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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO FOOD AND DRUGS

Introduced By: Representatives Mattiello, Shekarchi, Edwards, Abney, and Blazejewski

Date Introduced: January 08, 2020

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 21-28.6-5 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           **21-28.6-5. Departments of health and business regulation to issue regulations.**

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

16           (b) Not later than ninety (90) days after the effective date of this chapter, the department  
17 of health shall promulgate regulations governing the manner in which it shall consider  
18 applications for, and renewals of, registry identification cards for qualifying patients and  
19 authorized purchasers. The department of health's regulations shall establish application and

1 renewal fees that generate revenues sufficient to offset all expenses of implementing and  
2 administering this chapter. The department of health may vary the application and renewal fees  
3 along a sliding scale that accounts for a qualifying patient's or caregiver's income. The department  
4 of health may accept donations from private sources in order to reduce the application and  
5 renewal fees.

6 (c) Not later than October 1, 2019, the department of business regulation shall  
7 promulgate regulations not inconsistent with law, to carry into effect the provisions of this  
8 section, governing the manner in which it shall consider applications for, and renewals of,  
9 registry identification cards for primary caregivers. The department of business regulation's  
10 regulations shall establish application and renewal fees. The department of business regulation  
11 may vary the application and renewal fees along a sliding scale that accounts for a qualifying  
12 patient's or caregiver's income. The department of business regulation may accept donations from  
13 private sources in order to reduce the application and renewal fees.

14 (d) Notwithstanding any provisions of this chapter, the provisions of § 42-14-17, or any  
15 provision authorizing the department of health to adopt rules and regulations, in promulgating  
16 rules and regulations applying to primary caregivers, compassion centers, or licensed medical  
17 marijuana cultivators, and licenses issued or to be issued to them, the department of business  
18 regulation and the department of health shall not:

19 (1) Limit the geographic location of compassion centers by the creation of geographical  
20 zones, or otherwise;

21 (2) Preclude any compassion center from cultivating medical marijuana or from  
22 determining the limit of its inventory of seedlings, plants, and marijuana;

23 (3) Require a market demand assessment, analysis, or report of any kind prior to  
24 permitting a compassion center to cultivate medical marijuana or prior to permitting a licensed  
25 medical marijuana cultivator to increase the amount of medical marijuana it may cultivate; and

26 (4) Further limit the number of patients that a primary caregiver is allowed to assist  
27 pursuant to § 21-28.6-3.

28 **21-28.6-6. Administration of departments of health and business regulation**  
29 **regulations.**

30 (a) The department of health shall issue registry identification cards to qualifying patients  
31 who submit the following, in accordance with the department's regulations. Applications shall  
32 include but not be limited to:

33 (1) Written certification as defined in § 21-28.6-3;

34 (2) Application fee, as applicable;

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

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

4 (5) Whether the patient elects to grow medical marijuana plants for himself or herself;  
5 and

6 (6) Name, address, and date of birth of one primary caregiver of the qualifying patient  
7 and any authorized purchasers for the qualifying patient, if any primary caregiver or authorized  
8 purchaser is chosen by the patient or allowed in accordance with regulations promulgated by the  
9 departments of health or business regulation.

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

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

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

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

17 (ii) Serve as the qualifying patient's primary caregiver or authorized purchaser; and

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

20 (c) The department of health shall renew registry identification cards to qualifying  
21 patients in accordance with regulations promulgated by the department of health and subject to  
22 payment of any applicable renewal fee.

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

26 (e) The department of health shall verify the information contained in an application or  
27 renewal submitted pursuant to this section, and shall approve or deny an application or renewal  
28 within thirty-five (35) days of receiving it. The department may deny an application or renewal  
29 only if the applicant did not provide the information required pursuant to this section, or if the  
30 department determines that the information provided was falsified, or that the renewing applicant  
31 has violated this chapter under their previous registration. Rejection of an application or renewal  
32 is considered a final department action, subject to judicial review. Jurisdiction and venue for  
33 judicial review are vested in the superior court.

34 (f) If the qualifying patient's practitioner notifies the department of health in a written

1 statement that the qualifying patient is eligible for hospice care or chemotherapy, the department  
2 of health and department of business regulation, as applicable, shall give priority to these  
3 applications when verifying the information in accordance with subsection (e) and issue a registry  
4 identification card to these qualifying patients, primary caregivers and authorized purchasers  
5 within seventy-two (72) hours of receipt of the completed application. The departments shall not  
6 charge a registration fee to the patient, caregivers or authorized purchasers named in the  
7 application. The department of health may identify through regulation a list of other conditions  
8 qualifying a patient for expedited application processing.

9 (g) Following the promulgation of regulations pursuant to § 21-28.6-5(c), the department  
10 of business regulation may issue or renew a registry identification card to the qualifying patient  
11 cardholder's primary caregiver, if any, who is named in the qualifying patient's approved  
12 application. The department of business regulation shall verify the information contained in  
13 applications and renewal forms submitted pursuant to this chapter prior to issuing any registry  
14 identification card. The department of business regulation may deny an application or renewal if  
15 the applicant or appointing patient did not provide the information required pursuant to this  
16 section, or if the department determines that the information provided was falsified, or if the  
17 applicant or appointing patient has violated this chapter under his or her previous registration or  
18 has otherwise failed to satisfy the application or renewal requirements.

19 (1) A primary caregiver applicant or an authorized purchaser applicant shall apply to the  
20 bureau of criminal identification of the department of attorney general, department of public  
21 safety division of state police, or local police department for a national criminal records check  
22 that shall include fingerprints submitted to the Federal Bureau of Investigation. Upon the  
23 discovery of any disqualifying information as defined in subsection (g)(5) of this section, and in  
24 accordance with the rules promulgated by the director, the bureau of criminal identification of the  
25 department of attorney general, department of public safety division of state police, or the local  
26 police department shall inform the applicant, in writing, of the nature of the disqualifying  
27 information; and, without disclosing the nature of the disqualifying information, shall notify the  
28 department of business regulation or department of health, as applicable, in writing, that  
29 disqualifying information has been discovered.

30 (2) In those situations in which no disqualifying information has been found, the bureau  
31 of criminal identification of the department of attorney general, department of public safety  
32 division of state police, or the local police shall inform the applicant and the department of  
33 business regulation or department of health, as applicable, in writing, of this fact.

34 (3) The department of health or department of business regulation, as applicable, shall

1 maintain on file evidence that a criminal records check has been initiated on all applicants  
2 seeking a primary caregiver registry identification card or an authorized purchaser registry  
3 identification card and the results of the checks. The primary caregiver cardholder shall not be  
4 required to apply for a national criminal records check for each patient he or she is connected to  
5 through the department's registration process, provided that he or she has applied for a national  
6 criminal records check within the previous two (2) years in accordance with this chapter. The  
7 department of health and department of business regulation, as applicable, shall not require a  
8 primary caregiver cardholder or an authorized purchaser cardholder to apply for a national  
9 criminal records check more than once every two (2) years.

10 (4) Notwithstanding any other provision of this chapter, the department of business  
11 regulation or department of health may revoke or refuse to issue any class or type of registry  
12 identification card or license if it determines that failing to do so would conflict with any federal  
13 law or guidance pertaining to regulatory, enforcement, and other systems that states, businesses,  
14 or other institutions may implement to mitigate the potential for federal intervention or  
15 enforcement. This provision shall not be construed to prohibit the overall implementation and  
16 administration of this chapter on account of the federal classification of marijuana as a schedule I  
17 substance or any other federal prohibitions or restrictions.

18 (5) Information produced by a national criminal records check pertaining to a conviction  
19 for any felony offense under chapter 28 of this title ("Rhode Island controlled substances act")  
20 murder; manslaughter; rape; first-degree sexual assault; second-degree sexual assault; first-degree  
21 child molestation; second-degree child molestation; kidnapping; first-degree arson; second-degree  
22 arson; mayhem; robbery; burglary; breaking and entering; assault with a dangerous weapon;  
23 assault or battery involving grave bodily injury; and/or assault with intent to commit any offense  
24 punishable as a felony or a similar offense from any other jurisdiction shall result in a letter to the  
25 applicant and the department of health or department of business regulation, as applicable,  
26 disqualifying the applicant. If disqualifying information has been found, the department of health  
27 or department of business regulation, as applicable may use its discretion to issue a primary  
28 caregiver registry identification card or an authorized purchaser registry identification card if the  
29 applicant's connected patient is an immediate family member and the card is restricted to that  
30 patient only.

31 (6) The primary caregiver or authorized purchaser applicant shall be responsible for any  
32 expense associated with the national criminal records check.

33 (7) For purposes of this section, "conviction" means, in addition to judgments of  
34 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances

1 where the defendant has entered a plea of nolo contendere and has received a sentence of  
2 probation and those instances where a defendant has entered into a deferred sentence agreement  
3 with the attorney general.

4 (8)(+) The office of cannabis regulation may adopt rules and regulations based on federal  
5 guidance provided those rules and regulations are designed to comply with federal guidance and  
6 mitigate federal enforcement against the registrations and licenses issued under this chapter.

7 ~~(ii) All new and revised rules and regulations promulgated by the department of business  
8 regulation and/or the department of health pursuant to this chapter shall be subject to approval by  
9 the general assembly prior to enactment.~~

10 (h)(1) On or before December 31, 2016, the department of health shall issue registry  
11 identification cards within five (5) business days of approving an application or renewal that shall  
12 expire two (2) years after the date of issuance.

13 (2) Effective January 1, 2017, and thereafter, the department of health or the department  
14 of business regulation, as applicable, shall issue registry identification cards within five (5)  
15 business days of approving an application or renewal that shall expire one year after the date of  
16 issuance.

17 (3) Registry identification cards shall contain:

18 (i) The date of issuance and expiration date of the registry identification card;

19 (ii) A random registry identification number;

20 (iii) A photograph; and

21 (iv) Any additional information as required by regulation of the department of health or  
22 business regulation as applicable.

23 (i) Persons issued registry identification cards by the department of health or department  
24 of business regulation shall be subject to the following:

25 (1) A qualifying patient cardholder shall notify the department of health of any change in  
26 his or her name, address, primary caregiver, or authorized purchaser; or if he or she ceases to  
27 have his or her debilitating medical condition, within ten (10) days of the change.

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

33 (3) A primary caregiver cardholder or authorized purchaser shall notify the issuing  
34 department of any change in his or her name or address within ten (10) days of the change. A

1 primary caregiver cardholder or authorized purchaser who fails to notify the department of any of  
2 these changes is responsible for a civil infraction, punishable by a fine of no more than one  
3 hundred fifty dollars (\$150).

4 (4) When a qualifying patient cardholder or primary caregiver cardholder notifies the  
5 department of health or department of business regulation, as applicable, of any changes listed in  
6 this subsection, the department of health or department of business regulation, as applicable, shall  
7 issue the qualifying patient cardholder and each primary caregiver cardholder a new registry  
8 identification card within ten (10) days of receiving the updated information and a ten-dollar  
9 (\$10.00) fee.

10 (5) When a qualifying patient cardholder changes his or her primary caregiver or  
11 authorized purchaser, the department of health or department of business regulation, as  
12 applicable, shall notify the primary caregiver cardholder or authorized purchaser within ten (10)  
13 days. The primary caregiver cardholder's protections as provided in this chapter as to that patient  
14 shall expire ten (10) days after notification by the issuing department. If the primary caregiver  
15 cardholder or authorized purchaser is connected to no other qualifying patient cardholders in the  
16 program, he or she must return his or her registry identification card to the issuing department.

17 (6) If a cardholder or authorized purchaser loses his or her registry identification card, he  
18 or she shall notify the department that issued the card and submit a ten-dollar (\$10.00) fee within  
19 ten (10) days of losing the card. Within five (5) days, the department of health or department of  
20 business regulation shall issue a new registry identification card with new random identification  
21 number.

22 (7) Effective January 1, 2019, if a patient cardholder chooses to alter his or her  
23 registration with regard to the growing of medical marijuana for himself or herself, he or she shall  
24 notify the department prior to the purchase of medical marijuana tags or the growing of medical  
25 marijuana plants.

26 (8) If a cardholder or authorized purchaser willfully violates any provision of this chapter  
27 as determined by the department of health or the department of business regulation, his or her  
28 registry identification card may be revoked.

29 (j) Possession of, or application for, a registry identification card shall not constitute  
30 probable cause or reasonable suspicion, nor shall it be used to support the search of the person or  
31 property of the person possessing or applying for the registry identification card, or otherwise  
32 subject the person or property of the person to inspection by any governmental agency.

33 (k)(1) Applications and supporting information submitted by qualifying patients,  
34 including information regarding their primary caregivers, authorized purchaser, and practitioners,

1 are confidential and protected in accordance with the federal Health Insurance Portability and  
2 Accountability Act of 1996, as amended, and shall be exempt from the provisions of chapter 2 of  
3 title 38 et seq. (Rhode Island access to public records act) and not subject to disclosure, except to  
4 authorized employees of the department of health and business regulation as necessary to perform  
5 official duties of the departments, and pursuant to subsections (l) and (m).

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

12 (3) The department of health and the department of business regulation, as applicable,  
13 shall maintain a confidential list of the persons to whom the department of health or department  
14 of business regulation has issued authorized patient, primary caregiver, and authorized purchaser  
15 registry identification cards. Individual names and other identifying information on the list shall  
16 be confidential, exempt from the provisions of Rhode Island access to public information, chapter  
17 2 of title 38, and not subject to disclosure, except to authorized employees of the departments of  
18 health and business regulation as necessary to perform official duties of the departments and  
19 pursuant to subsections (l) and (m) of this section.

20 (l) Notwithstanding subsections (k) and (m) of this section, the departments of health and  
21 business regulation, as applicable, shall verify to law enforcement personnel whether a registry  
22 identification card is valid and may provide additional information to confirm whether a  
23 cardholder is compliant with the provisions of this chapter and the regulations promulgated  
24 hereunder. The department of business regulation shall verify to law enforcement personnel  
25 whether a registry identification card is valid and may confirm whether the cardholder is  
26 compliant with the provisions of this chapter and the regulations promulgated hereunder. This  
27 verification may occur through the use of a shared database, provided that any medical records or  
28 confidential information in this database related to a cardholder's specific medical condition is  
29 protected in accordance with subdivision (k)(1).

30 (m) It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a  
31 one thousand dollar (\$1,000) fine, for any person, including an employee or official of the  
32 departments of health, business regulation, public safety, or another state agency or local  
33 government, to breach the confidentiality of information obtained pursuant to this chapter.  
34 Notwithstanding this provision, the department of health and department of business regulation

1 employees may notify law enforcement about falsified or fraudulent information submitted to the  
2 department or violations of this chapter. Nothing in this act shall be construed as to prohibit law  
3 enforcement, public safety, fire, or building officials from investigating violations of, or enforcing  
4 state law.

5 (n) On or before the fifteenth day of the month following the end of each quarter of the  
6 fiscal year, the department of health and the department of business regulation shall report to the  
7 governor, the speaker of the house of representatives, and the president of the senate on  
8 applications for the use of marijuana for symptom relief. The report shall provide:

9 (1) The number of applications for registration as a qualifying patient, primary caregiver,  
10 or authorized purchaser that have been made to the department of health and the department of  
11 business regulation during the preceding quarter, the number of qualifying patients, primary  
12 caregivers, and authorized purchasers approved, the nature of the debilitating medical conditions  
13 of the qualifying patients, the number of registrations revoked, and the number and  
14 specializations, if any, of practitioners providing written certification for qualifying patients.

15 (o) On or before September 30 of each year, the department of health and the department  
16 of business regulation, as applicable, shall report to the governor, the speaker of the house of  
17 representatives, and the president of the senate on the use of marijuana for symptom relief. The  
18 report shall provide:

19 (1) The total number of applications for registration as a qualifying patient, primary  
20 caregiver, or authorized purchaser that have been made to the department of health and the  
21 department of business regulation, the number of qualifying patients, primary caregivers, and  
22 authorized purchasers approved, the nature of the debilitating medical conditions of the  
23 qualifying patients, the number of registrations revoked, and the number and specializations, if  
24 any, of practitioners providing written certification for qualifying patients;

25 (2) The number of active qualifying patient, primary caregiver, and authorized purchaser  
26 registrations as of June 30 of the preceding fiscal year;

27 (3) An evaluation of the costs permitting the use of marijuana for symptom relief,  
28 including any costs to law enforcement agencies and costs of any litigation;

29 (4) Statistics regarding the number of marijuana-related prosecutions against registered  
30 patients and caregivers, and an analysis of the facts underlying those prosecutions;

31 (5) Statistics regarding the number of prosecutions against physicians for violations of  
32 this chapter; and

33 (6) Whether the United States Food and Drug Administration has altered its position  
34 regarding the use of marijuana for medical purposes or has approved alternative delivery systems

1 for marijuana.

2 (p) After June 30, 2018, the department of business regulation shall report to the speaker  
3 of the house, senate president, the respective fiscal committee chairpersons, and fiscal advisors  
4 within 60 days of the close of the prior fiscal year. The report shall provide:

5 (1) The number of applications for registry identification cards to compassion center  
6 staff, the number approved, denied and the number of registry identification cards revoked, and  
7 the number of replacement cards issued;

8 (2) The number of applications for compassion centers and licensed cultivators;

9 (3) The number of marijuana plant tag sets ordered, delivered, and currently held within  
10 the state;

11 (4) The total revenue collections of any monies related to its regulator activities for the  
12 prior fiscal year, by the relevant category of collection, including enumerating specifically the  
13 total amount of revenues foregone or fees paid at reduced rates pursuant to this chapter.

14 SECTION 2. Section 2-26-6 of the General Laws in Chapter 2-26 entitled "Hemp Growth  
15 Act" is hereby amended to read as follows:

16 **2-26-6. Rulemaking authority.**

17 (a) The department shall adopt rules to provide for the implementation of this chapter,  
18 which shall include rules to require hemp to be tested during growth for THC levels and to  
19 require inspection of hemp during sowing, growing season, harvest, storage, and processing.  
20 Included in these rules should be a system requiring the licensee to submit crop samples to an  
21 approved testing facility, as determined by the department for testing and verification of  
22 compliance with the limits on delta-9 THC concentration.

23 (b) The department shall prescribe rules and regulations for all operational requirements  
24 for licensed growers, handlers, CBD distributors, and retailers, and to ensure consistency in  
25 manufactured products and appropriate packaging, labeling, and placement with respect to retail  
26 sales not inconsistent with law, to carry in effect the provisions of this chapter.

27 (c) The department shall not adopt, under this or any other section, a rule that would  
28 prohibit a person or entity to grow, distribute, or sell hemp based solely on the legal status of  
29 hemp under federal law.

30 (d) The department may adopt rules and regulations based on federal law provided those  
31 rules and regulations are designed to comply with federal guidance and mitigate federal  
32 enforcement against the licenses issued under this chapter.

33 ~~(e) All new and revised rules and regulations promulgated by the department of business~~  
34 ~~regulation and/or the department of health pursuant to this chapter shall be subject to approval by~~

1 ~~the general assembly prior to enactment.~~

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

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LC003468  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO FOOD AND DRUGS

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1           This act would establish certain limitations on regulations promulgated by the department  
2 of health and the department of business regulation in regard to medical marijuana. The act would  
3 also repeal the requirement that the general assembly approve all new or revised rules and  
4 regulations promulgated by either of the departments in regard to chapter 28.6 of title 21,  
5 regarding medical marijuana, and chapter 26 of title 2, regarding hemp growth.

6           This act would take effect upon passage.

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