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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO FOOD AND DRUGS -- THE EDWARD O. HAWKINS AND THOMAS C.
SLATER MEDICAL MARIJUANA ACT

Introduced By: Senator Maryellen Goodwin

Date Introduced: February 28, 2013

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 21-28.6 of the General Laws entitled "The Edward O. Hawkins and
2 Thomas C. Slater Medical Marijuana Act" is hereby amended by adding thereto the following
3 sections:

4 **21-28.6-14. Certificate for the cultivation of medical marijuana. -- (a) Any**
5 **cardholder, who is not a compassion center cardholder, must receive a cultivation certificate from**
6 **the department to cultivate marijuana.**

7 **(b) A cardholder may apply for a cultivation certificate to cultivate medical marijuana for**
8 **themselves or their patients. A cardholder may obtain no more than one cultivation certificate,**
9 **which certificate may be issued for cultivation to occur in no more than one single location,**
10 **which shall be either the cardholder's primary residence, or other property owned by the**
11 **cardholder. Only one cultivation certificate may be issued for a given location, absent proof that**
12 **more than one cardholder currently resides at the location. Multiple cultivation certificates may**
13 **not be issued for non-residential locations.**

14 **(c) A cardholder shall provide the following in order to be considered for a cultivation**
15 **certificate:**

16 **(1) An appropriate non-refundable application fee;**

17 **(2) A description of the single indoor location that shall be used in the cultivation of**
18 **medical marijuana;**

1 (3) A written plan that ensures that the medical marijuana cultivation shall not be visible
2 from the street or other public areas;

3 (4) A description of any device or series of devices that may be used to provide security
4 and proof of the secure grounds;

5 (5) Documentation from the municipality where the single location is located that the
6 location and the cultivation is in compliance with any applicable state or municipal housing and
7 zoning codes; and

8 (6) A written acknowledgement of the limitations of the right to use and possess
9 marijuana for medical purposes in Rhode Island.

10 (d) Such certificate shall expire within one year of issuance. A cardholder who has been
11 issued a cultivation certificate shall apply for renewal of their certificate no less than thirty (30)
12 days prior to the expiration of the certificate by submitting a renewal application to the
13 department. A renewal application must include a fee and updated information as required in
14 subsection (c).

15 (e) A certificate shall expire at 11:59 p.m. on the day indicated on the certificate as the
16 expiration date, unless the certificate was renewed at an earlier date, suspended or revoked.

17 (f) The cardholder shall maintain the certificate prominently at the cultivation location
18 and be able to produce the certificate immediately upon request by the department or law
19 enforcement.

20 (g) Any violation of any provision of this chapter may result in the immediate revocation
21 of the cultivation certificate.

22 (h) Cardholders who have been granted a cultivation certificate shall not collectively
23 cultivate with any other cardholders who have been issued a cultivation certificate unless there is
24 evidence that they reside at the same location.

25 **21-28.6-15. Application fees.** -- Any application fee for patient cardholders, caregiver
26 cardholders and cultivation certificates shall be retained by the department for adequate
27 regulation of this program.

28 SECTION 2. Sections 21-28.6-2, 21-28.6-3, 21-28.6-4, 21-28.6-5, 21-28.6-6, 21-28.6-8
29 and 21-28.6-9 of the General Laws in Chapter 21-28.6 entitled "The Edward O. Hawkins and
30 Thomas C. Slater Medical Marijuana Act" are hereby amended to read as follows:

31 **21-28.6-2. Legislative findings.** -- The general assembly finds and declares that:

32 (1) Modern medical research has discovered beneficial uses for marijuana in treating or
33 alleviating pain, nausea and other symptoms associated with certain debilitating medical
34 conditions, as found by the National Academy of Sciences' Institute of Medicine in March 1999.

1 (2) According to the U.S. Sentencing Commission and the Federal Bureau of
2 Investigation, ninety-nine (99) out of every one hundred (100) marijuana arrests in the United
3 States are made under state law, rather than under federal law. Consequently, changing state law
4 will have the practical effect of protecting from arrest the vast majority of seriously ill people
5 who have a medical need to use marijuana.

6 (3) Although federal law currently prohibits any use of marijuana, the laws of Alaska,
7 California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Vermont, and Washington
8 permit the medical use and cultivation of marijuana. Rhode Island joins in this effort for the
9 health and welfare of its citizens.

10 (4) States are not required to enforce federal law or prosecute people for engaging in
11 activities prohibited by federal law. Therefore, compliance with this chapter does not put the state
12 of Rhode Island in violation of federal law.

13 (5) State law should make a distinction between the medical and nonmedical use of
14 marijuana. Hence, the purpose of this chapter is to protect patients with debilitating medical
15 conditions, and their physicians and primary caregivers, from arrest and prosecution, criminal and
16 other penalties, and property forfeiture if such patients engage in the medical use of marijuana.

17 (6) The general assembly enacts this chapter pursuant to its police power to enact
18 legislation for the protection of the health of its citizens, as reserved to the state in the Tenth
19 Amendment of the United States Constitution.

20 (7) It is in the state's interests of public safety, public welfare and the integrity of the
21 medical marijuana program to ensure that the possession and cultivation of marijuana for the sole
22 purpose of medical use for alleviating symptoms caused by debilitating medical conditions is
23 adequately regulated.

24 **21-28.6-3. Definitions.** -- For the purposes of this chapter:

25 (1) "Cardholder" means a qualifying patient, or a primary caregiver, ~~or a principal~~
26 ~~officer, board member, employee, volunteer, or agent of a compassion center~~ who has registered
27 with the department and has been issued and possesses a valid registry identification card.

28 (2)(i) "Compassion center" means a not-for-profit corporation subject to the provisions
29 of chapter 7-6, and registered under section 21-28.6-12 that acquires, possesses, cultivates,
30 manufactures, delivers, transfers, transports, supplies or dispenses marijuana, and/or related
31 supplies and educational materials, to ~~registered-qualifying patients~~ patient cardholder's and/or
32 their registered ~~primary caregivers~~ caregiver cardholders who have designated it as one of their
33 primary caregivers.

34 (ii) Compassion center cardholder" means a principal officer, board member, employee,

1 volunteer, or agent of a compassion center who has registered with the department and has been
2 issued and possesses a valid registry identification care.

3 (3) "Cultivation certificate" means a certificate issued by the department that allows that
4 the cardholder to cultivate medical marijuana pursuant to this chapter.

5 ~~(3)~~(4) "Debilitating medical condition" means:

6 (i) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired
7 immune deficiency syndrome, Hepatitis C, or the treatment of these conditions;

8 (ii) A chronic or debilitating disease or medical condition or its treatment that produces
9 one or more of the following: cachexia or wasting syndrome; severe, debilitating, chronic pain;
10 severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe
11 and persistent muscle spasms, including but not limited to, those characteristic of multiple
12 sclerosis or Crohn's disease; or agitation of Alzheimer's Disease; or

13 (iii) Any other medical condition or its treatment approved by the department, as
14 provided for in section 21-28.6-5.

15 ~~(4)~~(5) "Department" means the Rhode Island department of health or its successor
16 agency.

17 ~~(5)~~(6) "Marijuana" has the meaning given that term in section 21-28-1.02(26).

18 ~~(6)~~(7) "Mature marijuana plant" means a marijuana plant which has flowers or buds that
19 are readily observable by an unaided visual examination.

20 ~~(7)~~(8) "Medical use" means the acquisition, possession, cultivation, manufacture, use,
21 delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of
22 marijuana to alleviate a ~~registered-qualifying-patient's~~ patient cardholder's debilitating medical
23 condition or symptoms associated with the medical condition.

24 ~~(8)~~(9) "Practitioner" means a person who is licensed with authority to prescribe drugs
25 pursuant to chapter 37 of title 5 or a physician licensed with authority to prescribe drugs in
26 Massachusetts or Connecticut.

27 ~~(9)~~(10) "Primary caregiver" means either a natural person who is at least twenty-one (21)
28 years old or a compassion center. A natural person primary caregiver may assist no more than
29 five (5) qualifying patients with their medical use of marijuana.

30 ~~(10)~~(11) "Qualifying patient" means a person who has been diagnosed by a practitioner
31 as having a debilitating medical condition and is a resident of Rhode Island.

32 ~~(11)~~(12) "Registry identification card" means a document issued by the department that
33 identifies a person as a registered qualifying patient, a registered primary caregiver, or a
34 registered principal officer, board member, employee, volunteer, or agent of a compassion center.

1 ~~(12)~~(13) "Seedling" means a marijuana plant with no observable flowers or buds.

2 ~~(13)~~(14) "Unusable marijuana" means marijuana seeds, stalks, seedlings, and unusable
3 roots.

4 ~~(14)~~(15) "Usable marijuana" means the dried leaves and flowers of the marijuana plant,
5 and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the
6 plant.

7 ~~(15)~~(16) "Written certification" means the qualifying patient's medical records, and a
8 statement signed by a practitioner, stating that in the practitioner's professional opinion the
9 potential benefits of the medical use of marijuana would likely outweigh the health risks for the
10 qualifying patient. A written certification shall be made only in the course of a bona fide
11 practitioner-patient relationship after the practitioner has completed a full assessment of the
12 qualifying patient's medical history. The written certification shall specify the qualifying patient's
13 debilitating medical condition or conditions.

14 **21-28.6-4. Protections for the medical use of marijuana.** -- (a) A ~~qualifying~~ patient
15 ~~cardholder~~ who has in his or her possession a registry identification card shall not be subject to
16 arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not
17 limited to, civil penalty or disciplinary action by a business or occupational or professional
18 licensing board or bureau, for the medical use of marijuana; provided, that the ~~qualifying~~ patient
19 ~~cardholder~~ patient possesses an amount of marijuana that does not exceed ~~twelve (12) mature~~
20 ~~marijuana plants and two and one half (2.5) five (5)~~ ounces of usable marijuana. ~~Said plants shall~~
21 ~~be stored in an indoor facility. If the patient cardholder has been issued a cultivation certificate as~~
22 ~~provided in section 21-28.6-14, the patient cardholder may possess up to six (6) mature marijuana~~
23 ~~plants.~~

24 (b) A ~~registered-qualifying~~ patient ~~cardholder~~, who has in his or her possession a registry
25 identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied
26 any right or privilege, including but not limited to, civil penalty or disciplinary action by a
27 business or occupational or professional licensing board or bureau, for selling, giving, or
28 distributing marijuana of the type and in an amount not to exceed that set forth in subsection (a)
29 above, that he or she has cultivated ~~or manufactured~~ pursuant to this chapter, to a ~~registered~~
30 compassion center ~~cardholder~~.

31 (c) No school, employer or landlord may refuse to enroll, employ or lease to or otherwise
32 penalize a person solely for his or her status as a cardholder. Provided, however, due to the safety
33 and welfare concern for other tenants, the property, and the public, as a whole, a landlord may
34 have the discretion not to lease or continue to least to a cardholder who cultivates marijuana in

1 [the leased premises.](#)

2 (d) A primary caregiver [cardholder](#), who has in his or her possession, a registry
3 identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied
4 any right or privilege, including but not limited to, civil penalty or disciplinary action by a
5 business or occupational or professional licensing board or bureau, for assisting a ~~qualifying~~
6 patient [cardholder](#) to whom he or she is connected through the department's registration process
7 with the medical use of marijuana; provided, that the primary caregiver [cardholder](#) possesses an
8 amount of marijuana which does not exceed ~~twelve (12) mature marijuana plants and two and~~
9 ~~one-half (2.5)~~ [five \(5\)](#) ounces of usable marijuana for each ~~qualifying~~ patient [cardholder](#) to whom
10 he or she is connected through the department's registration process.

11 [If the primary caregiver cardholder has been issued a cultivation certificate as provided in](#)
12 [section 21-28.6-14, they may possess up to six \(6\) mature marijuana plants for each patient](#)
13 [cardholder to whom he or she is connected through the department's registration process, subject](#)
14 [to the possession limits in subsection 21-28.6-4\(n\).](#)

15 (e) ~~Registered primary caregivers and registered qualifying patients~~ [A cardholder](#) shall
16 be allowed to possess a reasonable amount of unusable marijuana, including up to ~~twelve (12)~~ [six](#)
17 [\(6\)](#) seedlings, [if the cardholder has been issued a cultivation certificate as provided in section 21-](#)
18 [28.6-14](#) which shall not be counted toward the limits in this section.

19 (f) There shall exist a presumption that a ~~qualifying patient or primary caregiver~~
20 [cardholder](#) is engaged in the medical use of marijuana if the ~~qualifying patient or primary~~
21 ~~caregiver~~ [cardholder](#):

- 22 (1) Is in possession of a registry identification card; and
- 23 (2) Is in possession of an amount of marijuana that does not exceed the amount permitted
24 under this chapter. Such presumption may be rebutted by evidence that conduct related to
25 marijuana was not for the purpose of alleviating the qualifying patient's debilitating medical
26 condition or symptoms associated with the medical condition.

27 (g) A primary caregiver [cardholder](#) may receive reimbursement for costs associated with
28 assisting a ~~registered qualifying patient's~~ [patient cardholder's](#) medical use of marijuana.
29 Compensation shall not constitute sale of controlled substances.

30 (h) A natural person ~~registered as a~~ primary caregiver [cardholder](#) who has in his or her
31 possession a registry identification card shall not be subject to arrest, prosecution, or penalty in
32 any manner, or denied any right or privilege, including, but not limited to, civil penalty or
33 disciplinary action by a business or occupational or professional licensing board or bureau, for
34 selling, giving, or distributing marijuana, of the type and in an amount not to exceed that set forth

1 in subsection (d) above, to a ~~registered~~ compassion center [cardholder](#) if:

2 (1) The ~~registered~~ natural person primary caregiver [cardholder](#) cultivated the marijuana
3 pursuant to this chapter, not to exceed the limits of paragraph (d) above; and

4 (2) Each ~~qualified~~ patient [cardholder](#) the caregiver [cardholder](#) is connected with through
5 the department's registration process has been provided an adequate amount of the marijuana to
6 meet his or her medical needs, not to exceed the limits of subsection (a) above.

7 (i) A practitioner shall not be subject to arrest, prosecution, or penalty in any manner, or
8 denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by
9 the Rhode Island Board of Medical Licensure and Discipline or by any other business or
10 occupational or professional licensing board or bureau solely for providing written certifications
11 or for otherwise stating that, in the practitioner's professional opinion, the potential benefits of the
12 medical marijuana would likely outweigh the health risks for a patient.

13 (j) Any interest in or right to property that is possessed, owned, or used in connection
14 with the medical use of marijuana, or acts incidental to such use, shall not be forfeited.

15 (k) No person shall be subject to arrest or prosecution for constructive possession,
16 conspiracy, aiding and abetting, being an accessory, or any other offense for simply being in the
17 presence or vicinity of the medical use of marijuana as permitted under this chapter or for
18 assisting a ~~registered-qualifying~~ patient [cardholder](#) with using or administering marijuana.

19 (l) A practitioner nurse or pharmacist shall not be subject to arrest, prosecution or
20 penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty
21 or disciplinary action by a business or occupational or professional licensing board or bureau
22 solely for discussing the benefits or health risks of medical marijuana or its interaction with other
23 substances with a patient.

24 (m) A registry identification card, or its equivalent, issued under the laws of another
25 state, U.S. territory, or the District of Columbia to permit the medical use of marijuana by a
26 patient with a debilitating medical condition, or to permit a person to assist with the medical use
27 of marijuana by a patient with a debilitating medical condition, shall have the same force and
28 effect as a registry identification card issued by the department.

29 (n) Notwithstanding the provisions of subsection 21-28.6-4(d) or subsection 21-28.6-
30 4(e), no ~~primary~~ caregiver [cardholder](#) other than a compassion center shall possess an amount of
31 marijuana in excess of ~~twenty-four (24) marijuana plants and five (5) ten (10)~~ [ten \(10\)](#) ounces of usable
32 marijuana for ~~qualifying patients~~ [patient cardholders](#) to whom he or she is connected through the
33 department's registration process. [If the primary caregiver cardholder has been issued a
34 cultivation certificate as provided in section 21-28.6-14, they may possess no more than up to](#)

1 [twelve \(12\) mature marijuana plants, for patient cardholders to whom he or she is connected](#)
2 [through the department's registration process.](#)

3 (o) A ~~registered-qualifying patient or registered primary caregiver~~ [cardholder](#) may give
4 marijuana to another ~~registered-qualifying patient or registered primary caregiver~~ [cardholder](#) to
5 whom they are not connected by the department's registration process, provided that no
6 consideration is paid for the marijuana, and that the recipient does not exceed the limits specified
7 in section 21-28.6-4.

8 (p) For the purposes of medical care, including organ transplants, a ~~registered-qualifying~~
9 ~~patient's~~ [patient cardholder's](#) authorized use of marijuana shall be considered the equivalent of the
10 authorized use of any other medication used at the direction of a physician, and shall not
11 constitute the use of an illicit substance.

12 **21-28.6-5. Department to issue regulations.** -- (a) Not later than ninety (90) days after
13 the effective date of this chapter, the department shall promulgate regulations governing the
14 manner in which it shall consider petitions from the public to add debilitating medical conditions
15 to those included in this chapter. In considering such petitions, the department shall include
16 public notice of, and an opportunity to comment in a public hearing, upon such petitions. The
17 department shall, after hearing, approve or deny such petitions within one hundred eighty (180)
18 days of submission. The approval or denial of such a petition shall be considered a final
19 department action, subject to judicial review. Jurisdiction and venue for judicial review are vested
20 in the superior court. The denial of a petition shall not disqualify qualifying patients with that
21 condition, if they have a debilitating medical condition as defined in subdivision ~~21-28.6-3(3)~~ [21-](#)
22 [28.6-3\(4\)](#). The denial of a petition shall not prevent a person with the denied condition from
23 raising an affirmative defense.

24 (b) Not later than ninety (90) days after the effective date of this chapter, the department
25 shall promulgate regulations governing the manner in which it shall consider applications for and
26 renewals of registry identification cards for qualifying patients and primary caregivers. The
27 department's regulations shall establish application and renewal fees that generate revenues
28 sufficient to offset all expenses of implementing and administering this chapter. The department
29 may vary the application and renewal fees along a sliding scale that accounts for a qualifying
30 patient's or caregiver's income. The department may accept donations from private sources in
31 order to reduce the application and renewal fees.

32 **21-28.6-6. Administration of regulations.** -- (a) The department shall issue registry
33 identification cards to qualifying patients who submit the following, in accordance with the
34 department's regulations:

1 (1) Written certification as defined in ~~section 21-28.6-3(14)~~ subsection 21-28.6-3(16) of
2 this chapter;

3 (2) Application or renewal fee;

4 (3) Name, address, and date of birth of the qualifying patient; provided, however, that if
5 the patient is homeless, no address is required;

6 (4) Name, address, and telephone number of the qualifying patient's practitioner; and

7 (5) Name, address, and date of birth of each primary caregiver of the qualifying patient,
8 if any.

9 (b) The department shall not issue a registry identification card to a qualifying patient
10 under the age of eighteen (18) unless:

11 (1) The qualifying patient's practitioner has explained the potential risks and benefits of
12 the medical use of marijuana to the qualifying patient and to a parent, guardian or person having
13 legal custody of the qualifying patient; and

14 (2) A parent, guardian or person having legal custody consents in writing to:

15 (i) Allow the qualifying patient's medical use of marijuana;

16 (ii) Serve as one of the qualifying patient's primary caregivers; and

17 (iii) Control the acquisition of the marijuana, the dosage, and the frequency of the
18 medical use of marijuana by the qualifying patient.

19 (c) The department shall verify the information contained in an application or renewal
20 submitted pursuant to this section, and shall approve or deny an application or renewal within
21 fifteen (15) days of receiving it. The department may deny an application or renewal only if the
22 applicant did not provide the information required pursuant to this section, or if the department
23 determines that the information provided was falsified. Rejection of an application or renewal is
24 considered a final department action, subject to judicial review. Jurisdiction and venue for
25 judicial review are vested in the superior court.

26 (d) The department shall issue a registry identification card to each primary caregiver, if
27 any, who is named in a qualifying patient's approved application, up to a maximum of two (2)
28 primary caregivers per qualifying patient. ~~A person may not serve as a primary caregiver if he or
29 she has a felony drug conviction, unless the department waives this restriction in respect to a
30 specific individual at the department's discretion. Additionally, the department shall allow the
31 person to serve as a primary caregiver if the department determines that the offense was for
32 conduct that occurred prior to the enactment of the Edward O. Hawkins and Thomas C. Slater
33 Medical Marijuana Act or that was prosecuted by an authority other than the state of Rhode
34 Island and for which the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act~~

1 ~~would otherwise have prevented a conviction.~~

2 (1) The primary caregiver applicant shall apply to the bureau of criminal identification of
3 the department of attorney general, state police or local police department for a national criminal
4 records check that shall include fingerprints submitted to the Federal Bureau of Investigation.
5 Upon the discovery of any disqualifying information as defined in subdivision 21-28.6-6(d)(4),
6 and in accordance with the rules promulgated by the director, the bureau of criminal identification
7 of the department of attorney general, state police or the local police department shall inform the
8 applicant, in writing, of the nature of the disqualifying information; and, without disclosing the
9 nature of the disqualifying information, shall notify the department, in writing, that disqualifying
10 information has been discovered.

11 (2) In those situations in which no disqualifying information has been found, the bureau
12 of criminal identification of the department of attorney general, state police or the local police
13 shall inform the applicant and the department, in writing, of this fact.

14 (3) The department shall maintain on file evidence that a criminal records check has been
15 initiated on all applicants seeking a primary caregiver registry identification card and the results
16 of the checks.

17 (4) Information produced by a criminal records check pertaining to a conviction for any
18 felony offense under chapter 21-28 ("Rhode Island Controlled Substances Act") or a similar
19 offense from any other jurisdiction shall result in a letter to the applicant and the department
20 disqualifying the applicant. If disqualifying information has been found, the department may use
21 their discretion to issue a primary caregiver card if the applicant's connected patient is an
22 immediate family member and the card is restricted to that patient only.

23 (5) The primary caregiver applicant shall be responsible for any expense associated with
24 the national criminal records check.

25 (6) For purposes of this section "conviction" means, in addition to judgments of
26 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances
27 where the defendant has entered a plea of nolo contendere and has received a sentence of
28 probation and those instances where a defendant has entered into a deferred sentence agreement
29 with the attorney general.

30 (e) The department shall issue registry identification cards within five (5) days of
31 approving an application or renewal, which shall expire two (2) years after the date of issuance.
32 Registry identification cards shall contain:

- 33 (1) The date of issuance and expiration date of the registry identification card;
- 34 (2) A random registry identification number; and

1 (3) A photograph; and

2 (4) Any additional information as required by regulation or the department.

3 (f) Persons issued registry identification cards shall be subject to the following:

4 (1) A ~~qualifying patient who has been issued a registry identification card~~ patient

5 cardholder shall notify the department of any change in the ~~qualifying patient's~~ patient

6 cardholder's name, address, or primary caregiver; or if ~~the qualifying patient~~ he or she ceases to

7 have his or her debilitating medical condition, within ten (10) days of such change.

8 (2) A ~~registered qualifying~~ patient cardholder who fails to notify the department of any

9 of these changes is responsible for a civil infraction, punishable by a fine of no more than one

10 hundred fifty dollars (\$150). If the ~~person~~ patient cardholder has ceased to suffer from a

11 debilitating medical condition, the card shall be deemed null and void and the person shall be

12 liable for any other penalties that may apply to the person's nonmedical use of marijuana.

13 (3) A ~~registered primary caregiver, principal officer, board member, employee,~~

14 ~~volunteer, or agent of a compassion center~~ caregiver cardholder or compassion center cardholder

15 shall notify the department of any change in his or her name or address within ten (10) days of

16 such change. A ~~primary caregiver, principal officer, board member, employee, volunteer, or agent~~

17 ~~of a compassion center~~ caregiver cardholder or compassion center cardholder who fails to notify

18 the department of any of these changes is responsible for a civil infraction, punishable by a fine of

19 no more than one hundred fifty dollars (\$150).

20 (4) When a ~~qualifying~~ patient cardholder or primary caregiver cardholder notifies the

21 department of any changes listed in this subsection, the department shall issue the ~~registered~~

22 ~~qualifying~~ patient cardholder and each primary caregiver cardholder a new registry identification

23 card within ten (10) days of receiving the updated information and a ten dollar (\$10.00) fee.

24 When a ~~principal officer, board member, employee, volunteer, or agent of a compassion center~~

25 cardholder notifies the department of any changes listed in this subsection, the department shall

26 issue the cardholder a new registry identification card within ten (10) days of receiving the

27 updated information and a ten dollar (\$10.00) fee.

28 (5) When a ~~qualifying patient who possesses a registry identification card~~ patient

29 cardholder changes his or her primary caregiver, the department shall notify the primary caregiver

30 cardholder within ten (10) days. The primary ~~caregiver's~~ caregiver cardholder's protections as

31 provided in this chapter as to that patient shall expire ten (10) days after notification by the

32 department.

33 If the primary caregiver cardholder is connect to no other patient cardholders in the

34 program, he or she must return his or her registry identification card to the department.

1 (6) If a cardholder loses his or her registry identification card, he or she shall notify the
2 department and submit a ten dollar (\$10.00) fee within ten (10) days of losing the card. Within
3 five (5) days, the department shall issue a new registry identification card with new random
4 identification number.

5 (7) If a cardholder willfully violates any provision of this chapter as determined by the
6 department, his or her registry identification card may be revoked.

7 (g) Possession of, or application for, a registry identification card shall not constitute
8 probable cause or reasonable suspicion, nor shall it be used to support the search of the person or
9 property of the person possessing or applying for the registry identification card, or otherwise
10 subject the person or property of the person to inspection by any governmental agency.

11 (h)(1) Applications and supporting information submitted by qualifying patients,
12 including information regarding their primary caregivers and practitioners, are confidential and
13 protected under the federal Health Insurance Portability and Accountability Act of 1996, and shall
14 be exempt from the provisions of the RIGL chapter 38-2 et seq. the Rhode Island access to public
15 records act and not subject to disclosure, except to authorized employees of the department as
16 necessary to perform official duties of the department [and pursuant to subsection \(i\)](#).

17 (2) The application for qualifying patient's registry identification card shall include a
18 question asking whether the patient would like the department to notify him or her of any clinical
19 studies about marijuana's risk or efficacy. The department shall inform those patients who answer
20 in the affirmative of any such studies it is notified of, that will be conducted in Rhode Island. The
21 department may also notify those patients of medical studies conducted outside of Rhode Island.

22 (3) The department shall maintain a confidential list of the persons to whom the
23 department has issued registry identification cards. Individual names and other identifying
24 information on the list shall be confidential, exempt from the provisions of Rhode Island Access
25 to Public Information, chapter 2 of title 38, and not subject to disclosure, except to authorized
26 employees of the department as necessary to perform official duties of the department.

27 (i) [Notwithstanding subsection \(h\), the](#) ~~The~~ department shall ~~verify to law enforcement~~
28 ~~personnel whether a registry identification card is valid solely by confirming the random registry~~
29 ~~identification number~~ [maintain a twenty-four \(24\) hour automated verification system for law](#)
30 [enforcement personnel to verify the validity of a cardholder by confirming a random registry](#)
31 [number, name or address.](#)

32 (j) It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a
33 one thousand dollar (\$1,000) fine, for any person, including an employee or official of the
34 department or another state agency or local government, to breach the confidentiality of

1 information obtained pursuant to this chapter. Notwithstanding this provision, the department
2 employees may notify law enforcement about falsified or fraudulent information submitted to the
3 department.

4 (k) On or before January 1 of each odd numbered year, the department shall report to the
5 House Committee on Health, Education and Welfare and to the Senate Committee on Health and
6 Human Services on the use of marijuana for symptom relief. The report shall provide:

7 (1) The number of applications for registry identification cards, the number of qualifying
8 patients and primary caregivers approved, the nature of the debilitating medical conditions of the
9 qualifying patients, the number of registry identification cards revoked, and the number of
10 practitioners providing written certification for qualifying patients;

11 (2) An evaluation of the costs permitting the use of marijuana for symptom relief,
12 including any costs to law enforcement agencies and costs of any litigation;

13 (3) Statistics regarding the number of marijuana-related prosecutions against registered
14 patients and caregivers, and an analysis of the facts underlying those prosecutions;

15 (4) Statistics regarding the number of prosecutions against physicians for violations of
16 this chapter; and

17 (5) Whether the United States Food and Drug Administration has altered its position
18 regarding the use of marijuana for medical purposes or has approved alternative delivery systems
19 for marijuana.

20 **21-28.6-8. Affirmative defense and dismissal.** -- (a) Except as provided in section 21-
21 28.6-7, ~~a person and a person's primary caregiver, if any,~~ a qualifying patient may assert the
22 medical purpose for using marijuana as a defense to any prosecution involving marijuana, and
23 such defense shall be presumed valid where the evidence shows that:

24 (1) The qualifying patient's practitioner has stated that, in the practitioner's professional
25 opinion, after having completed a full assessment of the person's medical history and current
26 medical condition made in the course of a bona fide practitioner-patient relationship, the potential
27 benefits of using marijuana for medical purposes would likely outweigh the health risks for the
28 qualifying patient; and

29 (2) The ~~person and the person's primary caregiver, if any, were collectively~~ qualifying
30 patient was in possession of a quantity of marijuana that was not more than what is permitted
31 under this chapter to ensure the uninterrupted availability of marijuana for the purpose of
32 alleviating the person's medical condition or symptoms associated with the medical condition.

33 (b) A person may assert the medical purpose for using marijuana in a motion to dismiss,
34 and the charges shall be dismissed following an evidentiary hearing where the defendant shows

1 the elements listed in subsection (a) of this section.

2 (c) Any interest in or right to property that was possessed, owned, or used in connection
3 with a ~~person's~~ qualifying patient's use of marijuana for medical purposes shall not be forfeited if
4 the ~~person or the person's primary caregiver~~ qualifying patient demonstrates the ~~person's~~
5 qualifying patient's medical purpose for using marijuana pursuant to this section.

6 **21-28.6-9. Enforcement.** -- (a) If the department fails to adopt regulations to implement
7 this chapter within one hundred twenty (120) days of the effective date of this act, a qualifying
8 patient may commence an action in a court of competent jurisdiction to compel the department to
9 perform the actions mandated pursuant to the provisions of this chapter.

10 (b) If the department fails to issue a valid registry identification card in response to a
11 valid application submitted pursuant to this chapter within thirty-five (35) days of its submission,
12 the registry identification card shall be deemed granted and a copy of the registry identification
13 application shall be deemed valid registry identification card.

14 (c) The department shall revoke and shall not reissue the registry identification card of
15 any cardholder who is convicted of, placed on probation, whose case is filed pursuant to section
16 12-10-12 where the defendant pleads nolo contendere or whose case is deferred pursuant to
17 section 12-19-19 where the defendant pleads nolo contendere for any felony offense under
18 chapter 21-28 ("Rhode Island Controlled Substances Act") or a similar offense from any other
19 jurisdiction.

20 (d) If a cardholder exceeds the possessions limits set forth in section 21-28.6-4 or
21 cultivates marijuana without a cultivation certificate, he or she shall be subject to arrest and
22 prosecution under chapter 21-28 ("Rhode Island Controlled Substances Act").

23 SECTION 3. This act shall take effect upon passage.

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LC01588
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO FOOD AND DRUGS -- THE EDWARD O. HAWKINS AND THOMAS C.
SLATER MEDICAL MARIJUANA ACT

- 1 This act would make various changes to the medical marijuana act.
- 2 This act would take effect upon passage.

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LC01588
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