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LC003468/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO FOOD AND DRUGS

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

Date Introduced: January 08, 2020

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. 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 departments of health and business regulation**
5 **regulations.**

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

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

10 (2) Application fee, as applicable;

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

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

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

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

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

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

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

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

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

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

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

14 (d) The department of health shall not issue a registry identification card to a qualifying
15 patient seeking treatment for post-traumatic stress disorder (PTSD) under the age of eighteen
16 (18).

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

25 (f) If the qualifying patient's practitioner notifies the department of health in a written
26 statement that the qualifying patient is eligible for hospice care or chemotherapy, the department
27 of health and department of business regulation, as applicable, shall give priority to these
28 applications when verifying the information in accordance with subsection (e) and issue a registry
29 identification card to these qualifying patients, primary caregivers and authorized purchasers
30 within seventy-two (72) hours of receipt of the completed application. The departments shall not
31 charge a registration fee to the patient, caregivers or authorized purchasers named in the
32 application. The department of health may identify through regulation a list of other conditions
33 qualifying a patient for expedited application processing.

34 (g) Following the promulgation of regulations pursuant to § 21-28.6-5(c), the department

1 of business regulation may issue or renew a registry identification card to the qualifying patient
2 cardholder's primary caregiver, if any, who is named in the qualifying patient's approved
3 application. The department of business regulation shall verify the information contained in
4 applications and renewal forms submitted pursuant to this chapter prior to issuing any registry
5 identification card. The department of business regulation may deny an application or renewal if
6 the applicant or appointing patient did not provide the information required pursuant to this
7 section, or if the department determines that the information provided was falsified, or if the
8 applicant or appointing patient has violated this chapter under his or her previous registration or
9 has otherwise failed to satisfy the application or renewal requirements.

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

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

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

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

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

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

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

29 (8) ~~(i)~~ The office of cannabis regulation may adopt rules and regulations based on federal
30 guidance provided those rules and regulations are designed to comply with federal guidance and
31 mitigate federal enforcement against the registrations and licenses issued under this chapter.

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

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

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

8 (3) Registry identification cards shall contain:

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

10 (ii) A random registry identification number;

11 (iii) A photograph; and

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

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

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

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

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

29 (4) When a qualifying patient cardholder or primary caregiver cardholder notifies the
30 department of health or department of business regulation, as applicable, of any changes listed in
31 this subsection, the department of health or department of business regulation, as applicable, shall
32 issue the qualifying patient cardholder and each primary caregiver cardholder a new registry
33 identification card within ten (10) days of receiving the updated information and a ten-dollar
34 (\$10.00) fee.

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

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

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

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

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

24 (k)(1) Applications and supporting information submitted by qualifying patients,
25 including information regarding their primary caregivers, authorized purchaser, and practitioners,
26 are confidential and protected in accordance with the federal Health Insurance Portability and
27 Accountability Act of 1996, as amended, and shall be exempt from the provisions of chapter 2 of
28 title 38 et seq. (Rhode Island access to public records act) and not subject to disclosure, except to
29 authorized employees of the department of health and business regulation as necessary to perform
30 official duties of the departments, and pursuant to subsections (l) and (m).

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

1 conducted in Rhode Island. The department of health may also notify those patients of medical
2 studies conducted outside of Rhode Island.

3 (3) The department of health and the department of business regulation, as applicable,
4 shall maintain a confidential list of the persons to whom the department of health or department
5 of business regulation has issued authorized patient, primary caregiver, and authorized purchaser
6 registry identification cards. Individual names and other identifying information on the list shall
7 be confidential, exempt from the provisions of Rhode Island access to public information, chapter
8 2 of title 38, and not subject to disclosure, except to authorized employees of the departments of
9 health and business regulation as necessary to perform official duties of the departments and
10 pursuant to subsections (l) and (m) of this section.

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

21 (m) It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a
22 one thousand dollar (\$1,000) fine, for any person, including an employee or official of the
23 departments of health, business regulation, public safety, or another state agency or local
24 government, to breach the confidentiality of information obtained pursuant to this chapter.
25 Notwithstanding this provision, the department of health and department of business regulation
26 employees may notify law enforcement about falsified or fraudulent information submitted to the
27 department or violations of this chapter. Nothing in this act shall be construed as to prohibit law
28 enforcement, public safety, fire, or building officials from investigating violations of, or enforcing
29 state law.

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

34 (1) The number of applications for registration as a qualifying patient, primary caregiver,

1 or authorized purchaser that have been made to the department of health and the department of
2 business regulation during the preceding quarter, the number of qualifying patients, primary
3 caregivers, and authorized purchasers approved, the nature of the debilitating medical conditions
4 of the qualifying patients, the number of registrations revoked, and the number and
5 specializations, if any, of practitioners providing written certification for qualifying patients.

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

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

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

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

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

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

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

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

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

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

34 (3) The number of marijuana plant tag sets ordered, delivered, and currently held within

1 the state;

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

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

7 **2-26-6. Rulemaking authority.**

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

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

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

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

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

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

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

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

5 This act would take effect upon passage.

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