

2016 -- S 2115

=====
LC003470
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

—————
A N A C T

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

Introduced By: Senators Archambault, Satchell, Miller, Goldin, and Ciccone

Date Introduced: January 21, 2016

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 21-28.6-3 and 21-28.6-6 of the General Laws in Chapter 21-28.6
2 entitled "The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act" are hereby
3 amended to read as follows:

4 **21-28.6-3. Definitions.** -- For the purposes of this chapter:

5 (1) "Cardholder" means a qualifying patient or a primary caregiver who has registered
6 with the department and has been issued and possesses a valid registry identification card.

7 (2) (i) "Compassion center" means a not-for-profit corporation, subject to the provisions
8 of chapter 6 of title 7, and registered under § 21-28.6-12, that acquires, possesses, cultivates,
9 manufactures, delivers, transfers, transports, supplies or dispenses marijuana, and/or related
10 supplies and educational materials, to patient cardholders and/or their registered caregiver
11 cardholder, who have designated it as one of their primary caregivers.

12 (ii) "Compassion center cardholder" means a principal officer, board member, employee,
13 volunteer, or agent of a compassion center who has registered with the department and has been
14 issued and possesses a valid registry identification card.

15 (3) "Debilitating medical condition" means:

16 (i) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired
17 immune deficiency syndrome, Hepatitis C, [post-traumatic stress disorder](#), or the treatment of
18 these conditions;

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

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

8 (4) "Department" means the Rhode Island department of health or its successor agency.

9 (5) "Marijuana" has the meaning given that term in § 21-28-1.02(26).

10 (6) "Mature marijuana plant" means a marijuana plant that has flowers or buds that are
11 readily observable by an unaided visual examination.

12 (7) "Medical use" means the acquisition, possession, cultivation, manufacture, use,
13 delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of
14 marijuana to alleviate a patient cardholder's debilitating medical condition or symptoms
15 associated with the medical condition.

16 (8) "Practitioner" means a person who is licensed with authority to prescribe drugs
17 pursuant to chapter 37 of title 5 or a physician licensed with authority to prescribe drugs in
18 Massachusetts or Connecticut.

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

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

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

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

28 (13) "Unusable marijuana" means marijuana seeds, stalks, seedlings, and unusable roots.

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

31 (15) "Written certification" means the qualifying patient's medical records, and a
32 statement signed by a practitioner, stating that in the practitioner's professional opinion, the
33 potential benefits of the medical use of marijuana would likely outweigh the health risks for the
34 qualifying patient. A written certification shall be made only in the course of a bona fide,

1 practitioner-patient relationship after the practitioner has completed a full assessment of the
2 qualifying patient's medical history. The written certification shall specify the qualifying patient's
3 debilitating medical condition or conditions.

4 **21-28.6-6. Administration of regulations.** -- (a) The department shall issue registry
5 identification cards to qualifying patients who submit the following, in accordance with the
6 department's regulations:

7 (1) Written certification as defined in § 21-28.6-3(15) of this chapter;

8 (2) Application or renewal fee;

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

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

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

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

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

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

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

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

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

24 (c) The department shall not issue a registry identification card to a qualifying patient
25 seeking treatment for post-traumatic stress disorder (PTSD) under the age of eighteen (18).

26 ~~(e)~~(d) The department shall verify the information contained in an application or renewal
27 submitted pursuant to this section, and shall approve or deny an application or renewal within
28 fifteen (15) days of receiving it. The department may deny an application or renewal only if the
29 applicant did not provide the information required pursuant to this section, or if the department
30 determines that the information provided was falsified. Rejection of an application or renewal is
31 considered a final department action, subject to judicial review. Jurisdiction and venue for
32 judicial review are vested in the superior court.

33 (e) If the qualifying patient's practitioner notifies the department in a written statement
34 that the qualifying patient is eligible for hospice care, the department shall verify the application

1 [information in accordance with subsection \(c\) of this section and issue a registry identification](#)
2 [card to the qualifying patient and primary caregivers named in the patient's application within](#)
3 [seventy-two \(72\) hours of receipt of the completed application. The department shall not charge a](#)
4 [registration fee to the patient or caregivers named in the application.](#)

5 ~~(d)~~(f) The department shall issue a registry identification card to each primary caregiver,
6 if any, who is named in a qualifying patient's approved application, up to a maximum of two (2)
7 primary caregivers per qualifying patient.

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

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

20 (3) The department shall maintain on file evidence that a criminal records check has
21 been initiated on all applicants seeking a primary caregiver registry identification card and the
22 results of the checks. The primary caregiver cardholder shall not be required to apply for a
23 national criminal records check for each patient he or she is connected to through the
24 department's registration process, provided that he or she has applied for a national criminal
25 records check within the previous two (2) years in accordance with this chapter. The department
26 shall not require a primary caregiver cardholder to apply for a national criminal records check
27 more than once every two (2) years.

28 (4) Information produced by a national criminal records check pertaining to a conviction
29 for any felony offense under chapter 28 of title 21 ("Rhode Island Controlled Substances Act"),
30 murder, manslaughter, rape, first-degree sexual assault, second-degree sexual assault, first-degree
31 child molestation, second-degree child molestation, kidnapping, first-degree arson, second-degree
32 arson, mayhem, robbery, burglary, breaking and entering, assault with a dangerous weapon,
33 assault or battery involving grave bodily injury, and/or assault with intent to commit any offense
34 punishable as a felony or a similar offense from any other jurisdiction shall result in a letter to the

1 applicant and the department disqualifying the applicant. If disqualifying information has been
2 found, the department may use its discretion to issue a primary caregiver registry identification
3 card if the applicant's connected patient is an immediate family member and the card is restricted
4 to that patient only.

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

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

12 ~~(e)~~(f) The department shall issue registry identification cards within five (5) days of
13 approving an application or renewal that shall expire two (2) years after the date of issuance.

14 Registry identification cards shall contain:

- 15 (1) The date of issuance and expiration date of the registry identification card;
- 16 (2) A random registry identification number;
- 17 (3) A photograph; and
- 18 (4) Any additional information as required by regulation or the department.

19 ~~(f)~~(g) Persons issued registry identification cards shall be subject to the following:

20 (1) A patient cardholder shall notify the department of any change in the patient
21 cardholder's name, address, or primary caregiver; or if he or she ceases to have his or her
22 debilitating medical condition, within ten (10) days of such change.

23 (2) A patient cardholder who fails to notify the department of any of these changes is
24 responsible for a civil infraction, punishable by a fine of no more than one hundred fifty dollars
25 (\$150). If the patient cardholder has ceased to suffer from a debilitating medical condition, the
26 card shall be deemed null and void and the person shall be liable for any other penalties that may
27 apply to the person's nonmedical use of marijuana.

28 (3) A primary caregiver cardholder or compassion center cardholder shall notify the
29 department of any change in his or her name or address within ten (10) days of such change. A
30 primary caregiver cardholder or compassion center cardholder who fails to notify the department
31 of any of these changes is responsible for a civil infraction, punishable by a fine of no more than
32 one hundred fifty dollars (\$150).

33 (4) When a patient cardholder or primary caregiver cardholder notifies the department of
34 any changes listed in this subsection, the department shall issue the patient cardholder and each

1 primary caregiver cardholder a new registry identification card within ten (10) days of receiving
2 the updated information and a ten-dollar (\$10.00) fee. When a compassion center cardholder
3 notifies the department of any changes listed in this subsection, the department shall issue the
4 cardholder a new registry identification card within ten (10) days of receiving the updated
5 information and a ten-dollar (\$10.00) fee.

6 (5) When a patient cardholder changes his or her primary caregiver, the department shall
7 notify the primary caregiver cardholder within ten (10) days. The primary caregiver cardholder's
8 protections as provided in this chapter as to that patient shall expire ten (10) days after
9 notification by the department. If the primary caregiver cardholder is connected to no other
10 patient cardholders in the program, he or she must return his or her registry identification card to
11 the department.

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

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

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

22 ~~(h)~~(i) (1) Applications and supporting information submitted by qualifying patients,
23 including information regarding their primary caregivers and practitioners, are confidential and
24 protected under the federal Health Insurance Portability and Accountability Act of 1996, and shall
25 be exempt from the provisions of chapter 2 of title 38 et seq. (Rhode Island access to public
26 records act) and not subject to disclosure, except to authorized employees of the department as
27 necessary to perform official duties of the department, and pursuant to subsection (i) of this
28 section.

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

34 (3) The department shall maintain a confidential list of the persons to whom the

1 department has issued registry identification cards. Individual names and other identifying
2 information on the list shall be confidential, exempt from the provisions of Rhode Island access to
3 public information, chapter 2 of title 38, and not subject to disclosure, except to authorized
4 employees of the department as necessary to perform official duties of the department.

5 ~~(j)~~(i) Notwithstanding subsection (h) of this section, the department shall verify to law
6 enforcement personnel whether a registry identification card is valid solely by confirming the
7 random registry identification number or name.

8 ~~(k)~~(k) It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a
9 one thousand dollar (\$1,000) fine, for any person, including an employee or official of the
10 department or another state agency or local government, to breach the confidentiality of
11 information obtained pursuant to this chapter. Notwithstanding this provision, the department
12 employees may notify law enforcement about falsified or fraudulent information submitted to the
13 department.

14 ~~(l)~~(l) On or before January 1 of each odd numbered year, the department shall report to
15 the house committee on health, education and welfare and to the senate committee on health and
16 human services on the use of marijuana for symptom relief. The report shall provide:

17 (1) The number of applications for registry identification cards, the number of qualifying
18 patients and primary caregivers approved, the nature of the debilitating medical conditions of the
19 qualifying patients, the number of registry identification cards revoked, and the number of
20 practitioners providing written certification for qualifying patients;

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

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

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

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

30 SECTION 2. This act shall take effect upon passage.

=====
LC003470
=====

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 add post-traumatic stress disorder to the definition of "debilitating
2 medical condition" for purposes of qualifying for medical marijuana provided that the patient is
3 18 years of age or older. It would also accelerate the issuance of an approved medical marijuana
4 use application if the patient is eligible for hospice care.

5 This act would take effect upon passage.

=====
LC003470
=====