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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO FOOD AND DRUGS - MEDICAL MARIJUANA

Introduced By: Representatives Corvese, Jacquard, Phillips, Ucci, and Coughlin

Date Introduced: January 12, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

4 **21-28.6-6. Administration of department of health regulations.**

5 (a) The department of health shall issue registry identification cards to qualifying patients  
6 who submit the following, in accordance with the department's regulations:

7 (1) Written certification as defined in § 21-28.6-3(24) of this chapter;

8 (2) Application or renewal fee;

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

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

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

13 and

14 (6) Name, address, and date of birth of one primary caregiver of the qualifying patient  
15 and one authorized purchaser for the qualifying patient, if any.

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

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

1 legal custody of the qualifying patient; and

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

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

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

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

7 (c) The department of health shall verify the information contained in an application or  
8 renewal submitted pursuant to this section, and shall approve or deny an application or renewal  
9 within thirty-five (35) days of receiving it. The department may deny an application or renewal  
10 only if the applicant did not provide the information required pursuant to this section, or if the  
11 department determines that the information provided was falsified. Rejection of an application or  
12 renewal is considered a final department action, subject to judicial review. Jurisdiction and venue  
13 for judicial review are vested in the superior court.

14 (d) If the qualifying patient's practitioner notifies the department in a written statement  
15 that the qualifying patient is eligible for hospice care or chemotherapy, the department of health  
16 shall give priority to these applications when verifying the information in accordance with  
17 subsection (c). Effective January 1, 2017, the department of health shall approve or deny a  
18 registry identification card to these qualifying patients within five (5) days of receipt of an  
19 application. The department of health may identify through regulation a list of other conditions  
20 qualifying a patient for expedited application processing.

21 (e) The department of health shall issue a registry identification card to the qualifying  
22 patient cardholder's primary caregiver, if any, who is named in the qualifying patient's approved  
23 application.

24 (1) A primary caregiver applicant or an authorized purchaser applicant shall apply to the  
25 bureau of criminal identification of the department of attorney general, department of public  
26 safety division of state police, or local police department for a national criminal records check  
27 that shall include fingerprints submitted to the Federal Bureau of Investigation. Upon the  
28 discovery of any disqualifying information as defined in subdivision (e)(4), and in accordance  
29 with the rules promulgated by the director, the bureau of criminal identification of the department  
30 of attorney general, department of public safety division of state police, or the local police  
31 department shall inform the applicant, in writing, of the nature of the disqualifying information;  
32 and, without disclosing the nature of the disqualifying information, shall notify the department, in  
33 writing, that disqualifying information has been discovered.

34 (2) In those situations in which no disqualifying information has been found, the bureau

1 of criminal identification of the department of attorney general, department of public safety  
2 division of state police, or the local police shall inform the applicant and the department, in  
3 writing, of this fact.

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

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

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

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

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

34 (ii) Effective January 1, 2017, and thereafter, the department of health shall issue registry

1 identification cards within five (5) business days of approving an application or renewal that shall  
2 expire one year after the date of issuance.

3 (iii) Registry identification cards shall contain:

4 (1) The date of issuance and expiration date of the registry identification card;

5 (2) A random registry identification number;

6 (3) A photograph; and

7 (4) Any additional information as required by regulation or the department of health.

8 (g) Persons issued registry identification cards by the department of health shall be  
9 subject to the following:

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

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

18 (3) A primary caregiver cardholder or authorized purchaser shall notify the department of  
19 health of any change in his or her name or address within ten (10) days of such change. A primary  
20 caregiver cardholder or authorized purchaser who fails to notify the department of any of these  
21 changes is responsible for a civil infraction, punishable by a fine of no more than one hundred  
22 fifty dollars (\$150).

23 (4) When a qualifying patient cardholder or primary caregiver cardholder notifies the  
24 department of health of any changes listed in this subsection, the department of health shall issue  
25 the qualifying patient cardholder and each primary caregiver cardholder a new registry  
26 identification card within ten (10) days of receiving the updated information and a ten-dollar  
27 (\$10.00) fee.

28 (5) When a qualifying patient cardholder changes his or her primary caregiver or  
29 authorized purchaser, the department of health shall notify the primary caregiver cardholder or  
30 authorized purchaser within ten (10) days. The primary caregiver cardholder's protections as  
31 provided in this chapter as to that patient shall expire ten (10) days after notification by the  
32 department. If the primary caregiver cardholder or authorized purchaser is connected to no other  
33 qualifying patient cardholders in the program, he or she must return his or her registry  
34 identification card to the department.

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

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

9 (8) If a cardholder or authorized purchaser willfully violates any provision of this chapter  
10 as determined by the department, his or her registry identification card may be revoked.

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

15 (i) (1) Applications and supporting information submitted by qualifying patients,  
16 including information regarding their primary caregivers, authorized purchaser, and practitioners,  
17 are confidential and protected under the federal Health Insurance Portability and Accountability  
18 Act of 1996, and shall be exempt from the provisions of chapter 2 of title 38 et seq. (Rhode Island  
19 access to public records act) and not subject to disclosure, except to authorized employees of the  
20 department of health as necessary to perform official duties of the department, and pursuant to  
21 subsection (j).

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

28 (3) The department of health shall maintain a confidential list of the persons to whom the  
29 department of health has issued registry identification cards. Individual names and other  
30 identifying information on the list shall be confidential, exempt from the provisions of Rhode  
31 Island access to public information, chapter 2 of title 38, and not subject to disclosure, except to  
32 authorized employees of the department of health as necessary to perform official duties of the  
33 department.

34 [\(4\) Notwithstanding any confidentiality provisions to the contrary, the names and](#)

1 [addresses for person or entity, including state licensed or state registered caregivers or cultivators,](#)  
2 [who grow marijuana pursuant the provisions of this chapter for public sale or use shall be public](#)  
3 [information, subject to release by the department of health.](#)

4 (j) Notwithstanding subsection (i), the department of health shall verify to law  
5 enforcement personnel whether a registry identification card is valid solely by confirming the  
6 random registry identification number or name. This verification may occur through the use of a  
7 shared database, provided that any confidential information in this database is protected in  
8 accordance with subdivision (i)(1).

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

15 (l) On or before the fifteenth day of the month following the end of each quarter of the  
16 fiscal year, the department of health shall report to the governor, the speaker of the house of  
17 representatives, and the president of the senate on applications for the use of marijuana for  
18 symptom relief. The report shall provide:

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

25 (m) On or before September 30 of each year, the department of health shall report to the  
26 governor, the speaker of the house of representatives, and the president of the senate on the use of  
27 marijuana for symptom relief. The report shall provide:

28 (1) The total number of applications for registration as a qualifying patient, primary  
29 caregiver, or authorized purchaser that have been made to the department, the number of  
30 qualifying patients, primary caregivers, and authorized purchasers approved, the nature of the  
31 debilitating medical conditions of the qualifying patients, the number of registrations revoked,  
32 and the number and specializations, if any, of practitioners providing written certification for  
33 qualifying patients;

34 (2) The number of active qualifying patient, primary caregiver, and authorized purchaser

1 registrations as of June 30 of the preceding fiscal year;

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

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

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

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

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO FOOD AND DRUGS - MEDICAL MARIJUANA

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- 1 This act would classify as public information the names and addresses of anyone or entity
- 2 who legally grows marijuana and who also sells or gives it away to others.
- 3 This act would take effect upon passage.

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