

HOTCOFFEE.ORG

DADENMAN SHOW

2009 -- H 5359

LC00370

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

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

Introduced By: Representatives Slater, Diaz, Williams, Williamson, and Almeida

Date Introduced: February 10, 2009

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 21-28.6-3, 21-28.6-4, 21-28.6-6 and 21-28.6-7 of the General
2 Laws in Chapter 21-28.6 entitled "The Edward O. Hawkins and Thomas C. Slater Medical
3 Marijuana Act" are hereby amended to read as follows:

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

5 (1) "Cardholder" means a qualifying patient, a primary caregiver, or a principal officer,
6 board member, employee, volunteer, or agent of a compassion center who has been issued and
7 possesses a valid registry identification card.

8 (2) "Compassion center" means a not-for-profit entity registered under section 21-28.6-10
9 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or
10 dispenses marijuana, or related supplies and educational materials to registered qualifying
11 patients and their registered primary caregivers who have designated it as one of their primary
12 caregivers.

13 ~~(3)~~ (3) "Debilitating medical condition" means:

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

16 (ii) A chronic or debilitating disease or medical condition or its treatment that produces
17 one or more of the following: cachexia or wasting syndrome; severe, debilitating, chronic pain;
18 severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe

1 and persistent muscle spasms, including but not limited to, those characteristic of multiple
2 sclerosis or Crohn's disease; or agitation of Alzheimer's Disease; or

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

5 ~~(2)~~ (4) "Department" means the Rhode Island department of health or its successor
6 agency.

7 ~~(3)~~ (5) "Marijuana" has the meaning given that term in section 21-28-1.02(26).

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

10 ~~(4)~~ (7) "Medical use" means the acquisition, possession, cultivation, manufacture, use,
11 delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of
12 marijuana to alleviate a registered qualifying patient's debilitating medical condition or symptoms
13 associated with the medical condition.

14 ~~(5)~~ (8) "Practitioner" means a person who is licensed with authority to prescribe drugs
15 pursuant to chapter 37 of title 5 or a physician licensed with authority to prescribe drugs in
16 Massachusetts or Connecticut.

17 ~~(6)~~ (9) "Primary caregiver" means either a natural person who is at least twenty-one (21)
18 years old or a compassion center. ~~and who has agreed to assist with a person's medical use of~~
19 ~~marijuana and who doesn't have a felony drug conviction. A primary caregiver~~ Unless the
20 primary caregiver is a compassion center, a natural primary caregiver may assist no more than
21 five (5) qualifying patients with their medical use of marijuana.

22 ~~(7)~~ (10) "Qualifying patient" means a person who has been diagnosed by a physician as
23 having a debilitating medical condition and is a resident of Rhode Island.

24 ~~(8)~~ (11) "Registry identification card" means a document issued by the department that
25 identifies a person as a registered qualifying patient, ~~or a registered~~ primary caregiver, or a
26 registered principal officer, board member volunteer, or agent of a compassion center.

27 (12) "Unusable marijuana" means marijuana seeds, stalks, seedlings, and unusable roots.

28 "Seedling" means a marijuana plant with no observable flowers or buds.

29 ~~(9)~~ (13) "Usable marijuana" means the dried leaves and flowers of the marijuana plant,
30 and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the
31 plant.

32 ~~(10)~~ (14) "Written certification" means the qualifying patient's medical records, and a
33 statement signed by a practitioner, stating that in the practitioner's professional opinion the
34 potential benefits of the medical use of marijuana would likely outweigh the health risks for the

1 qualifying patient. A written certification shall be made only in the course of a bona fide
2 practitioner-patient relationship after the practitioner has completed a full assessment of the
3 qualifying patient's medical history. The written certification shall specify the qualifying patient's
4 debilitating medical condition or conditions.

5 **21-28.6-4. Protections for the medical use of marijuana.** -- (a) A qualifying patient
6 who has in his or her possession a registry identification card shall not be subject to arrest,
7 prosecution, or penalty in any manner, or denied any right or privilege, including but not limited
8 to, civil penalty or disciplinary action by a business or occupational or professional licensing
9 board or bureau, for the medical use of marijuana; provided, that the qualifying patient possesses
10 an amount of marijuana that does not exceed twelve (12) mature marijuana plants and two and
11 one-half (2.5) ounces of usable marijuana. Said plants shall be stored in an indoor facility.

12 (b) No school, employer or landlord may refuse to enroll, employ or lease to or
13 otherwise penalize a person solely for his or her status as a registered qualifying patient or a
14 registered primary caregiver.

15 (c) A primary caregiver, who has in his or her possession, a registry identification card
16 shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or
17 privilege, including but not limited to, civil penalty or disciplinary action by a business or
18 occupational or professional licensing board or bureau, for assisting a qualifying patient to whom
19 he or she is connected through the department's registration process with the medical use of
20 marijuana; provided, that the primary caregiver possesses an amount of marijuana which does not
21 exceed twelve (12) mature marijuana plants and two and one-half (2.5) ounces of usable
22 marijuana for each qualifying patient to whom he or she is connected through the department's
23 registration process.

24 (d) Registered primary caregivers and registered qualifying patients shall be allowed to
25 possess a reasonable amount of unusable marijuana, including up to twelve (12) seedlings, which
26 shall not be counted toward the limits in this section.

27 ~~(e)~~(e) There shall exist a presumption that a qualifying patient or primary caregiver is
28 engaged in the medical use of marijuana if the qualifying patient or primary caregiver:

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

34 ~~(e)~~(f) A primary caregiver may receive reimbursement for costs associated with assisting

1 a registered qualifying patient's medical use of marijuana. Compensation shall not constitute sale
2 of controlled substances.

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

9 ~~(g)~~(h) Any interest in or right to property that is possessed, owned, or used in connection
10 with the medical use of marijuana, or acts incidental to such use, shall not be forfeited.

11 ~~(h)~~(i) No person shall be subject to arrest or prosecution for constructive possession,
12 conspiracy, aiding and abetting, being an accessory, or any other offense for simply being in the
13 presence or vicinity of the medical use of marijuana as permitted under this chapter or for
14 assisting a registered qualifying patient with using or administering marijuana.

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

20 ~~(i)~~(k) A registry identification card, or its equivalent, issued under the laws of another
21 state, U.S. territory, or the District of Columbia to permit the medical use of marijuana by a
22 qualifying patient, or to permit a person to assist with a qualifying patient's medical use of
23 marijuana, shall have the same force and effect as a registry identification card issued by the
24 department.

25 ~~(j)~~(l) Notwithstanding the provisions of subsection 21-28.6-3(6) or subsection 21-28.6-
26 4(c), no primary caregiver other than a compassion center shall possess an amount of marijuana
27 in excess of twenty-four (24) marijuana plants and five (5) ounces of usable marijuana for
28 qualifying patients to whom he or she is connected through the department's registration process.

29 (m) A registered qualifying patient or registered primary caregiver may give marijuana to
30 another registered qualifying patient or registered primary caregiver to whom they are not
31 connected by the department's registration process, provided that no consideration is paid for the
32 marijuana, and that the recipient does not exceed the limits specified in section 21-28.6-4.

33 (n) For the purposes of medical care, including organ transplants, a registered qualifying
34 patient's authorized use of marijuana shall be considered the equivalent of the authorized use of

1 [any other medication used at the direction of a physician, and shall not constitute the use of an](#)
2 [illicit substance.](#)

3 **21-28.6-6. Administration of regulations.** -- (a) The department shall issue registry
4 identification cards to qualifying patients who submit the following, in accordance with the
5 department's regulations:

- 6 (1) Written certification as defined in section 23-28.6-3(10) of this chapter;
- 7 (2) Application or renewal fee;
- 8 (3) Name, address, and date of birth of the qualifying patient; provided, however, that if
9 the patient is homeless, no address is required;
- 10 (4) Name, address, and telephone number of the qualifying patient's practitioner; and
- 11 (5) Name, address, and date of birth of each primary caregiver of the qualifying patient,
12 if any.

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

- 15 (1) The qualifying patient's practitioner has explained the potential risks and benefits of
16 the medical use of marijuana to the qualifying patient and to a parent, guardian or person having
17 legal custody of the qualifying patient; and
- 18 (2) A parent, guardian or person having legal custody consents in writing to:
 - 19 (i) Allow the qualifying patient's medical use of marijuana;
 - 20 (ii) Serve as one of the qualifying patient's primary caregivers; and
 - 21 (iii) Control the acquisition of the marijuana, the dosage, and the frequency of the
22 medical use of marijuana by the qualifying patient.

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

30 (d) The department shall issue a registry identification card to each primary caregiver, if
31 any, who is named in a qualifying patient's approved application, up to a maximum of two (2)
32 primary caregivers per qualifying patient. [A person may not serve as a primary caregiver if he or](#)
33 [she has a felony drug conviction, unless the department waives this restriction in respect to a](#)
34 [specific individual at the department's discretion. Additionally, the department shall allow the](#)

1 person to serve as a primary caregiver if the department determines that the offense was for
2 conduct that occurred prior to the enactment of the Edward O. Hawkins and Thomas C. Slater
3 Medical Marijuana Act or that was prosecuted by an authority other than the state of Rhode
4 Island and for which the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act
5 would otherwise have prevented a conviction.

6 (e) The department shall issue registry identification cards within five (5) days of
7 approving an application or renewal, which shall expire two (2) years after the date of issuance.

8 Registry identification cards shall contain:

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

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

14 (1) A qualifying patient who has been issued a registry identification card shall notify the
15 department of any change in the qualifying patient's name, address, or primary caregiver; or if the
16 qualifying patient ceases to have his or her debilitating medical condition, within ten (10) days of
17 such change.

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

23 (3) A registered primary caregiver, principal officer, board member, employee,
24 volunteer, or agent of a compassion center shall notify the department of any change in his or her
25 name or address within ten (10) days of such change. A primary caregiver, principal officer,
26 board member, employee, volunteer, or agent of a compassion center who fails to notify the
27 department of any of these changes is responsible for a civil infraction, punishable by a fine of no
28 more than one hundred fifty dollars (\$150).

29 (4) When a qualifying patient or primary caregiver notifies the department of any
30 changes listed in this subsection, the department shall issue the registered qualifying patient and
31 each primary caregiver a new registry identification card within ten (10) days of receiving the
32 updated information and a ten dollar (\$10.00) fee. When a principal officer, board member,
33 employee, volunteer, or agent of a compassion center notifies the department of any changes
34 listed in this subsection, the department shall issue the cardholder a new registry identification

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

2 (5) When a qualifying patient who possesses a registry identification card changes his or
3 her primary caregiver, the department shall notify the primary caregiver within ten (10) days. The
4 primary caregiver's protections as provided in this chapter [as to that patient](#) shall expire ten (10)
5 days after notification by the department.

6 (6) If a ~~registered qualifying patient or a primary caregiver~~ [cardholder](#) loses his or her
7 registry identification card, he or she shall notify the department and submit a ten dollar (\$10.00)
8 fee within ten (10) days of losing the card. Within five (5) days, the department shall issue a new
9 registry identification card with new random identification number.

10 (7) If a ~~qualifying patient and/or primary caregiver~~ [cardholder](#) willfully violates any
11 provision of this chapter as determined by the department, his or her registry identification card
12 may be revoked.

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

17 (h) (1) Applications and supporting information submitted by qualifying patients,
18 including information regarding their primary caregivers and practitioners, are confidential and
19 protected under the federal Health Insurance Portability and Accountability Act of 1996.

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

25 (i) The department shall verify to law enforcement personnel whether a registry
26 identification card is valid solely by confirming the random registry identification number.

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

33 (k) On or before January 1 of each odd numbered year, the department shall report to the
34 House Committee on Health, Education and Welfare and to the Senate Committee on ~~the~~

1 ~~Judiciary~~ Health and Human Services on the use of marijuana for symptom relief. The report
2 shall provide:

3 (1) The number of applications for registry identification cards, the number of qualifying
4 patients and primary caregivers approved, the nature of the debilitating medical conditions of the
5 qualifying patients, the number of registry identification cards revoked, and the number of
6 practitioners providing written certification for qualifying patients;

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

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

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

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

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

21 **21-28.6-7. Scope of chapter.** -- (a) This chapter shall not permit:

22 (1) Any person to undertake any task under the influence of marijuana, when doing so
23 would constitute negligence or professional malpractice;

24 (2) The smoking of marijuana:

25 (i) In a school bus or other form of public transportation;

26 (ii) On any school grounds;

27 (iii) In any correctional facility;

28 (iv) In any public place; ~~or~~

29 (v) In any licensed drug treatment facility in this state- ; or

30 (vi) Where exposure to the marijuana smoke significantly adversely affects the health,
31 safety, or welfare of children.

32 (3) Any person to operate, navigate, or be in actual physical control of any motor
33 vehicle, aircraft, or motorboat while under the influence of marijuana. However, a registered
34 qualifying patient shall not be considered to be under the influence solely for having marijuana

1 metabolites in his or her system.

2 (b) Nothing in this chapter shall be construed to require:

3 (1) A government medical assistance program or private health insurer to reimburse a
4 person for costs associated with the medical use of marijuana; or

5 (2) An employer to accommodate the medical use of marijuana in any workplace.

6 (c) Fraudulent representation to a law enforcement official of any fact or circumstance
7 relating to the medical use of marijuana to avoid arrest or prosecution shall be punishable by a
8 fine of five hundred dollars (\$500) which shall be in addition to any other penalties that may
9 apply for making a false statement for the nonmedical use of marijuana.

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

13 **21-28.6-12. Compassion centers.** – (a) A compassion center registered under this
14 section may acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or
15 dispense marijuana, or related supplies and educational materials, to registered qualifying patients
16 and their registered primary caregivers who have designated it as one of their primary caregivers.
17 A compassion center is a primary caregiver. Except as specifically provided to the contrary, all
18 provisions of the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, sections 21-
19 28.6-1 – 21-28.6-11, apply to a compassion center unless they conflict with a provision contained
20 in section 21-28.6-11.

21 (b) Registration of compassion centers--department authority:

22 (1) Not later than ninety (90) days after the effective date of this act, the department shall
23 promulgate regulations governing the manner in which it shall consider applications for
24 registration certificates for compassion centers, including regulations governing:

25 (i) The form and content of registration and renewal applications;

26 (ii) Minimum oversight requirements for compassion centers;

27 (iii) Minimum record-keeping requirements for compassion centers;

28 (iv) Minimum security requirements for compassion centers; and

29 (v) Procedures for suspending or terminating the registration of compassion centers that
30 violate the provisions of this section or the regulations promulgated pursuant to this subsection.

31 (2) Within ninety (90) days of the effective date of this act, the department shall begin
32 accepting applications for the operation of a single compassion center.

33 (3) Within one hundred fifty (150) days of the effective date of this act, the department
34 shall provide for at least one public hearing on the granting of an application to a single

1 compassion center.

2 (4) Within one hundred ninety (190) days of the effective date of this act, the department
3 shall grant a single registration certificate to a single compassion center, providing at least one
4 applicant has applied who meets the requirements of this act.

5 (5) If at any time after fifteen (15) months after the effective date of this act, there is no
6 operational compassion center in Rhode Island, the department shall accept applications, provide
7 for input from the public, and issue a registration certificate for a qualified applicant exists.

8 (6) Within two (2) years of the effective date of this act, the department shall begin
9 accepting applications to provide registration certificates for two (2) additional compassion
10 centers. The department shall solicit input from the public, and issue registration certificates if
11 qualified applicants exist.

12 (7) Any time a compassion center registration certificate is revoked, relinquished, or
13 expires, the department shall accept applications for a new compassion center.

14 (8) If at any time after three (3) years after the effective date of this act, fewer than three
15 (3) compassion centers are holding valid registration certificates in Rhode Island, the
16 department shall accept applications for a new compassion center. No more than three (3)
17 compassion centers may hold valid registration certificates at one time.

18 (c) Compassion center and agent applications and registration:

19 (1) Each application for a compassion center shall include:

20 (i) A non-refundable application fee paid to the department in the amount of two hundred
21 fifty dollars (\$250);

22 (ii) The proposed legal name and proposed articles of incorporation of the compassion
23 center;

24 (iii) The proposed physical address of the compassion center, if a precise address has
25 been determined, or, if not, the general location where it would be located. This may include a
26 second location for the cultivation of medical marijuana;

27 (iv) A description of the enclosed, locked facility that would be used in the cultivation of
28 marijuana;

29 (v) The name, address, and date of birth of each principal officer and board member of
30 the compassion center;

31 (vi) Proposed security and safety measures which shall include at least one security alarm
32 system for each location, planned measures to deter and prevent the unauthorized entrance into
33 areas containing marijuana and the theft of marijuana, as well as a draft employee instruction
34 manual including security policies, safety and security procedures, personal safety and crime

1 prevention techniques; and

2 (vii) Proposed procedures to ensure accurate record keeping;

3 (2) Any time one or more compassion center registration applications are being
4 considered, the department shall also allow for comment by the public and shall solicit input from
5 registered qualifying patients, registered primary caregivers; and the towns or cities where the
6 applicants would be located;

7 (3) Each time a compassion center certificate is granted, the decision shall be based upon
8 the overall health needs of qualified patients and the safety of the public, including, but not
9 limited to, the following factors:

10 (i) Convenience to patients from throughout the state of Rhode Island to the compassion
11 centers if the applicant were approved;

12 (ii) The applicants' ability to provide a steady supply to the registered qualifying patients
13 in the state;

14 (iii) The applicants' experience running a non-profit or business;

15 (iv) The wishes of qualifying patients regarding which applicant be granted a registration
16 certificate;

17 (v) The wishes of the city or town where the dispensary would be located;

18 (vi) The sufficiency of the applicant's plans for record keeping and security, which
19 records shall be considered confidential health care information under Rhode Island law and are
20 intended to be deemed protected health care information for purposes of the Federal Health
21 Insurance Portability and Accountability Act of 1996, as amended; and

22 (vii) The sufficiency of the applicant's plans for safety and security, including proposed
23 location, security devices employed, and staffing;

24 (4) After a compassion center is approved, but before it begins operations, it shall submit
25 the following to the department:

26 (i) A fee paid to the department in the amount of five thousand dollars (\$5,000);

27 (ii) The legal name and articles of incorporation of the compassion center;

28 (iii) The physical address of the compassion center; this may include a second address for
29 the secure cultivation of marijuana;

30 (iv) The name, address, and date of birth of each principal officer and board member of
31 the compassion center;

32 (v) The name, address, and date of birth of any person who will be an agent of or
33 employed by the compassion center at its inception;

34 (5) The department shall track the number of registered qualifying patients who designate

1 each compassion center as a primary caregiver, and issue a written statement to the compassion
2 center of the number of qualifying patients who have designated the compassion center to serve
3 as a primary caregiver for them. This statement shall be updated each time a new registered
4 qualifying patient designates the compassion center or ceases to designate the compassion center
5 and may be transmitted electronically if the department's regulations so provide. The department
6 may provide by regulation that the updated written statements will not be issued more frequently
7 than twice each week;

8 (6) Except as provided in subdivision (7), the department shall issue each principal
9 officer, board member, agent, volunteer and employee of a compassion center a registry
10 identification card or renewal card within ten (10) days of receipt of the person's name, address,
11 date of birth, and a fee in an amount established by the department. Each card shall specify that
12 the cardholder is a principal officer, board member, agent, volunteer, or employee of a
13 compassion center and shall contain the following:

14 (i) The name, address, and date of birth of the principal officer, board member, agent,
15 volunteer or employee;

16 (ii) The legal name of the compassion center to which the principal officer, board
17 member, agent, volunteer or employee is affiliated;

18 (iii) A random identification number that is unique to the cardholder;

19 (iv) The date of issuance and expiration date of the registry identification card; and

20 (v) A photograph, if the department decides to require one;

21 (7) Except as provided in this subsection, the department shall not issue a registry
22 identification card to any principal officer, board member, agent, volunteer, or employee of a
23 compassion center who has been convicted of a felony drug offense. The department may
24 conduct a background check of each principal officer, board member, agent, volunteer, or
25 employee in order to carry out this provision. The department shall notify the compassion center
26 in writing of the purpose for denying the registry identification card. The department may grant
27 such person a registry identification card if the department determines that the offense was for
28 conduct that occurred prior to the enactment of the Edward O. Hawkins and Thomas C. Slater
29 Medical Marijuana Act or that was prosecuted by an authority other than the state of Rhode
30 Island and for which the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act
31 would otherwise have prevented a conviction;

32 (8) A registry identification card of a principal officer, board member, agent, volunteer,
33 or employee shall expire one year after its issuance, or upon the expiration of the registered
34 organization's registration certificate, whichever occurs first.

1 (d) Expiration or termination of compassion center:

2 (1) A compassion center's registration shall expire two (2) years after its registration
3 certificate is issued. The compassion center may submit a renewal application beginning sixty
4 (60) days prior to the expiration of its registration certificate;

5 (2) The department shall grant a compassion center's renewal application within thirty
6 (30) days of its submission if the following conditions are all satisfied:

7 (i) The compassion center submits the materials required under subdivision (c)(4),
8 including a five thousand dollar (\$5,000) fee;

9 (ii) The department has not ever suspended the compassion center's registration for
10 violations of this act or regulations issued pursuant to this act;

11 (iii) The legislative oversight committee's report, issued pursuant to subsection (j),
12 indicates that the compassion center is adequately providing patients' with access to medical
13 marijuana at reasonable rates; and

14 (iv) The legislative oversight committee's report, issued pursuant to subsection (j), does
15 not raise serious concerns about the continued operation of the compassion center applying for
16 renewal.

17 (3) If the department determines that any of the conditions listed in paragraphs (d)(2)(i) –
18 (iv) exist, the department shall begin an open application process for the operation of a
19 compassion center. In granting a new registration certificate, the department shall consider factors
20 listed in subdivision (c)(3);

21 (4) The department shall issue a compassion center one or more thirty (30) day temporary
22 registration certificates after that compassion center's registration would otherwise expire if the
23 following conditions are all satisfied:

24 (i) The compassion center previously applied for a renewal, but the department had not
25 yet come to a decision;

26 (ii) The compassion center requested a temporary registration certificate; and

27 (iii) The compassion center has not had its registration certificate revoked due to
28 violations of this act or regulations issued pursuant to this act.

29 (e) Inspection. Compassion centers are subject to reasonable inspection by the department
30 of health, division of facilities regulation. The department shall give reasonable notice of an
31 inspection under this subsection. During an inspection, the department may review the
32 compassion center's confidential records, including its dispensing records, which may track
33 transactions according to qualifying patients' registry identification numbers to protect their
34 confidentiality.

1 (f) Compassion center requirements:

2 (1) A compassion center shall be operated on a not-for-profit basis for the mutual benefit
3 of its patients. A compassion center need not be recognized as a tax-exempt organization by the
4 Internal Revenue Services;

5 (2) A compassion center may not be located within five hundred feet (500') of the
6 property line of a preexisting public or private school;

7 (3) A compassion center shall notify the department within ten (10) days of when a
8 principal officer, board member, agent, volunteer or employee ceases to work at the compassion
9 center. His or her card shall be deemed null and void and the person shall be liable for any other
10 penalties that may apply to the person's nonmedical use of marijuana;

11 (4) A compassion center shall notify the department in writing of the name, address, and
12 date of birth of any new principal officer, board member, agent, volunteer or employee and shall
13 submit a fee in an amount established by the department for a new registry identification card
14 before a new agent or employee begins working at the compassion center;

15 (5) A compassion center shall implement appropriate security measures to deter and
16 prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and
17 shall insure that each location has an operational security alarm system.

18 (6) The operating documents of a compassion center shall include procedures for the
19 oversight of the compassion center and procedures to ensure accurate record keeping;

20 (7) A compassion center is prohibited from acquiring, possessing, cultivating,
21 manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any
22 purpose except to assist registered qualifying patients with the medical use of marijuana directly
23 or through the qualifying patients other primary caregiver;

24 (8) All principal officers and board members of a compassion center must be residents of
25 the state of Rhode Island;

26 (9) Each time a new registered qualifying patient visits a compassion center, it shall
27 provide the patient with frequently asked questions designed by the department, which explains
28 the limitations on the right to use medical marijuana under state law;

29 (10) Each compassion center shall develop, implement, and maintain on the premises
30 employee and agent policies and procedures to address the following requirements:

31 (i) A job description or employment contract developed for all employees and a volunteer
32 agreement for all volunteers, which includes duties, authority, responsibilities, qualification, and
33 supervision; and

34 (ii) Training in and adherence to state confidentiality laws.

1 (11) Each compassion center shall maintain a personnel record for each employee and
2 each volunteer that includes an application for employment or to volunteer and a record of any
3 disciplinary action taken;

4 (12) Each compassion center shall develop, implement, and maintain on the premises on-
5 site training curriculum, or enter into contractual relationships with outside resources capable of
6 meeting employee training needs, which includes, but is not limited to, the following topics:

7 (i) Professional conduct, ethics, and patient confidentiality; and

8 (ii) Informational developments in the field of medical use of marijuana.

9 (13) Each compassion center entity shall provide each employee and each volunteer, at
10 the time of his or her initial appointment, training in the following:

11 (i) The proper use of security measures and controls that have been adopted; and

12 (ii) Specific procedural instructions on how to respond to an emergency, including
13 robbery or violent accident;

14 (14) All compassion centers shall prepare training documentation for each employee and
15 have employees sign a statement indicating the date, time, and place the employee received said
16 training and topics discussed, to include name and title of presenters. The compassion center shall
17 maintain documentation of an employee's and a volunteer's training for a period of at least six (6)
18 months after termination of an employee's employment or the volunteer's volunteering.

19 (g) Maximum amount of usable marijuana to be dispensed:

20 (1) A compassion center or principal officer, board member, agent, volunteer or
21 employee of a compassion center may not dispense more than two and one half ounces (2.5 oz)
22 of usable marijuana to a qualifying patient or a primary caregiver on behalf of a qualifying patient
23 during a fifteen (15) day period;

24 (2) A compassion center or principal officer, board member, agent, volunteer or
25 employee of a compassion center may not dispense an amount of usable marijuana or marijuana
26 plants to a qualifying patient or a primary caregiver that the compassion center, principal officer,
27 board member, agent, volunteer, or employee knows would cause the recipient to possess more
28 marijuana than is permitted under the Edward O. Hawkins and Thomas C. Slater Medical
29 Marijuana Act.

30 (h) Immunity;

31 (1) No registered compassion center shall be subject to prosecution; search, except by the
32 department pursuant to subsection (e); seizure; or penalty in any manner or denied any right or
33 privilege, including, but not limited to, civil penalty or disciplinary action by a business,
34 occupational, or professional licensing board or entity, solely for acting in accordance with this

1 section to assist registered qualifying patients to whom it is connected through the department's
2 registration process with the medical use of marijuana;

3 (2) No principal officers, board members, agents, volunteers, or employees of a registered
4 compassion center shall be subject to arrest, prosecution, search, seizure, or penalty in any
5 manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary
6 action by a business, occupational, or professional licensing board or entity, solely for working
7 for or with a compassion center to engage in acts permitted by this section.

8 (i) Prohibitions:

9 (1) A compassion center may not possess an amount of marijuana that exceeds the total
10 of the allowable amount of marijuana for the registered qualifying patients for whom the
11 compassion center is a registered primary caregiver;

12 (2) A compassion center may not dispense, deliver, or otherwise transfer marijuana to a
13 person other than a qualifying patient who has designated the compassion center as a primary
14 caregiver or to such patient's primary caregiver;

15 (3) A person found to have violated paragraph (2) of this subsection may not be an
16 employee, agent, principal officer, or board member of any compassion center, and such person's
17 registry identification card shall be immediately revoked;

18 (4) No person who has been convicted of a felony drug offense may be the principal
19 officer, board member, agent, volunteer, or employee of a compassion center unless the
20 department has determined that the person's conviction was for the medical use of marijuana or
21 assisting with the medical use of marijuana and issued the person a registry identification card as
22 provided under subdivision (c)(7). A person who is employed by or is an agent, principal officer,
23 or board member of a compassion center in violation of this section is guilty of a civil violation
24 punishable by a fine of up to one thousand dollars (\$1,000). A subsequent violation of this section
25 is a gross misdemeanor;

26 (j) Legislative oversight committee.

27 (1) The general assembly shall appoint a nine (9) member oversight committee comprised
28 of: one member of the house of representatives; one member of the senate; one physician to be
29 selected from a list provided by the Rhode Island medical society; one nurse to be selected from a
30 list provided by the Rhode Island state nurses association; two (2) registered qualifying patients;
31 one registered primary caregiver; one patient advocate to be selected from a list provided by the
32 Rhode Island patient advocacy coalition; and one representative of the law enforcement
33 community.

34 (2) The oversight committee shall meet at least six (6) times per year for the purpose of

- 1 evaluating and making recommendations to the general assembly regarding:
- 2 (i) Patients' access to medical marijuana;
- 3 (ii) Efficacy of compassion center;
- 4 (iii) Physician participation in the Medical Marijuana Program;
- 5 (iv) The definition of qualifying medical condition;
- 6 (v) Research studies regarding health effects of medical marijuana for patients.
- 7 (3) On or before January 1 of every even numbered year, the oversight committee shall
- 8 report to the general assembly on its findings.
- 9 SECTION 3. This act shall take effect upon passage.

=====
LC00370
=====

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, including the creation
2 and regulation of compassion centers to aid qualifying patients and their registered primary
3 caregivers with respect to this act.

4 This act would take effect upon passage.

=====
LC00370
=====

Medical Marijuana Pros
and Cons
ProCon.org



Last updated on: 4/9/2008 12:36:00 PM PST

Rhode Island Senate Bill 0710

2005 -- S 0710 SUBSTITUTE B

=====

LC00988/SUB B

=====

STATE OF RHODE ISLAND
IN GENERAL ASSEMBLY
JANUARY SESSION, A.D. 2005

RELATING TO FOOD AND DRUGS -- THE EDWARD O. HAWKINS AND THOMAS C.

SLATER
MEDICAL
MARIJUANA
ACT

Introduced By: Senators Perry, Polisena, Damiani, McCaffrey, and Sosnowski

Date Introduced: February 17, 2005

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

- 1-1 SECTION 1. Title 21 of the General Laws entitled "Food And Drugs" is hereby amended
1-2 by adding thereto the following chapter:

1-3 CHAPTER 28.6

1-4 THE EDWARD O. HAWKINS AND THOMAS C. SLATER MEDICAL MARIJUANA ACT

1-5 **21-28.6-1. Short title.** –This chapter shall be known and may be cited as “The Edward
1-6 O. Hawkins and Thomas C. Slater Medical Marijuana Act.”

1-7 **21-28.6-2. Legislative findings.** –The general assembly finds and declares that:

1-8 (1) Modern medical research has discovered beneficial uses for marijuana in treating or
1-9 alleviating pain, nausea and other symptoms associated with certain debilitating medical
1-10 conditions, as found by the National Academy of Sciences’ Institute of Medicine in March 1999.

1-11 (2) According to the U.S. Sentencing Commission and the Federal Bureau of
1-12 Investigation, ninety-nine (99) out of every one hundred (100) marijuana arrests in the United
1-13 States are made under state law, rather than under federal law. Consequently, changing state law
1-14 will have the practical effect of protecting from arrest the vast majority of seriously ill people
1-15 who have a medical need to use marijuana.

1-16 (3) Although federal law currently prohibits any use of marijuana, the laws of Alaska,
1-17 California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Vermont, and Washington
1-18 permit the medical use and cultivation of marijuana. Rhode Island joins in this effort for the
2-1 health and welfare of its citizens.

2-2 (4) States are not required to enforce federal law or prosecute people for engaging in
2-3 activities prohibited by federal law. Therefore, compliance with this chapter does not put the state
2-4 of Rhode Island in violation of federal law.

2-5 (5) State law should make a distinction between the medical and nonmedical use of
2-6 marijuana. Hence, the purpose of this chapter is to protect patients with debilitating medical
2-7 conditions, and their physicians and primary caregivers, from arrest and prosecution, criminal and
2-8 other penalties, and property forfeiture if such patients engage in the medical use of marijuana.

2-9 (6) The general assembly enacts this chapter pursuant to its police power to enact
2-10 legislation for the protection of the health of its citizens, as reserved to the state in the Tenth
2-11 Amendment of the United States Constitution.

2-12 **21-28.6-3. Definitions.** –The purposes of this chapter:

2-13 (1) “Debilitating medical condition” means:

2-14 (i) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired
2-15 immune deficiency syndrome, Hepatitis C, or the treatment of these conditions;

2-16 (ii) A chronic or debilitating disease or medical condition or its treatment that produces

2-17 one or more of the following: cachexia or wasting syndrome; severe, debilitating, chronic pain;
2-18 severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe
2-19 and persistent muscle spasms, including but not limited to, those characteristic of multiple
2-20 sclerosis or Crohn's disease; or agitation of Alzheimer's Disease; or
2-21 (iii) Any other medical condition or its treatment approved by the department, as
2-22 provided for in section 21-28.6-5.

2-23 (2) "Department" means the Rhode Island department of health or its successor agency.
2-24 (3) "Marijuana" has the meaning given that term in section 21-28-1.02(26).
2-25 (4) "Medical use" means the acquisition, possession, cultivation, manufacture, use,
2-26 delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of
2-27 marijuana to alleviate a registered qualifying patient's debilitating medical condition or
2-28 symptoms associated with the medical condition.

2-29 (5) "Practitioner" means a person who is licensed with authority to prescribe drugs
2-30 pursuant to chapter 37 of title 5.

2-31 (6) "Primary caregiver" means a person who is at least twenty-one (21) years old and
2-32 who has agreed to assist with a person's medical use of marijuana and who doesn't have a felony
2-33 drug conviction. A primary caregiver may assist no more than five (5) qualifying patients with
2-34 their medical use of marijuana.

3-1 (7) "Qualifying patient" means a person who has been diagnosed by a physician as
3-2 having a debilitating medical condition and is a resident of Rhode Island.

3-3 (8) "Registry identification card" means a document issued by the department that
3-4 identifies a person as a qualifying patient or primary caregiver.

3-5 (9) "Usable marijuana" means the dried leaves and flowers of the marijuana plant, and
3-6 any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.

3-7 (10) "Written certification" means the qualifying patient's medical records, and a
3-8 statement signed by a practitioner, stating that in the practitioner's professional opinion the
3-9 potential benefits of the medical use of marijuana would likely outweigh the health risks for the
3-10 qualifying patient. A written certification shall be made only in the course of a bona fide
3-11 practitioner-patient relationship after the practitioner has completed a full assessment of the
3-12 qualifying patient's medical history. The written certification shall specify the qualifying patient's
3-13 debilitating medical condition or conditions.

3-14 **21-28.6-4. Protections for the medical use of marijuana. –(a) A qualifying patient**

3-15 who has in his or her possession a registry identification card shall not be subject to arrest,
3-16 prosecution, or penalty in any manner, or denied any right or privilege, including but not limited
3-17 to, civil penalty or disciplinary action by a business or occupational or professional licensing
3-18 board or bureau, for the medical use of marijuana; provided, that the qualifying patient possesses
3-19 an amount of marijuana that does not exceed twelve (12) marijuana plants and two and one-half
3-20 (2.5) ounces of usable marijuana. Said plants shall be stored in an indoor facility.

3-21 (b) No school, employer or landlord may refuse to enroll, employ or lease to or otherwise
3-22 penalize a person solely for his or her status as a registered qualifying patient or a registered
3-23 primary caregiver.

3-24 (c) A primary caregiver, who has in his or her possession, a registry identification card
3-25 shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or
3-26 privilege, including but not limited to, civil penalty or disciplinary action by a business or
3-27 occupational or professional licensing board or bureau, for assisting a qualifying patient to whom
3-28 he or she is connected through the department's registration process with the medical use of
3-29 marijuana; provided, that the primary caregiver possesses an amount of marijuana which does not
3-30 exceed twelve (12) marijuana plants and two and one-half (2.5) ounces of usable marijuana for
3-31 each qualifying patient to whom he or she is connected through the department's registration
3-32 process.

3-33 (d) There shall exist a presumption that a qualifying patient or primary caregiver is
3-34 engaged in the medical use of marijuana if the qualifying patient or primary caregiver:

4-1 (1) Is in possession of a registry identification card; and
4-2 (2) Is in possession of an amount of marijuana that does not exceed the amount permitted
4-3 under this chapter. Such presumption may be rebutted by evidence that conduct related to
4-4 marijuana was not for the purpose of alleviating the qualifying patient's debilitating medical
4-5 condition or symptoms associated with the medical condition.

4-6 (e) A primary caregiver may receive reimbursement for costs associated with assisting a
4-7 registered qualifying patient's medical use of marijuana. Compensation shall not constitute sale
4-8 of controlled substances.

4-9 (f) A practitioner shall not be subject to arrest, prosecution, or penalty in any manner, or
4-10 denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by
4-11 the Rhode Island Board of Medical Licensure and Discipline or by any another business or
4-12 occupational or professional licensing board or bureau solely for providing written certifications

4-13 or for otherwise stating that, in the practitioner's professional opinion, the potential benefits of the
4-14 medical marijuana would likely outweigh the health risks for a patient.

4-15 (g) Any interest in or right to property that is possessed, owned, or used in connection
4-16 with the medical use of marijuana, or acts incidental to such use, shall not be forfeited.

4-17 (h) No person shall be subject to arrest or prosecution for constructive possession,
4-18 conspiracy, aiding and abetting, being an accessory, or any other offense for simply being in the
4-19 presence or vicinity of the medical use of marijuana as permitted under this chapter or for
4-20 assisting a registered qualifying patient with using or administering marijuana.

4-21 (i) A practitioner nurse or pharmacist shall not be subject to arrest, prosecution or penalty
4-22 in any manner, or denied any right or privilege, including, but not limited to, civil penalty or
4-23 disciplinary action by a business or occupational or professional licensing board or bureau solely
4-24 for discussing the benefits or health risks of medical marijuana or its interaction with other
4-25 substances with a patient.

4-26 (j) A registry identification card, or its equivalent, issued under the laws of another state,
4-27 U.S. territory, or the District of Columbia to permit the medical use of marijuana by a qualifying
4-28 patient, or to permit a person to assist with a qualifying patient's medical use of marijuana, shall
4-29 have the same force and effect as a registry identification card issued by the department.

4-30 **21-28.6-5. Department to issue regulations.** –(a) Not later than ninety (90) days after
4-31 the effective date of this chapter, the department shall promulgate regulations governing the
4-32 manner in which it shall consider petitions from the public to add debilitating medical conditions
4-33 to those included in this chapter. In considering such petitions, the department shall include
4-34 public notice of, and an opportunity to comment in a public hearing, upon such petitions. The
5-1 department shall, after hearing, approve or deny such petitions within one hundred eighty (180)
5-2 days of submission. The approval or denial of such a petition shall be considered a final
5-3 department action, subject to judicial review. Jurisdiction and venue for judicial review are
5-4 vested in the superior court. The denial of a petition shall not disqualify qualifying patients with
5-5 that condition, if they have a debilitating medical condition. The denial of a petition shall not
5-6 prevent a person with the denied condition from raising an affirmative defense.

5-7 (b) Not later than ninety (90) days after the effective date of this chapter, the department
5-8 shall promulgate regulations governing the manner in which it shall consider applications for and
5-9 renewals of registry identification cards for qualifying patients and primary caregivers. The
5-10 department's regulations shall establish application and renewal fees that generate revenues

5-11 sufficient to offset all expenses of implementing and administering this chapter. The department
5-12 may vary the application and renewal fees along a sliding scale that accounts for a qualifying
5-13 patient's income. The department may accept donations from private sources in order to reduce
5-14 the application and renewal fees.

5-15 **21-28.6-6. Administration of regulations.** –(a) The department shall issue registry
5-16 identification cards to qualifying patients who submit the following, in accordance with the
5-17 department's regulations:

5-18 (1) written certification as defined in section 23-28.6-3(10) of this chapter;

5-19 (2) application or renewal fee;

5-20 (3) name, address, and date of birth of the qualifying patient; provided, however, that if
5-21 the patient is homeless, no address is required;

5-22 (4) name, address, and telephone number of the qualifying patient's practitioner; and

5-23 (5) name, address, and date of birth of each primary caregiver of the qualifying patient, if
5-24 any.

5-25 (b) The department shall not issue a registry identification card to a qualifying patient
5-26 under the age of eighteen (18) unless:

5-27 (1) The qualifying patient's practitioner has explained the potential risks and benefits of
5-28 the medical use of marijuana to the qualifying patient and to a parent, guardian or person having
5-29 legal custody of the qualifying patient; and

5-30 (2) A parent, guardian or person having legal custody consents in writing to:

5-31 (i) Allow the qualifying patient's medical use of marijuana;

5-32 (ii) Serve as one of the qualifying patient's primary caregivers; and

5-33 (iii) Control the acquisition of the marijuana, the dosage, and the frequency of the
5-34 medical use of marijuana by the qualifying patient.

6-1 (c) The department shall verify the information contained in an application or renewal
6-2 submitted pursuant to this section, and shall approve or deny an application or renewal within
6-3 thirty (30) days of receiving it. The department may deny an application or renewal only if the
6-4 applicant did not provide the information required pursuant to this section, or if the department
6-5 determines that the information provided was falsified. Rejection of an application or renewal is
6-6 considered a final department action, subject to judicial review. Jurisdiction and venue for
6-7 judicial review are vested in the superior court.

6-8 (d) The department shall issue a registry identification card to each primary caregiver, if
6-9 any, who is named in a qualifying patient's approved application, up to a maximum of two (2)

6-10 primary caregivers per qualifying patient.

6-11 (e) The department shall issue registry identification cards within five (5) days of
6-12 approving an application or renewal, which shall expire one year after the date of issuance.

6-13 Registry identification cards shall contain:

6-14 (1) Name, address, and date of birth of the qualifying patient;

6-15 (2) Name, address, and date of birth of the each primary caregiver of the qualifying
6-16 patient, if any;

6-17 (3) The date of issuance and expiration date of the registry identification card;

6-18 (4) A random registry identification number; and

6-19 (5) A photograph.

6-20 (f) Persons issued registry identification cards shall be subject to the following:

6-21 (1) A qualifying patient who has been issued a registry identification card shall notify the
6-22 department of any change in the qualifying patient's name, address, or primary caregiver; or if the
6-23 qualifying patient ceases to have his or her debilitating medical condition, within ten (10) days of
6-24 such change.

6-25 (2) A registered qualifying patient who fails to notify the department of any of these
6-26 changes is responsible for a civil infraction, punishable by a fine of no more than one hundred
6-27 fifty dollars (\$150). If the person has ceased to suffer from a debilitating medical condition, the
6-28 card shall be deemed null and void and the person shall be liable for any other penalties that may
6-29 apply to the person's nonmedical use of marijuana.

6-30 (3) A registered primary caregiver shall notify the department of any change in his or her
6-31 name or address within ten (10) days of such change. A primary caregiver who fails to notify the
6-32 department of any of these changes is responsible for a civil infraction, punishable by a fine of no
6-33 more than one hundred fifty dollars (\$150).

6-34 (4) When a qualifying patient or primary caregiver notifies the department of any
7-1 changes listed in this subsection, the department shall issue the registered qualifying patient and
7-2 each primary caregiver a new registry identification card within ten (10) days of receiving the
7-3 updated information and a ten dollar (\$10.00) fee.

7-4 (5) When a qualifying patient who possesses a registry identification card changes his or
7-5 her primary caregiver, the department shall notify the primary caregiver within ten (10) days.
7-6 The primary caregiver's protections as provided in this chapter shall expire ten (10) days after
7-7 notification by the department.

7-8 (6) If a registered qualifying patient or a primary caregiver loses his or her registry
7-9 identification card, he or she shall notify the department and submit a ten dollar (\$10.00) fee
7-10 within ten (10) days of losing the card. Within five (5) days, the department shall issue a new
7-11 registry identification card with new random identification number.

7-12 (7) If a qualifying patient and/or primary caregiver willfully violates any provision of this
7-13 chapter as determined by the department, his or her registry identification card may be revoked.

7-14 (g) Possession of, or application for, a registry identification card shall not constitute
7-15 probable cause or reasonable suspicion, nor shall it be used to support the search of the person or
7-16 property of the person possessing or applying for the registry identification card, or otherwise
7-17 subject the person or property of the person to inspection by any governmental agency.

7-18 (h)(1) Applications and supporting information submitted by qualifying patients,
7-19 including information regarding their primary caregivers and practitioners, are confidential and
7-20 protected under the federal Health Insurance Portability and Accountability Act of 1996.

7-21 (2) The department shall maintain a confidential list of the persons to whom the
7-22 department has issued registry identification cards and shall notify local and state law
7-23 enforcement of the number of qualified patients in any given city or town. Individual names and
7-24 other identifying information on the list shall be confidential, exempt from the provisions of
7-25 Rhode Island Access to Public Information, chapter 2 of title 38, and not subject to disclosure,
7-26 except to authorized employees of the department as necessary to perform official duties of the
7-27 department.

7-28 (i) The department shall verify to law enforcement personnel whether a registry
7-29 identification card is valid solely by confirming the random registry identification number.

7-30 (j) It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a one
7-31 thousand dollar (\$1,000) fine, for any person, including an employee or official of the department
7-32 or another state agency or local government, to breach the confidentiality of information obtained
7-33 pursuant to this chapter. Notwithstanding this provision, the department employees may notify
7-34 law enforcement about falsified or fraudulent information submitted to the department.

8-1 (k) On or before January 1, 2007, the department shall report to the House Committee on
8-2 Health, Education and Welfare and to the Senate Committee on the Judiciary on the use of
8-3 marijuana for symptom relief. The report shall provide:

8-4 (i) The number of applications for registry identification cards, the number of qualifying
8-5 patients and primary caregivers approved, the nature of the debilitating medical conditions of the

8-6 qualifying patients, the number of registry identification cards revoked, and the number of
8-7 practitioners providing written certification for qualifying patients:
8-8 (ii) An evaluation of the costs permitting the use of marijuana for symptom relief,
8-9 including any costs to law enforcement agencies and costs of any litigation;
8-10 (iii) Statistics regarding the number of marijuana-related prosecutions against registered
8-11 patients and caregivers, and an analysis of the facts underlying those prosecutions;
8-12 (iv) Statistics regarding the number of prosecutions against physicians for violations of
8-13 this act; and
8-14 (v) Whether the United States Food and Drug Administration has altered its position
8-15 regarding the use of marijuana for medical purposes or has approved alternative delivery systems
8-16 for marijuana.

8-17 **21-28.6-7. Scope of chapter.** –(a) This chapter shall not permit:
8-18 (1) Any person to undertake any task under the influence of marijuana, when doing so
8-19 would constitute negligence or professional malpractice;
8-20 (2) The smoking of marijuana:
8-21 (i) In a school bus or other form of public transportation;
8-22 (ii) On any school grounds;
8-23 (iii) In any correctional facility;
8-24 (iv) In any public place; or
8-25 (v) In any licensed drug treatment facility in this state.
8-26 (3) Any person to operate, navigate, or be in actual physical control of any motor vehicle,
8-27 aircraft, or motorboat while under the influence of marijuana. However, a registered qualifying
8-28 patient shall not be considered to be under the influence solely for having marijuana metabolites
8-29 in his or her system.

8-30 (b) Nothing in this chapter shall be construed to require:
8-31 (1) a government medical assistance program or private health insurer to reimburse a
8-32 person for costs associated with the medical use of marijuana; or
8-33 (2) an employer to accommodate the medical use of marijuana in any workplace.
8-34 (c) Fraudulent representation to a law enforcement official of any fact or circumstance
9-1 relating to the medical use of marijuana to avoid arrest or prosecution shall be punishable by a
9-2 fine of five hundred dollars (\$500) which shall be in addition to any other penalties that may
9-3 apply for making a false statement for the nonmedical use of marijuana.

9-4 **21-28.6-8. Affirmative defense and dismissal.** –(a) Except as provided in section 21-
9-5 28.6-7, a person and a person’s primary caregiver, if any, may assert the medical purpose for
9-6 using marijuana as a defense to any prosecution involving marijuana, and such defense shall be
9-7 presumed valid where the evidence shows that:

9-8 (1) The qualifying patient’s medical records indicate and a practitioner has stated that, in
9-9 the practitioner’s professional opinion, after having completed a full assessment of the person’s
9-10 medical history and current medical condition made in the course of a bona fide practitioner-
9-11 patient relationship, the potential benefits of using marijuana for medical purposes would likely
9-12 outweigh the health risks for the qualifying patient; and

9-13 (2) The person and the person’s primary caregiver, if any, were collectively in possession
9-14 of a quantity of marijuana that was not more than what is permitted under this chapter to ensure
9-15 the uninterrupted availability of marijuana for the purpose of alleviating the person’s medical
9-16 condition or symptoms associated with the medical condition.

9-17 (b) A person may assert the medical purpose for using marijuana in a motion to dismiss,
9-18 and the charges shall be dismissed following an evidentiary hearing where the defendant shows
9-19 the elements listed in subsection 21-28.6-8(a).

9-20 (c) Any interest in or right to property that was possessed, owned, or used in connection
9-21 with a person’s use of marijuana for medical purposes shall not be forfeited if the person or the
9-22 person’s primary caregiver demonstrates the person’s medical purpose for using marijuana
9-23 pursuant to this section.

9-24 **21-28.6-9. Enforcement.** –(a) If the department fails to adopt regulations to implement
9-25 this chapter within one hundred twenty (120) days of the effective date of this act, a qualifying
9-26 patient may commence an action in a court of competent jurisdiction to compel the department to
9-27 perform the actions mandated pursuant to the provisions of this chapter.

9-28 (b) If the department fails to issue a valid registry identification card in response to a
9-29 valid application submitted pursuant to this chapter within thirty-five (35) days of its submission,
9-30 the registry identification card shall be deemed granted and a copy of the registry identification
9-31 application shall be deemed valid registry identification card.

9-32 **21-28.6-10. Severability.** –Any section of this act being held invalid as to any person or
9-33 circumstances shall not affect the application of any other section of this act that can be given full
9-34 effect without the invalid section or application.

10-1 **21-28.6-11. Sunset provision.** –The provisions of this chapter shall be repealed effective

10-2 June 30, 2007.

10-3 SECTION 2. This act shall take effect upon passage and shall expire on June 30, 2007.

=====

LC00988/SUB B

=====

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

11-1 This act would protect patients with debilitating medical conditions, and their physicians

11-2 and primary caregivers, from arrest and prosecution, criminal and other penalties, and property

11-3 forfeiture if such patients engage in the medical use of marijuana.

11-4 This act would take effect upon passage and would expire on June 30, 2007.

=====

LC00988/SUB

=====

©ProCon.org, a 501(c)(3) nonprofit

All rights reserved

233 Wilshire Blvd., Suite 200, Santa Monica, CA 90401

Tel: 310-451-9596 Fax: 310-393-2471

RULES AND REGULATIONS RELATED TO THE MEDICAL MARIJUANA PROGRAM

[R21-28.6-MMP]



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

March 2006 (E)

AS AMENDED:

July 2006 (E)

August 2006

January 2007 (re-filing in
accordance with the
provisions of §42-35-4.1 of
the Rhode Island General
Laws, as amended)

January 2008

March 2010

January 2012 (re-filing in
accordance with the
provisions of §42-35-4.1 of
the Rhode Island General
Laws, as amended)

December 2012

THIS PAGE INTENTIONALLY LEFT BLANK

INTRODUCTION

These amended *Rules and Regulations Related to the Medical Marijuana Program* [R21-28.6-MMP] are promulgated pursuant to the authority conferred under §21-28.6-5 of the General Laws of Rhode Island of, as amended, and are established for the purpose of adopting standards for the implementation of a medical marijuana program, including changes mandated pursuant to PL 2012-118 and PL 2012-242.

Pursuant to the provisions of §§42-35-3(a)(3) and (a)(4) of the General Laws of Rhode Island, as amended, the following were given consideration in arriving at the amended regulations: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations and (3) significant economic impact on small business. Based on the available information, no known alternative approach, duplication or overlap was identified.

These amended regulations shall supersede all previous *Rules and Regulations Related to the Medical Marijuana Program* promulgated by the Rhode Island Department of Health and filed with the Secretary of State.

TABLE OF CONTENTS

	Page
1.0 Definitions	1
2.0 General Requirements	3
3.0 Application for Registration Identification Cards and Fees	6
4.0 Issuance and Renewal of Registration Identification Cards	7
5.0 Registration and Operation of Compassion Centers	8
6.0 Protections for the Medical Use of Marijuana	18
7.0 Confidentiality Provisions	19
8.0 Scope of the Act	20
9.0 Penalties for Violations	20
10.0 Practices and Procedures	21
11.0 Severability	21

Section 1.0 *Definitions*

Wherever used in these Regulations the following terms shall be construed as follows:

- 1.1 “**Act**” means RIGL Chapter 21-28.6 entitled “The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act.”
- 1.2 “**Cardholder**” means a qualifying patient, a primary caregiver, or a principal officer, board member, employee, volunteer, or agent of a compassion center who has been issued and possesses a valid registry identification card.
- 1.3 “**Compassion center**” means a not-for-profit corporation subject to the provisions of RIGL Chapter 7-6, and registered under §21-28.6-12 of the Act that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or dispenses marijuana, and/or related supplies and educational materials, to registered qualifying patients and/or their registered primary caregivers who have designated it as one of their primary caregivers.
- 1.4 “**Debilitating medical condition**” means:
 - (a) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, Hepatitis C, or the treatment of these conditions;
 - (b) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating, chronic pain; severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to, those characteristic of multiple sclerosis or Crohn’s disease; or agitation of Alzheimer’s Disease; or
 - (c) Any other medical condition or its treatment approved by the Department pursuant to §§2.5, 2.6 and 2.7 of these Regulations.
- 1.5 “**Department**” means the Rhode Island Department of Health or its successor agency.
- 1.6 “**Marijuana**” has the meaning given that term in RIGL §21-28-1.02(26) and is as follows: all parts of the plant (*Cannabis sativa, L.*), whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, but shall not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, (except the resin extracted from it), fiber, oil or cake, or the sterilized seed from the plant which is incapable of germination.
- 1.7 “**Mature marijuana plant**” means a marijuana plant which has flowers or buds that are readily observable by an unaided visual examination.
- 1.8 “**Medical use**” means the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of marijuana to alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the medical condition.

- 1.9 **“Paraphernalia”** , as used in these Regulations, means any equipment, product, or material of any kind that is primarily intended or designed for use in planting, propagating, growing, cultivating, harvesting, manufacturing, compounding, converting, producing, processing, preparing, inhaling, or otherwise introducing into the human body marijuana, including but not limited to: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, or punctured metal bowls; water pipes, roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand; bongs; ice pipes or chillers.
- 1.10 **“Parent or legal guardian”** means the custodial parent for a person under eighteen (18) years of age or the legal guardian with responsibility for health care decisions for a person of any age.
- 1.11 **“Practitioner”** means a person who is licensed to practice medicine with authority to prescribe drugs pursuant to RIGL Chapter 5-37 or a physician licensed with authority to prescribe drugs in Massachusetts or Connecticut.
- 1.12 **“Primary caregiver”** means either a natural person who is at least twenty-one (21) years old or a compassion center. A natural person primary caregiver may assist no more than five (5) qualifying patients with their medical use of marijuana.
- 1.13 **“Qualifying patient”** means a person who has been diagnosed by a practitioner as having a debilitating medical condition and is a resident of Rhode Island.
- 1.14 **“Registry identification card”** means a document issued by the Department that identifies a person as a registered qualifying patient, a registered primary caregiver, or a registered principal officer, board member, employee, volunteer, or agent of a compassion center.
- 1.15 **“RIGL”** means the General Laws of Rhode Island, as amended.
- 1.16 **“Seedling”** means a marijuana plant with no observable flowers or buds.
- 1.17 **“These Regulations”** mean all parts of Rhode Island *Rules and Regulations Related to the Medical Marijuana Program [R21-28.6-MMP]*.
- 1.18 **“Unusable marijuana”** means marijuana seeds, stalks, seedlings, and unusable roots.
- 1.19 **“Usable marijuana”** means the dried leaves and flowers of the marijuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.
- 1.20 **“Written certification”** means the qualifying patient’s medical records, and a statement signed by a practitioner, stating that in the practitioner’s professional opinion the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. A written certification shall be made only in the course of a bona fide practitioner-patient relationship after the practitioner has completed a full assessment of the qualifying patient's medical history. The written certification shall specify the qualifying patient's debilitating medical condition or conditions.

Section 2.0 *General Requirements*

- 2.1 **Administration of the Program.** The Division of Environmental and Health Services Regulation within the Department shall be responsible for the administrative functions required to implement the provisions of the Act and these Regulations as they apply to the implementation of the medical marijuana program in Rhode Island.

Written Certifications

- 2.2 Practitioners shall provide written certifications for their patients on such forms as shall be provided by the Department.
- 2.3 The written certification shall specify the qualifying patient's debilitating medical condition or conditions.
- 2.4 A written certification shall be made only in the course of a bona fide practitioner-patient relationship after the practitioner has completed a full assessment of the qualifying patient's medical history.

Addition of Debilitating Medical Conditions

- 2.5 The Department shall accept a written petition from any person requesting that a particular disease or condition be included among the diseases and conditions that qualify as “debilitating medical conditions” contained in §1.4 of these Regulations.
- 2.6 The petitioner shall provide to the Department, as available:
- (a) An explanation stating the reason(s) why the condition should be included;
 - (b) Any literature supporting the addition of the condition to the list;
 - (c) Letter(s) of support from physicians or other licensed health care professional knowledgeable about the condition and its treatment;
- 2.7 In considering such petitions, the Department shall include public notice of, and an opportunity to comment in a public hearing, upon such petitions.
- 2.7.1 The Department shall, after hearing, approve or deny such petitions within one hundred eighty (180) days of submission.
- 2.7.2 The approval or denial of such a petition shall be considered a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.
- 2.7.3 The denial of a petition shall not disqualify qualifying patients with that condition, if they have a debilitating medical condition as defined in subdivision 21-28.6-3(3) of the Act and §1.4 of these Regulations.
- 2.8 **Registered Primary Caregiver and Registered Qualifying Patient Possession Limits.** The following possession limits are established for each registered primary caregiver and registered qualifying patient:

- 2.8.1 Pursuant to RIGL §21-28.6-4(d), a registered primary caregiver may possess an amount of marijuana which does not exceed twelve (12) mature marijuana plants and two and one-half (2.5) ounces of usable marijuana for each qualifying patient to whom he or she is connected through the Department's registration process established pursuant to these Regulations.
- 2.8.2 Notwithstanding the provisions of §2.8.1 of these Regulations, and pursuant to RIGL §21-28.6-4(n), no primary caregiver other than a compassion center shall possess an amount of marijuana in excess of twenty-four (24) mature marijuana plants and five (5) ounces of usable marijuana for qualifying patients to whom he or she is connected through the Department's registration process established pursuant to these Regulations.
- 2.8.3 Pursuant to RIGL §21-28.6-4(a), a registered qualifying patient may possess an amount of marijuana which does not exceed twelve (12) mature marijuana plants and two and one-half (2.5) ounces of usable marijuana.
- 2.8.4 Pursuant to RIGL §21-28.6-4(e), registered primary caregivers and registered qualifying patients shall be allowed to possess a reasonable amount of unusable marijuana, including up to twelve (12) seedlings, which shall not be counted toward the limits established in §§2.8.1 and 2.8.3 of these Regulations.
- 2.9 **Compassion Center Possession Limits.** A compassion center shall not possess an amount of marijuana at any given time that exceeds the following limitations:
- (a) One hundred fifty (150) marijuana plants of which no more than ninety-nine (99) shall be mature; and
 - (b) One thousand five hundred ounces (1,500 oz.) of usable marijuana.
- 2.10 **Primary Caregiver Eligibility.** A natural person may not serve as a primary caregiver if he or she has a felony drug conviction, unless the Department waives this restriction in respect to a specific individual at the Department's discretion. Additionally, the Department shall allow the person to serve as a primary caregiver if the Department determines that the offense was for conduct that occurred prior to the enactment of the Act or that was prosecuted by an authority other than the state of Rhode Island, and for which the Act would otherwise have prevented a conviction.
- 2.11 **Compassion Center Principal Officer, Board Member, Agent, Volunteer or Employee Eligibility.** A person shall not serve as a principal officer, board member, agent, volunteer or employee of a compassion center if he or she has been convicted of a felony drug offense or has entered a plea of *nolo contendere* for a felony drug offense and received a sentence of probation. Notwithstanding this requirement, the Department may allow a person to serve as a principal officer, board member, agent, volunteer or employee of a compassion center if the Department determines that the offense was for conduct that occurred prior to the enactment of the Act or that was prosecuted by an authority other than the state of Rhode Island, and for which the Act would otherwise have prevented a conviction.

- 2.12 **Compassion Center Authorized Activities.** A compassion center registered pursuant to §5.0 of these Regulations may acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense marijuana, or related supplies and educational materials, to registered qualifying patients and their registered primary caregivers who have designated it as one of their primary caregivers.
- 2.12.1 A compassion center shall be considered a primary caregiver.
- 2.12.2 Except as specifically provided to the contrary, all provisions in §21-28.6-1 through §21-28.6-11 of the Act shall apply to a compassion center unless they conflict with a provision contained in §21-28.6-12 of the Act.
- 2.13 **Emergency Notification.** A compassion center registered pursuant to §5.0 of these Regulations shall provide notification of emergency events to the Department and local law enforcement as outlined below.
- 2.13.1 Immediately upon discovery of the event, provide telephone notification to the appropriate local law enforcement authorities regarding any of the following:
- (a) An unplanned implementation of any portion of the compassion center’s disaster plan;
 - (b) A failure/mechanical malfunction of the security alarm system that is expected to exceed an eight (8) hour period. [Ref: §5.1.7(e)(7) of these Regulations];
 - (c) An alarm activation or other event which requires response by public safety personnel; and
- 2.13.2 Provide telephone notification to the Department within twenty-four (24) hours of discovery for any emergency event described in §2.13.1 of these Regulations;
- 2.13.3 Submit a follow-up written report within five (5) business days for each telephone notification made pursuant to §2.13.2 of these Regulations. The written report shall include, as a minimum, a description of the event(s), identification of known or suspected cause(s) for the event(s), any corrective action(s) taken to prevent a recurrence, and the name and title of the individual preparing the report.
- 2.13.4 **Notification:** Any notification required pursuant to §2.13.2 or §2.13.3 of these Regulations shall be made as follows:
- (a) **Written Notification:**
Rhode Island Department of Health - Medical Marijuana Program
3 Capitol Hill – Room 104
Providence, RI 02908-5097
 - (b) **Telephone Notification:**
(401) 222-2828 [Monday-Friday 8:30 a.m. – 4:30 p.m.]
(401) 272-5952 [24 hour number]

Section 3.0 *Application for Registry Identification Cards and Fees*

3.1 **Registry Identification Cards for Qualifying Patients and Primary Caregivers.** The Department shall issue registry photo identification cards to qualifying patients and primary caregivers who submit the following:

- 3.1.1 Written certification as defined in §1.20 of these Regulations;
- 3.1.2 Non-returnable, non-refundable application or renewal fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* for each qualifying patient or primary caregiver of the qualifying patient identified on the application;
 - (a) Provided, however, for a qualifying patient or primary caregiver who submits satisfactory evidence to the Department of being a recipient of Medicaid, Supplemental Security Income (SSI), or Social Security Disability Insurance (SSDI), a non-returnable, non-refundable application or renewal fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* shall be submitted.
- 3.1.3 Name, address, and date of birth of the qualifying patient. If the qualifying patient is homeless, no address is required.
- 3.1.4 Name, address, and telephone number of the qualifying patient's practitioner; and
- 3.1.5 Name, address, and date of birth of each primary caregiver, up to a maximum of two (2), of the qualifying patient, if any.
- 3.1.6 Each applicant for qualifying patient registry identification card shall also indicate if he or she would like the Department to notify him or her of any clinical studies about marijuana's risk or efficacy.

3.2 **Registry Identification Cards for Minors.** The Department shall not issue a registry identification card to a qualifying patient under the age of eighteen (18) unless:

- 3.2.1 The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian or person having legal custody of the qualifying patient; and
- 3.2.2 A parent, guardian or person having legal custody consents in writing to:
 - (a) Allow the qualifying patient's medical use of marijuana;
 - (b) Serve as one of the qualifying patient's primary caregivers; and
 - (c) Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Section 4.0 *Issuance and Renewal of Registry Identification Cards*

- 4.1 The Department shall verify the information contained in an application or renewal submitted pursuant to the Act, and shall approve or deny an application or renewal within fifteen (15) days of receiving it.
- 4.2 The Department shall issue registry identification cards within five (5) days of approving an application or renewal, which shall expire two (2) years after the date of issuance.
 - 4.2.1 If the Department fails to issue a valid registry identification card in response to a valid application submitted pursuant to the Act or these Regulations within thirty-five (35) days of its submission, the registry identification card shall be deemed granted and a copy of the registry identification application shall be deemed valid registry identification card.
 - 4.2.2 The department shall issue a registry identification card to each primary caregiver, if any, who is named in a qualifying patient's approved application, up to a maximum of two (2) primary caregivers per qualifying patient.
- 4.3 The Department may deny an application or renewal only if the applicant did not provide the information required pursuant to the Act, or if the Department determines that the information provided was falsified.
- 4.4 Rejection of an application or renewal is considered a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.
- 4.5 A registry identification card shall not be transferable.
- 4.6 Registry identification cards shall contain:
 - 4.6.1 The date of issuance and expiration date of the registry identification card;
 - 4.6.2 A random registry identification number; and
 - 4.6.3 A photograph.

Requirements Related to Registry Identification Cards

- 4.7 Persons issued registry identification cards shall be subject to the following:
 - 4.7.1 A qualifying patient who has been issued a registry identification card shall notify the Department of any change in the qualifying patient's name, address, or primary caregiver; or if the qualifying patient ceases to have his or her debilitating medical condition, within ten (10) days of such change.
 - 4.7.2 If a registered qualifying patient has ceased to suffer from a debilitating medical condition, the card shall be deemed null and void and the person shall be liable for any other penalties that may apply to the person's non-medical use of marijuana.

- 4.7.3 A registered primary caregiver, principal officer, board member, employee, volunteer or agent of a compassion center shall notify the Department of any change in his or her name or address within ten (10) days of such change.
- 4.7.4 When a qualifying patient or primary caregiver notifies the Department of any changes listed in §4.7.1 of these Regulations, the Department shall issue the registered qualifying patient and each primary caregiver a new registry identification card within ten (10) days of receiving the updated information and a non-returnable, non-refundable fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* for each new registration card to be issued.
- 4.7.5 When a principal officer, board member, employee, volunteer or agent of a compassion center notifies the Department of any changes listed in §4.7.3 of these Regulations, the Department shall issue the cardholder a new registry identification card within ten (10) days of receiving the updated information and a fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* for each new registration card to be issued.
- 4.8 When a qualifying patient who possesses a registry identification card changes his or her primary caregiver, the Department shall notify the primary caregiver within ten (10) days. The primary caregiver's protections as provided in RIGL Chapter 21-28.6 as to that patient shall expire ten (10) days after notification by the Department.
- 4.9 If a cardholder loses his or her registry identification card, he or she shall notify the Department and submit a non-returnable, non-refundable fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* within ten (10) days of losing the card. Within five (5) days of receiving this notification, the Department shall issue a new registry identification card with new random identification number.
- 4.10 **[DELETED]**

Section 5.0 ***Registration and Operation of Compassion Centers***

5.1 **General Requirements for Operation of a Compassion Center.**

- 5.1.1 A compassion center shall be operated on a not-for-profit basis for the mutual benefit of its patients. A compassion center need not be recognized as a tax-exempt organization by the Internal Revenue Services.
- 5.1.2 A compassion center shall not acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply or dispense marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the qualifying patient's other primary caregiver.
- 5.1.3 A compassion center shall not be located within one thousand (1,000) feet of the property line of a preexisting public or private school.

- 5.1.4 All principal officers and board members of a compassion center must be residents of the state of Rhode Island.
- 5.1.5 Each compassion center shall notify the Department in writing of the name, address, and date of birth¹ of any new principal officer, board member, agent, volunteer or employee and shall submit the fee established in §5.5 of these Regulations for a new registry identification card before that individual begins his or her relationship with the compassion center.
- 5.1.6 Each compassion center shall notify the Department in writing within ten (10) days of when a principal officer, board member, agent, volunteer or employee ceases to work at the compassion center. His or her registry identification card shall be deemed null and void and the individual shall be liable for any penalties that may apply to any nonmedical possession or use of marijuana by the individual.
- 5.1.7 **Security Requirements:**
- (a) Each compassion center shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana.
- (1) Access from outside the premises shall be kept to a minimum and be well-controlled;
- (2) The outside perimeter of the premises shall be well-lighted; and
- (3) Entry into area(s) where marijuana is held shall be limited to authorized personnel.
- (b) Each compassion center shall have a fully operational security alarm system at each authorized physical address that will provide suitable protection against theft and diversion. For the purpose of these Regulations, a fully operational security alarm system shall include, as a minimum:
- (1) Immediate automatic or electronic notification to alert local or municipal law enforcement agencies to an unauthorized breach of security at the compassion center or at any other authorized physical address; and
- (2) Immediate automatic or electronic notification to local or municipal public safety personnel of a loss-of-electrical support backup system.
- (c) When appropriate, the security system shall provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.
- (d) Each compassion center shall ensure that the storage of usable marijuana is in a locked area with adequate security. For purpose of these Regulations, “adequate security”, as a minimum, should be assessed, established and maintained based on:

¹ A compassion center is considered to be a primary caregiver. Therefore, any principal officer, board member, agent, volunteer or employee shall be at least twenty-one (21) years old.

- (1) Quantity of usable marijuana that will be kept on hand at each authorized location;
 - (2) The compassion center's inventory system for tracking and dispensing usable marijuana;
 - (3) The number of principal officers, board members, agents, volunteers or employees who have or could have access to the usable marijuana;
 - (4) The geographic location of the compassion center (i.e., high or low crime area);
 - (5) Scope and sustainability of the alarm system; and
 - (6) Root cause analysis of any breach of security and/or inventory discrepancy for usable marijuana at that location.
- (e) Each compassion center, as a minimum, shall:
- (1) Conduct an initial comprehensive inventory of all medical marijuana, including usable marijuana available for dispensing, mature marijuana plants and unusable marijuana, at each authorized location on the date the compassion center first dispenses medical marijuana.
 - (2) Conduct the comprehensive inventory required by §5.1.7(e)(1) of these Regulations at intervals not to exceed twenty-four (24) months from the date of the previous comprehensive inventory;
 - (3) Conduct a monthly inventory review of stored, usable marijuana;
 - (4) Within twenty-four (24) hours of discovery of the event, notify the Department and appropriate local law enforcement authorities by telephone of discrepancies identified during inventories conducted pursuant to §§5.1.7(e)(1), (e)(2) or (e)(3) of these Regulations.
 - (5) Establish a protocol for the testing and maintenance of the security alarm system;
 - (6) Conduct a maintenance inspection/test of the alarm system for each authorized location at intervals not to exceed thirty (30) days from the previous inspection/test and promptly make all necessary repairs to ensure the proper operation of the alarm system;
 - (7) In the event of a failure of the security alarm system, due to loss of electrical support or mechanical malfunction, that is expected to exceed an eight (8) hour period:
 - (i) Within twenty-four (24) hours of discovery of the event, notify the Department by telephone; and
 - (ii) Provide alternative security measures approved by the Department or close the authorized physical address(es) impacted by the failure/malfunction until the security alarm system has been restored to full operation;

- (8) Maintain documentation in an auditable form² for a period of at least twenty-four (24) months after the event for:
- (i) All inventories conducted pursuant to §§5.1.7(e)(1), (e)(2) or (e)(3) of these Regulations. The record shall include, as a minimum, the date of the inventory, a summary of the inventory findings and the name, signature and title of the individual who conducted the inventory;
 - (ii) All maintenance inspections/tests conducted pursuant to §5.1.7(e)(6) of these Regulations, and any servicing, modification or upgrade performed on the security alarm system. The record shall include, as a minimum, the date of the action, a summary of the action(s) performed and the name, signature and title of the individual who performed the action(s);
 - (iii) Any alarm activation or other event which requires response by public safety personnel; and
 - (iv) Any unauthorized breach(es) of security.
- (9) Request that the Rhode Island State Police (RISP) visit the compassion center to inspect the facility security and make any recommendations regarding the security of the facility and its personnel within ten (10) days prior to the initial opening of each compassion center.
- (i) Said recommendations shall not be binding upon any compassion center, nor shall the lack of implementation of said recommendations delay or prevent the opening or operation of any center.
 - (ii) If the RISP do not inspect the compassion center within the ten (10) day period there shall be no delay in the compassion center's opening.

5.1.8 **Operations Manual.** Each compassion center shall develop, implement and maintain on the premises an operations manual which addresses, as a minimum, the following requirements:

- (a) Procedures for the oversight of the compassion center;
- (b) Procedures for safely dispensing medical marijuana to registered qualifying patients or their other registered primary caregiver;
- (c) Procedures to ensure accurate record keeping, including protocols to ensure that quantities purchased do not suggest re-distribution;
- (d) Employee security policies;
- (e) Safety and security procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies;

² Any required record may be microfilmed or otherwise archived as long as a complete copy of said record can be retrieved for a period of at least twenty-four (24) months after the event which caused the record to be generated.

- (f) Personal safety and crime prevention techniques;
- (g) A job description or employment contract developed for all employees and agents and a volunteer agreement for all volunteers, which includes duties, responsibilities, authority, qualifications and supervision;
- (h) The compassion center's alcohol and drug free work place policy; and
- (i) A description of the compassion center's outreach activities to registered qualifying patients or their other registered primary caregiver which shall, as a minimum, include:
 - (1) Providing each new registered qualifying patient who visits the compassion center with a frequently asked questions sheet, designed by the Department, which explains the limitations on the right to use medical marijuana under state law;
 - (2) Ingestion options of useable marijuana provided by the compassion center;
 - (3) Safe smoking techniques that shall be provided to registered qualifying patients; and
 - (4) Potential side effects and how this information shall be communicated.
- (j) A description of the packaging of the useable marijuana that the compassion center shall be utilizing which shall, as a minimum, include:
 - (1) A label containing the name of the strain, batch and quantity; and
 - (2) A statement that the product is for medical use and not for resale.

5.1.9 **Required Training.** Each compassion center shall develop, implement and maintain on the premises an on-site training curriculum, or enter into contractual relationships with outside resources capable of meeting employee, agent and volunteer training needs. Each employee, agent or volunteer, at the time of his or her initial appointment, shall receive, as a minimum, training in the following:

- (a) Professional conduct, ethics, and state and federal laws regarding patient confidentiality;
- (b) Informational developments in the field of medical use of marijuana;
- (c) The proper use of security measures and controls that have been adopted; and
- (d) Specific procedural instructions for responding to an emergency, including robbery or violent accident.

5.1.10 **Personnel Records.** Each compassion center shall maintain a personnel record for each employee, agent or volunteer that includes, as a minimum, the following:

- (a) An application for employment or to volunteer;
- (b) A record of any disciplinary action taken;
- (c) Documentation of all required training;

- (1) Documentation shall include a signed statement from the individual indicating the date, time and place he or she received said training and topics discussed, including the name and title of presenters; and
- (2) Documentation shall be maintained for a period of at least six (6) months after termination the individual's affiliation with the compassion center.

5.2 **Application for Operation of Compassion Center.** Applications shall only be accepted during an open application period announced by the Department. Each application for a compassion center shall be on forms provided by the Department and shall include:

- 5.2.1 A non-refundable application fee, as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.*
- 5.2.2 The proposed legal name, articles of incorporation and bylaws of the compassion center.
- 5.2.3 The proposed physical address of the compassion center, if a precise address has been determined. This shall also include the additional address to be used for the secure cultivation of medical marijuana (if applicable).
 - (a) Provide evidence of compliance with the local zoning laws for each physical address to be utilized as a compassion center or for the secure cultivation of medical marijuana;
 - (b) Provide evidence that all of the physical addresses identified in §5.2.3(a) of these Regulations are not located within one thousand feet (1,000') of the property line of a preexisting public or private school; or
 - (c) If a precise address has not been determined, identify the general location(s) where it would be sited, and when.
- 5.2.4 A description of the enclosed, locked facility that would be used in the cultivation of marijuana, including steps to ensure that the marijuana production shall not be visible from the street or other public areas.
- 5.2.5 A description of how the compassion center will operate on a not-for-profit basis:
 - (a) Documentation of recognition as a tax-exempt organization by the US Internal Revenue Service; or
 - (b) Other written materials which will allow the Department to determine the compassion center's ability to comply with the review criteria contained in §21-28.6-12(c)(3)(iii) of the Act.
- 5.2.6 The name, address, and date of birth of each principal officer and board member of the compassion center.
- 5.2.7 A description of proposed security and safety measures which demonstrate compliance with §5.1.7 of these Regulations,
- 5.2.8 A draft operations manual which demonstrates compliance with §5.1.8 of these Regulations.

- 5.2.9 A list of all persons or business entities having direct or indirect authority over the management or policies of the compassion center.
 - 5.2.10 A list of all persons or business entities having five percent (5%) or more ownership in the compassion center, whether direct or indirect and whether the interest is in profits, land or building, including owners of any business entity which owns all or part of the land or building. and
 - 5.2.11 The identities of all creditors holding a security interest in the premises, if any.
 - 5.2.12 **Complete Application Required.** Only applications which the Department has determined to be complete (i.e., adequately address all requirements in §§5.2.1-5.2.11 of these Regulations) shall be eligible for review pursuant to §5.3 of these Regulations. An applicant who submits an incomplete applications shall receive written notification from the Department regarding the specific deficiencies and shall be allowed to resubmit additional material to address these deficiencies.
- 5.3 **Compassion Center Application Review Criteria.** The Department shall utilize the criteria specified in §21-28.6-12(c)(3) of the Act to review applications for a registration certificate to operate a compassion center.
- 5.4 **Issuance of Registration Certificate Authorizing Operation of a Compassion Center.** When an applicant to operate a compassion center is notified that its application has been approved by the Department, it shall submit the following additional items to the Department before the registration certificate authorizing operation of a compassion center will be issued:
- 5.4.1 A certification fee, as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*;
 - 5.4.2 The legal name and articles of incorporation of the compassion center.
 - 5.4.3 The physical address of the compassion center. This shall include any additional address to be used for the secure cultivation of medical marijuana (if applicable).
 - (a) Provide evidence of compliance with the local zoning laws for each physical address to be utilized as a compassion center or for the secure cultivation of medical marijuana.
 - (b) Provide evidence that all of the physical addresses identified in §5.4.3(a) of these Regulations are not located within one thousand feet (1,000') of the property line of a preexisting public or private school.
 - (c) It shall not be necessary to resubmit any information provided pursuant to §5.2.3(a) and/or §5.2.3(b) of these Regulations unless there has been a change in that information.
 - 5.4.4 The name, address and date of birth of each principal officer and board member of the compassion center.
 - 5.4.5 The name, address and date of birth of any person who will be an agent, employee or volunteer of the compassion center at its inception.

- 5.4.6 Any updates to previously submitted information regarding compliance with §§5.1.7 and 5.1.8 of these Regulations.
- 5.4.7 A current Certificate of Occupancy (or equivalent document) to demonstrate compliance with the provisions of RIGL §23-28.1 [Fire Safety Code] for each physical address to be utilized as a compassion center or for the secure cultivation of medical marijuana.

5.5 Registry Identification Cards for Principal Officers, Board Members, Agents, Volunteers or Employees of a Compassion Center. The Department shall issue registry photo identification cards to each principal officer, board member, agent, volunteer or employee of a compassion center who is identified by the compassion center pursuant to §5.4 of these Regulations, subject to the requirements in §5.5.1, §5.5.2 and §5.5.3.

- 5.5.1 A non-returnable, non-refundable application or renewal fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* shall be submitted for each principal officer, board member, agent, volunteer or employee of the compassion center.
- 5.5.2 The compassion center shall also submit the name, address and date of birth of any additional principal officer, board member, agent, employee or volunteer of the compassion center and a non-returnable, non-refundable application or renewal fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* for each individual.
- 5.5.3 Pursuant to §21-28.6-12(c)(7)(i) of the Act, each compassion center principal officer, board member, agent, volunteer or employee shall apply³ to the Rhode Island State Police (RISP) for a national criminal identification records check that shall include fingerprints submitted to the Federal Bureau of Investigation (FBI) to demonstrate compliance with the eligibility requirements in §2.11 of these Regulations.
 - (a) (1) Upon the discovery of a felony drug offense conviction or a plea of *nolo contendere* for a felony drug offense with a sentence of probation, the RISP shall inform the applicant, in writing, of the nature of the felony and the RISP shall notify the Department, in writing, without disclosing the nature of the felony, that a felony drug offense conviction or a plea of *nolo contendere* for a felony drug offense with probation has been found;
 - (2) In those situations in which no felony drug offense conviction or plea of *nolo contendere* for a felony drug offense with probation has been found, the RISP shall inform the applicant and the Department, in writing, of this fact.

³ Applications shall only be submitted at Rhode Island State Police headquarters, ICU. Call (401) 444-1110 to arrange for an appointment..

- (b) Any expense associated with a national criminal identification records check that includes fingerprints submitted to the FBI shall be paid by the registry identification card applicant.
 - (c) The Department shall notify the compassion center in writing of the purpose for denying the registry identification card.
- 5.5.4 The Department shall issue each principal officer, board member, agent, volunteer or employee of a compassion center a registry identification card within ten (10) days of receipt of the information required by §5.5.1 or §5.5.2, and §5.5.3. The registry identification card shall contain:
- (a) The name, address and date of birth of the person;
 - (b) The legal name of the compassion center that the individual is affiliated with;
 - (c) The category of the person's affiliation (principal officer, board member, agent, volunteer or employee);
 - (d) The date of issuance and expiration date of the registry identification card;
 - (e) A random registry identification number; and
 - (f) A photograph.
- 5.5.5 **Expiration Date.** The registry identification card of a principal officer, board member, agent, volunteer or employee shall expire one (1) year after its issuance, upon the termination of the principal officer, board member, agent, volunteer or employee's relationship with the compassion center or upon the expiration of the compassion center's registration certificate, whichever occurs first.
- 5.6 **Expiration, Termination or Renewal of a Registration Certificate Authorizing Operation of a Compassion Center.**
- 5.6.1 A compassion center's registration shall expire two (2) years after its registration certificate is issued. The compassion center may submit a renewal application beginning sixty (60) days prior to the expiration of its registration certificate;
- 5.6.2 The Department shall grant a compassion center's renewal application within thirty (30) days of its submission if the following conditions are all satisfied:
- (a) The compassion center submits the materials required under §5.4 of these Regulations, including a fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*;
 - (b) The Department has not ever suspended the compassion center's registration for violations of the Act or these Regulations;
 - (c) The Legislative Oversight Committee's report, if issued pursuant to §21-28.6-12(j) of the Act, indicates that the compassion center is adequately providing patients with access to medical marijuana at reasonable rates; and

- (d) The Legislative Oversight Committee's report, if issued pursuant to §21-28.6-12(j) of the Act, does not raise serious concerns about the continued operation of the compassion center applying for renewal.
- 5.6.3 If the Department determines that any of the conditions listed in §§5.6.2(b), 5.6.2(c) or 5.6.2(d) of these Regulations have not been met, the Department shall begin an open application process for the operation of a compassion center. In granting a new registration certificate, the Department shall consider the review criteria listed in §21-28-12(c)(3) of the Act.
- 5.6.4 The Department shall issue a compassion center one (1) or more thirty (30) day temporary registration certificates after that compassion center's registration would otherwise expire if the following conditions are all satisfied:
 - (a) The compassion center previously applied for a renewal, but the Department had not yet come to a decision;
 - (b) The compassion center requested a temporary registration certificate; and
 - (c) The compassion center has not had its registration certificate revoked due to violations of the Act or these Regulations.
- 5.7. **Non-transferable Registration Certificate Authorizing Operation of a Compassion Center.**
 - 5.7.1 A registration certificate authorizing operation of a compassion center shall not be transferred by assignment or otherwise to other persons or locations. Unless the compassion center applies for and receives an amended registration certificate authorizing operation of a compassion center, the registration certificate shall be void and returned to the Department when one (1) or more of the following situations occurs:
 - (a) A change in ownership of the compassion center;
 - (b) A change in one (1) or more authorized physical locations; or
 - (c) The compassion center discontinues its operation.
 - 5.7.2 A compassion center shall provide the Department with a written notice of any change described in §5.7.1 of these Regulations at least sixty (60) days prior to the proposed effective date of the change. The Department may waive all or part of the required advance notice to address emergent or emergency situations.
 - 5.7.3 Transactions which usually do not constitute a change of ownership include the following:
 - (a) Changes in the membership of a board of directors or board of trustees; or
 - (b) Two (2) or more legal entities merge and the entity to whom the registration certificate authorizing operation of a compassion center was issued survives.
 - 5.7.4 Management agreements are generally not considered a change in ownership if the entity to whom the registration certificate authorizing operation of a compassion center was issued continues to retain ultimate authority for the operation of the compassion center. However, if the ultimate authority is

surrendered and transferred from the entity to whom the registration certificate authorizing operation of a compassion center was issued to a new manager, then a change of ownership has occurred.

5.8 **Maximum Amount of Usable Marijuana to be Dispensed.**

- 5.8.1 A compassion center or principal officer, board member, agent, volunteer or employee of a compassion center shall not dispense, deliver or otherwise transfer marijuana to a person other than a qualifying patient who has designated the compassion center as a primary caregiver or to such patient's other primary caregiver.
- 5.8.2 A compassion center or principal officer, board member, agent, volunteer or employee of a compassion center shall not dispense more than two and one half ounces (2.5 oz) of usable marijuana to a qualifying patient directly or through a qualifying patient's other primary caregiver during a fifteen (15) day period.
- 5.8.3 A compassion center or principal officer, board member, agent, volunteer or employee of a compassion center shall not dispense an amount of usable marijuana or marijuana plants to a qualifying patient or a qualifying patient's other primary caregiver that the compassion center, principal officer, board member, agent, volunteer or employee knows would cause the recipient to possess more marijuana than is permitted under the Act or these Regulations.
- 5.8.4 A person found to have violated §5.8.1 of these Regulations is not eligible to be an employee, agent, volunteer, principal officer or board member of any compassion center, and such person's registry identification card shall be immediately revoked.

- 5.9 **Inspection.** Compassion centers are subject to reasonable inspection by the Department's Office of Facilities Regulation. During an inspection, the Department may review the compassion center's confidential records, including its dispensing records, which shall track transactions according to qualifying patients' registry identification numbers to protect their confidentiality.

Section 6.0 ***Protections for the Medical Use of Marijuana***

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

bureau solely for discussing the benefits or health risks of medical marijuana or its interaction with other substances with a patient.

- 6.3 A registry identification card, or its equivalent, issued under the laws of another state, U.S. territory, or the District of Columbia to permit the medical use of marijuana by a patient with a debilitating medical condition, or to permit a person to assist with the medical use of marijuana by a patient with a debilitating medical condition, shall have the same force and effect as a registry identification card issued by the Department pursuant to the Act and these Regulations.
- 6.4 For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of marijuana shall be considered the equivalent of the authorized use of any other medication used at the direction of a physician, and shall not constitute the use of an illicit substance.
- 6.5 No state employee shall be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty, disciplinary action, termination, or loss of employee or pension benefits, for any and all conduct that occurs within the scope of his or her employment regarding the administration, execution and/or enforcement of the Act, and the provisions of RIGL §9-31-8 and §9-31-9 shall be applicable to this section.

Section 7.0 *Confidentiality Provisions*

- 7.1 Applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and practitioners, are confidential and protected under the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended.
- 7.2 The Department shall maintain a confidential list of the persons to whom the Department has issued registry identification cards.
 - 7.2.1 Individual names and other identifying information on the list:
 - (a) Shall be confidential and not be considered a public record pursuant to RIGL §38-2-2(4); and
 - (b) Shall not subject to disclosure, except to authorized employees of the Department as necessary to perform official duties of the Department.
- 7.3 The Department shall verify to law enforcement personnel whether a registry identification card is valid solely by confirming the random registry identification number.
- 7.4 All records maintained by a compassion center which pertain to one or more registered qualifying patients or other registered primary caregivers shall be considered:
 - 7.4.1 Confidential health care information under applicable Rhode Island law; and

- 7.4.2 Protected health care information for purposes of the Federal Health Insurance Portability and Accountability Act of 1996, as amended.
- 7.5 Pursuant to §21-28.6-6(j) of the Act, the Department may notify law enforcement personnel about falsified or fraudulent information submitted to the Department.

Section 8.0 *Scope of the Act*

- 8.1 The Act and these Regulations shall not permit:
 - 8.1.1 Any person to undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice;
 - 8.1.2 The smoking of marijuana:
 - (a) In a school bus or other form of public transportation;
 - (b) On any school grounds;
 - (c) In any correctional facility;
 - (d) In any public place;
 - (e) In any licensed drug treatment facility in this state; or
 - (f) Where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.
 - 8.1.3 Any person to operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana. However, a registered qualifying patient shall not be considered to be under the influence solely for having marijuana metabolites in his or her system.
- 8.2 Nothing in the Act or these Regulations shall be construed to require:
 - 8.2.1 A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or
 - 8.2.2 An employer to accommodate the medical use of marijuana in any workplace.

Section 9.0 *Penalties for Violations*

- 9.1 Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be punishable by a fine of five hundred dollars (\$500) which shall be in addition to any other penalties that may apply for making a false statement for the non-medical use of marijuana.
- 9.2 If a cardholder willfully violates any provision of the Act or these Regulations, as determined by the Department, his or her registry identification card may be revoked.
- 9.3 A registered qualifying patient who fails to notify the Department of any changes required pursuant to §4.7.2 of these Regulations shall be responsible for a civil infraction, punishable by a fine of no more than one hundred fifty dollars (\$150)

- 9.4 A primary caregiver, principal officer, board member, employee, volunteer or agent of a compassion center who fails to notify the Department of any changes required pursuant to §4.7.3 of these Regulations shall be responsible for a civil infraction, punishable by a fine of no more than one hundred fifty dollars (\$150).
- 9.5 An employee, agent, volunteer, principal officer or board member of any compassion center found in violation of §21-28.6-12(i)(2) of the Act shall have his or her registry identification revoked immediately.
- 9.6 A compassion center's registry identification card shall be subject to revocation if the compassion center:
- (a) Possesses an amount of marijuana exceeding the limits established by the Act or these Regulations;
 - (b) Is in violation of the laws of Rhode Island;
 - (c) Is in violation of other regulations issued by the Department; or
 - (d) Employs or enters into a business relationship with a medical practitioner who provides written certification of a qualifying patient's medical condition.

Section 10.0 *Practices and Procedures*

- 10.1 All hearings and reviews required under the provisions of RIGL Chapter 21-28.6 of the General Laws of Rhode Island, as amended, shall be held in accordance with the provisions of the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health [R42-35-PP]*.

Section 11.0 *Severability*

- 11.1 If any provision of the Act or these Regulations or its application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act or these Regulations, which can be given effect without the invalid provision or application, and to this end the provisions of the Act and these Regulations are declared to be severable.