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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO FOOD AND DRUGS -- MEDICAL MARIJUANA ACT

Introduced By: Representatives Keable, and Carnevale

Date Introduced: April 16, 2015

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 21-28.6-3 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 **21-28.6-3. Definitions.** -- For the purposes of this chapter:

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

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

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

15 (3) "Debilitating medical condition" means:

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

18 (ii) A chronic or debilitating disease or medical condition, or its treatment, that produces
19 one or more of the following: cachexia or wasting syndrome; severe, debilitating, chronic pain;

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

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

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

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

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

10 (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 patient cardholder's debilitating medical condition or symptoms
13 associated with the medical condition.

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

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

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

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

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

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

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

1 debilitating medical condition or conditions.

2 SECTION 2. Section 21-28.6-14 of the General Laws in Chapter 21-28.6 entitled "The
3 Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act" is hereby repealed.

4 ~~**21-28.6-14. Cooperative cultivations.**~~ (a) ~~Two (2) or more cardholders may~~
5 ~~cooperatively cultivate marijuana in residential or non-residential locations subject to the~~
6 ~~following restrictions:~~

7 ~~(1) A cardholder can only cooperatively cultivate in one location;~~

8 ~~(2) No single location may have more than one cooperative cultivation. For the purposes~~
9 ~~of this section, location means one structural building, not units within a structural building.~~

10 ~~(3) The cooperative cultivation shall not be visible from the street or other public areas;~~

11 ~~(4) A written acknowledgement of the limitations of the right to use and possess~~
12 ~~marijuana for medical purposes in Rhode Island that is signed by each cardholder and is~~
13 ~~displayed prominently in the premises cooperative cultivation.~~

14 ~~(5) Cooperative cultivations are restricted to the following possession limits:~~

15 ~~(i) A non-residential, cooperative cultivation may have no more than ten (10) ounces of~~
16 ~~usable marijuana, forty-eight (48) mature marijuana plants, and twenty-four (24) seedlings.~~

17 ~~(ii) A residential, cooperative cultivation may have no more than ten (10) ounces of~~
18 ~~useable marijuana, twenty-four (24) mature marijuana plants, and twelve (12) seedlings.~~

19 ~~(6) Cooperative cultivations must be inspected as follows:~~

20 ~~(i) A non-residential, cooperative cultivation must have displayed prominently on the~~
21 ~~premises documentation from the municipality where the single location is located that the~~
22 ~~location and the cultivation has been inspected by the municipal building and/or zoning official~~
23 ~~and the municipal fire department and is in compliance with any applicable state or municipal~~
24 ~~housing and zoning codes.~~

25 ~~(ii) A residential cooperative cultivation must have displayed prominently on the~~
26 ~~premises an affidavit by a licensed electrician that the cultivation has been inspected and is in~~
27 ~~compliance with any applicable state or municipal housing and zoning codes for the municipality~~
28 ~~where the cooperative cultivation is located.~~

29 ~~(7) Cooperative cultivations must report the location of the cooperative cultivation to the~~
30 ~~division of state police.~~

31 ~~(8) The reports provided to the division of state police in subsection (8) of this section~~
32 ~~shall be confidential, but locations may be confirmed for law enforcement purposes. The report of~~
33 ~~the location of the cooperative cultivation alone shall not constitute probable cause for a search of~~
34 ~~the cooperative cultivation.~~

1 ~~(b) Any violation of any provision of this section shall result in the immediate revocation~~
2 ~~of the cardholder's registry identification card.~~

3 SECTION 3. Chapter 21-28.6 of the General Laws entitled "The Edward O. Hawkins and
4 Thomas C. Slater Medical Marijuana Act" is hereby amended by adding thereto the following
5 sections:

6 **21-28.6-15. Marijuana cultivation centers.** – A marijuana cultivation center registered
7 under this chapter may acquire, possess, cultivate, manufacture, deliver, transfer, transport, or
8 supply marijuana to a registered compassion center, or other entity authorized by law to dispense
9 or sell marijuana.

10 **21-28.6-16. Registration of marijuana cultivation center -- Department authority.** –

11 (a) Not later than ninety (90) days after the effective date of this section, the department shall
12 promulgate regulations governing the manner in which it shall consider applications for
13 registration certificates for marijuana cultivation centers, including regulations governing:

- 14 (1) The form and content of registration and renewal applications;
15 (2) Minimum oversight requirements for marijuana cultivation centers;
16 (3) Minimum record-keeping requirements for marijuana cultivation centers;
17 (4) Minimum security requirements for marijuana cultivation centers; and
18 (5) Procedures for suspending, revoking or eliminating the registration certificates of
19 marijuana cultivation centers, that violate the provisions of this section or the regulations
20 promulgated pursuant to this subsection.

21 (b) Within ninety (90) days of the effective date of this section, the department shall
22 begin accepting applications for the operation of a marijuana cultivation center.

23 (c) Within one hundred fifty (150) days of the effective date of this section, the
24 department shall provide for at least one public hearing on the granting of an application to a
25 marijuana cultivation center.

26 (d) Within one hundred ninety (190) days of the effective date of this section, the
27 department shall grant a registration certificate to a marijuana cultivation center, providing at
28 least one applicant has applied who meets the requirements of this chapter.

29 (e) If at any time after fifteen (15) months after the effective date of this section, there is
30 no operational marijuana cultivation center in Rhode Island, the department shall accept
31 applications, provide for input from the public, and issue a registration certificate for a new
32 marijuana cultivation center if a qualified applicant exists.

33 (f) Within two (2) years of the effective date of this section, the department shall begin
34 accepting applications to provide registration certificates for one additional marijuana cultivation

1 center. The department shall solicit input from the public, and issue registration certificates if a
2 qualified applicant exists.

3 (g) Any time a marijuana cultivation center's registration certificate is revoked, is
4 relinquished, or expires, the department shall accept applications for a new marijuana cultivation
5 center.

6 (h) If at any time after three (3) years after the effective date of this section, fewer than
7 two (2) marijuana cultivation centers are holding valid registration certificates in Rhode Island,
8 the department shall accept applications for a new cultivation center. No more than two (2)
9 cultivation centers may hold valid registration certificates at one time.

10 **21-28.6-17. Applications. – Marijuana cultivation centers, and agent applications and**
11 **registrations shall be as set forth herein:**

12 (1) Each application for a marijuana cultivation center shall include:

13 (i) A non-refundable application fee paid to the department in the amount of one
14 thousand dollars (\$1000);

15 (ii) The proposed legal name and proposed articles of incorporation of the marijuana
16 cultivation center;

17 (iii) The proposed physical address of the marijuana cultivation center, and proof that the
18 location is already zoned for manufacturing or industrial use;

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

21 (v) The name, addresses, and date of birth of each principal officer and board member of
22 the marijuana cultivation center;

23 (vi) Proposed security and safety measures which shall include at least one security alarm
24 system for each location, planned measures to deter and prevent the unauthorized entrance into
25 areas containing marijuana and the theft of marijuana, as well as a draft employee instruction
26 manual including security policies, safety and security procedures, personal safety and crime
27 prevention techniques; and

28 (vii) Proposed procedures to ensure accurate record keeping.

29 (2) Any time one or more marijuana cultivation centers' registration applications are
30 being considered, the department shall also allow for comment by the public.

31 (3) Each time a marijuana cultivation centers' registration certificate is granted, the
32 decision shall be based upon the need of compassion centers for cultivated marijuana and the
33 safety of the public, including, but not limited to, the following factors:

34 (i) The safety of the public in having the marijuana cultivated under strict quality control

1 regulations:

2 (ii) The safety of the public in having regulated cultivation centers distributing solely to
3 the compassion centers;

4 (iii) The applicant's ability to provide a steady supply to the registered compassion
5 centers in the state;

6 (iv) The applicant's experience running a for-profit business and its ability to acquire two
7 million (\$2,000,000) dollars of working capital;

8 (v) The interests of the city or town where the cultivation center would be located; and

9 (vi) The sufficiency of the applicant's plans for the proper cultivation of marijuana in an
10 ideal environment and under the strictest regulations.

11 (4) After a marijuana cultivation center is approved, but before it begins operations, it
12 shall submit the following to the department:

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

14 (ii) The legal name and articles of incorporation of the marijuana cultivation center;

15 (iii) The physical address of the marijuana cultivation centers;

16 (iv) The name, address, and date of birth of each principal officer and board member of
17 the cultivation center; and

18 (v) The name, address, and date of birth of any person who will be an agent or, employee
19 of the cultivation center at its inception.

20 (5) The department shall track the number of registered cultivation centers who designate
21 a marijuana compassion center as a distributor for its medical marijuana.

22 (6) Except as provided in subsection (7) of this section, the department shall issue each
23 principal officer, board member, agent, and employee of a marijuana cultivation center, a registry
24 identification card or renewal card within ten (10) days of receipt of the person's name, address,
25 date of birth; a fee in an amount established by the department; and notification to the department
26 by the state police that the registry identification card applicant has not been convicted of a felony
27 drug offense or has not entered a plea of nolo contendere for a felony drug offense and received a
28 sentence of probation. Each card shall specify that the cardholder is a principal officer, board
29 member, agent, or employee of a marijuana cultivation center and shall contain the following:

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

32 (ii) The legal name of the marijuana cultivation center to which the principal officer,
33 board member, agent, or employee is affiliated;

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

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

2 (v) A photograph, if the department decides to require one.

3 (7) Except as provided in this subsection, the department shall not issue a registry
4 identification card to any principal officer, board member, agent, or employee of a marijuana
5 cultivation center who has been convicted of a felony drug offense or has entered a plea of nolo
6 contendere for a felony drug offense and received a sentence of probation. The department shall
7 notify the marijuana cultivation center in writing of the purpose for denying the registry
8 identification card. All registry identification card applicants shall apply to the state police for a
9 national criminal identification records check that shall include fingerprints submitted to the
10 federal bureau of investigation. Upon the discovery of a felony drug offense conviction or a plea
11 of nolo contendere for a felony drug offense with a sentence of probation, and in accordance with
12 the rules promulgated by the director, the state police shall inform the applicant, in writing, of the
13 nature of the felony and the state police shall notify the department, in writing, without disclosing
14 the nature of the felony, that a felony drug offense conviction or a plea of nolo contendere for a
15 felony drug offense with probation has been found. In those situations in which no felony drug
16 offense conviction or plea of nolo contendere for a felony drug offense with probation has been
17 found, the state police shall inform the applicant and the department, in writing, of this fact. All
18 registry identification card applicants shall be responsible for any expense associated with the
19 criminal background check with fingerprints. A registry identification card of a principal officer,
20 board member, agent, or employee shall expire one year after its issuance, or upon the expiration
21 of the registered organization's registration certificate, or upon the termination of the principal
22 officer, board member, agent, or employee's relationship with the cultivation center, whichever
23 occurs first.

24 **21-28.6-18. Expiration or termination.** – (a) Expiration or termination of marijuana
25 cultivation center's registration certificate shall be as set forth herein:

26 (1) A marijuana cultivation center's registration certificate shall expire five (5) years after
27 its registration certificate is issued. The cultivation center may submit a renewal application
28 beginning sixty (60) days prior to the expiration of its registration certificate. The department
29 shall grant a cultivation center's renewal application within thirty (30) days of its submission if
30 the following conditions are all satisfied:

31 (i) The marijuana cultivation center submits the materials required including the five
32 thousand dollar (\$5,000) fee;

33 (ii) The marijuana cultivation center's registration has never been suspended for
34 violations of this chapter or regulations issued pursuant to this chapter;

1 (iii) The legislative oversight committee's report, if issued, does not raise serious
2 concerns about the continued operation of the marijuana cultivation center applying for renewal.

3 (2) If the department determines that any of the conditions listed above have not been
4 met, and the center's registration certificate is terminated, the department shall begin an open
5 application process for the operation of a new marijuana cultivation center. In granting a new
6 registration certificate, the department shall consider factors listed in this section.

7 (3) The department shall issue a marijuana cultivation center one or more thirty (30) day
8 temporary registration certificates after that cultivation center's registration certificate would
9 otherwise expire if the following conditions are all satisfied:

10 (i) The marijuana cultivation center previously applied for a renewal, but the department
11 had not yet come to a decision;

12 (ii) The marijuana cultivation center requested a temporary registration certificate; and

13 (iii) The marijuana cultivation center has not had its registration certificate revoked due
14 to violations of this chapter or regulations issued pursuant to this chapter.

15 (4) A marijuana cultivation center registry identification card shall be subject to
16 revocation if the cultivation center:

17 (i) Is in violation of the laws of this state; or

18 (ii) Is in violation of other departmental regulations.

19 **21-28.6-19. Inspections.** – Marijuana cultivation centers are subject to unlimited
20 inspection by the department of health, division of facilities regulation. During an inspection, the
21 department may review the marijuana cultivation center's records, including its distribution
22 records, which shall track transactions according to the production of each verified plant.

23 **21-28.6-20. Center requirements.** – (a) Marijuana cultivation center requirements shall
24 be as set forth herein:

25 (1) A marijuana cultivation center may not be located within one thousand feet (1,000') of
26 the property line of a preexisting public or private school.

27 (2) A marijuana cultivation center shall notify the department within ten (10) days of
28 when a principal officer, board member, agent, or employee ceases to work at the marijuana
29 cultivation center. His or her registry identification card shall be deemed null and void and the
30 person shall be liable for any penalties that may apply.

31 (3) A marijuana cultivation center shall notify the department in writing of the name,
32 address, and date of birth of any new principal officer, board member, agent, or employee and
33 shall submit a fee in an amount established by the department for a new registry identification
34 card before that person begins his or her relationship with the marijuana cultivation center.

1 (4) A marijuana cultivation center shall implement appropriate security measures to deter
2 and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana
3 and shall insure that each location has an operational security alarm system. Each marijuana
4 cultivation center shall request that the Rhode Island state police visit the marijuana cultivation
5 center to inspect the security of the facility and make any recommendations regarding the security
6 of the facility and its personnel within ten (10) days prior to the initial opening of each marijuana
7 cultivation center. Said recommendations shall not be binding upon any marijuana cultivation
8 center, nor shall the lack of implementation of said recommendations delay or prevent the
9 opening or operation of any center. If the Rhode Island state police do not inspect the cultivation
10 center within the ten (10) day period there shall be no delay in the marijuana cultivation center's
11 opening.

12 (5) The operating documents of a marijuana cultivation center shall include procedures
13 for the oversight of the cultivation center and procedures to ensure accurate record keeping.

14 (6) A marijuana cultivation center is prohibited from acquiring, possessing, cultivating,
15 manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any
16 purpose except to provide cultivated marijuana to a compassion center or any entity authorized by
17 law.

18 (7) All principal officers and board members of a marijuana cultivation center must be
19 residents of the state of Rhode Island and cannot have any affiliation whatsoever with a
20 compassion center in the state of Rhode Island.

21 (8) Each marijuana cultivation center shall develop, implement, and maintain on the
22 premises, employee and agent policies and procedures to address the following requirements:

23 (i) A job description or employment contract developed for all employees and agents,
24 which includes duties, authority, responsibilities, qualifications, and supervision; and

25 (ii) Each marijuana cultivation center shall maintain a personnel record for each
26 employee and agent that includes an application and a record of any disciplinary action taken.

27 (9) Each marijuana cultivation center shall develop, implement, and maintain on the
28 premises an on-site training curriculum, or enter into contractual relationships with outside
29 resources capable of meeting employee training needs, which includes, but is not limited to the
30 following topics:

31 (i) Professional conduct, ethics; and

32 (ii) Informational developments in the field of cultivating marijuana.

33 (10) Each cultivation center entity shall provide each employee and agent, at the time of
34 his or her initial appointment, training in the following:

1 (i) The proper use of security measures and controls that have been adopted; and
2 (ii) Specific procedural instructions on how to respond to an emergency, including
3 robbery or violent accident.

4 (b) All marijuana cultivation centers shall prepare training documentation for each
5 employee and have employees sign a statement indicating the date, time, and place the employee
6 received said training and topics discussed, to include the name and title of presenters. The
7 cultivation center shall maintain documentation of an employee's training for a period of at least
8 six (6) months after termination of an employee's employment.

9 **21-28.6-21. Immunity.** – (a) No registered marijuana cultivation center shall be subject
10 to prosecution, search, except by the department pursuant to this section, seizure, or penalty in
11 any manner, or denied any right or privilege, including, but not limited to, civil penalty or
12 disciplinary action by a business, occupational, or professional licensing board or entity, solely
13 for acting in accordance with this section.

14 (b) No registered marijuana cultivation center shall be subject to prosecution, seizure or
15 penalty, in any manner, or denied any right or privilege, including, but not limited to, civil
16 penalty or disciplinary action by a business, occupational, or professional licensing board or
17 entity, for selling, giving or distributing marijuana in whatever form and within the limits
18 established by the department.

19 (c) No principal officers, board members, agents, or employees of a registered marijuana
20 cultivation center shall be subject to arrest, prosecution, search, seizure, or penalty, in any
21 manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary
22 action by a business, occupational, or professional licensing board or entity, solely for working
23 for or with a marijuana cultivation center to engage in acts permitted by this section.

24 (d) No state employee shall be subject to arrest, prosecution or penalty in any manner, or
25 denied any right or privilege, including, but not limited to, civil penalty, disciplinary action,
26 termination, or loss of employee or pension benefits, for any and all conduct that occurs within
27 the scope of his or her employment regarding the administration, execution and/or enforcement of
28 this chapter, and the provisions of §§ 9-31-8 and 9-31-9 shall be applicable to this section.

29 **21-28.6-22. Prohibitions.** – (a) A marijuana cultivation center may not dispense, deliver,
30 or otherwise transfer marijuana to a person or entity other than a registered compassion center or
31 other entity authorized by law.

32 (b) No person who has been convicted of a felony drug offense or has entered a plea of
33 nolo contendere for a felony drug offense with a sentence or probation may be the principal
34 officer, board member, agent, or employee of a marijuana cultivation center unless the

1 department has determined that the person's conviction was for the medical use of marijuana or
2 assisting with the medical use of marijuana in accordance with the terms and conditions of this
3 chapter. A person who is employed by, or is an agent, principal officer, or board member of a
4 marijuana cultivation center in violation of this chapter is guilty of a civil violation punishable by
5 a fine of up to one thousand dollars (\$1,000). A subsequent violation of this chapter is a
6 misdemeanor.

7 **21-28.6-23. Legislative oversight committee.** – (a) There is hereby established a
8 legislative oversight committee for marijuana cultivation centers. The legislative oversight
9 committee shall consist of nine (9) members, five (5) to be appointed by the speaker of the house
10 from among its members, not more than four (4) to be from the same political party, and four (4)
11 members to be appointed by the president of the senate, not more than three (3) to be from the
12 same political party.

13 (b) The oversight committee shall meet at least six (6) times per year for the purpose of
14 evaluating and making recommendations to the general assembly regarding:

15 (1) Compassion center's and cultivation center's access to properly regulated and
16 cultivated marijuana;

17 (2) The efficacy of marijuana cultivation centers; and

18 (3) The effect that marijuana cultivation centers have had on the illegal sale of marijuana
19 to the public.

20 (c) On or before January 1 of every even-numbered year, the oversight committee shall
21 report to the general assembly on its findings.

22 SECTION 4. 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 ACT

1 This act would remove natural person primary caregivers from the definition of "primary
2 caregiver" for the purposes of the state "Medical Marijuana Act", thereby authorizing only
3 compassion centers to serve as primary caregivers. The act would also provide for the
4 establishment of marijuana cultivation centers which would be regulated by the department of
5 health, and would create a legislative oversight committee for marijuana cultivation centers.

6 This act would take effect upon passage.

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