthcare Practitioners:

- must report all patient certification info to DOH
- can only certify medical marijuana use consistent with limitations specified in the law
- cannot certify use for themselves
- cannot both certify patients AND have a financial interest in an organization that produces or dispenses medical marijuana

Designated Caregivers:

- must be at least 21 years of age, unless approved by DOH
- can serve no more than five certified patients
- must possess a registry ID card for each patient in their care
- must also be registered by DOH

Patient Registration Cards:

- issued by DOH for a reasonable fee determined by the department
- include the patient’s name, photo, date of certification and its expiration, physician contact information, and registry number of the designated caregiver, if any

Lawful Medical Use:

- certified patients may lawfully possess, acquire and use up to 2.5 ounces of marijuana, but not in public view
- medical marijuana cannot be used in any place where tobacco use is currently prohibited, except in a few special circumstances (e.g., in a specially designated area of a hospice).

Medical Marijuana can be acquired:

- only by those with a valid registration card
- from an registered organization for a fee

Registered Organizations:

- can be pharmacies, Article 28 facilities (hospitals, nursing homes, community health centers, hospices), non-profit organizations, or for-profit businesses
- must apply to DOH to legally sell and dispense medical marijuana to patients or caregivers with a valid registry identification card
- are assessed by DOH for qualifications, including ability to meet safety and security requirements, adequate physical space, ability to comply with state laws and regulations, character and competency, and moral character of organizational officers.
- receive registrations valid for two years, after which time renewal is required
- are taxed \$250 per pound for all marijuana sold; 50% of all tax revenue goes to the local county in which the registered organization is located
- are required to report all sales, deliveries or distributions of medical marijuana to DOH and comply with the Internet System for Tracking Over-Prescribing (ISTOP) law, treating medical marijuana like other prescription drugs that must be tracked by ISTOP
- must include a DOH-developed safety insert with each sale

Protections:

- Healthcare practitioners are protected from criminal, civil and disciplinary actions for acting under the bill
- Registered patients and registered organizations are protected from arrest, prosecution or penalty for possessing, manufacturing or using medical marijuana
- Registered patients are protected from discrimination by landlords, schools, employers or healthcare providers
- Registered patients cannot be denied custody or visitation rights based on using medical marijuana absent substantiated evidence of behavior that creates an unreasonable danger to their children
- Registered organizations must determine and make available information about the quality, safety, and strength of any medical marijuana they sell

The law prevents diversion and misuse of marijuana by:

- prohibiting physicians from certifying use for themselves
- automatic expiration of patient and caregiver registrations after one year, except in the case of terminal illness
- revoking registration cards for willful violation of the law
- requiring registered organizations to apply to DOH and renew their applications every two years and making a false statement related to an application a felony under section 210.45 of the Penal Law
- requiring all production to take place in a secure, indoor facility
- requiring careful tracking of the production, distribution, and sales of all medical marijuana