

2016 -- S 2840

LC005104

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

RELATING TO FOOD AND DRUGS - COMPASSION CENTERS

Introduced By: Senators Archambault, Ruggerio, Miller, Metts, and Nesselbush

Date Introduced: March 23, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Section 21-28.6-12 of the General Laws in Chapter 21-28.6 entitled "The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act" is hereby amended to read as follows:

21-28.6-12. Compassion centers. -- (a) A compassion center registered under this section 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. A compassion center is a primary caregiver. Except as specifically provided to the contrary, all provisions of the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, §§ 21-28.6-1 -- 21-28.6-11, apply to a compassion center unless they conflict with a provision contained in § 21-28.6-12.

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

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

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

(ii) Minimum oversight requirements for compassion centers;

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

(iv) Minimum security requirements for compassion centers; and

1 (v) Procedures for suspending, revoking or terminating the registration of compassion
2 centers that violate the provisions of this section or the regulations promulgated pursuant to this
3 subsection.

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

6 (3) Within one hundred fifty (150) days of the effective date of this chapter, the
7 department shall provide for at least one public hearing on the granting of an application to a
8 single compassion center.

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

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

16 (6) Within two (2) years of the effective date of this chapter, the department shall begin
17 accepting applications to provide registration certificates for two (2) additional compassion
18 centers. The department shall solicit input from the public, and issue registration certificates if
19 qualified applicants exist.

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

22 (8) If at any time after ~~three (3) years after the effective date of this chapter,~~ January 1,
23 2016 fewer than ~~three (3)~~ six (6) compassion centers are holding valid registration certificates in
24 Rhode Island, the department shall accept applications for ~~a~~ one or more new compassion ~~center~~
25 centers. No more than ~~three (3)~~ six (6) compassion centers may hold valid registration certificates
26 at one time. Any new compassion centers approved by the department after January 1, 2016, shall
27 be disbursed geographically, to be located in Providence, Bristol, Newport, or Washington
28 counties, with no more than one new compassion center in each county.

29 (9) Any compassion center application selected for approval by the department prior to
30 January 1, 2012, shall remain in full force and effect, notwithstanding any provisions of this
31 chapter to the contrary, and shall be subject to state law adopted herein and rules and regulations
32 adopted by the department subsequent to passage of this legislation.

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

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

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

3 (ii) The proposed legal name and proposed articles of incorporation of the compassion
4 center;

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

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

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

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

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

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

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

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

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

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

30 (iv) The interests of qualifying patients regarding which applicant be granted a
31 registration certificate;

32 (v) The interests of the city or town where the dispensary would be located;

33 (vi) The sufficiency of the applicant's plans for record keeping and security, which
34 records shall be considered confidential health care information under Rhode Island law and are

intended to be deemed protected health care information for purposes of the Federal Health Insurance Portability and Accountability Act of 1996, as amended; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (7) Except as provided in this subsection, the department shall not issue a registry

5 identification card to any principal officer, board member, agent, volunteer, or employee of a

6 compassion center who has been convicted of a felony drug offense or has entered a plea of nolo

7 contendere for a felony drug offense and received a sentence of probation. The department shall

8 notify the compassion center in writing of the purpose for denying the registry identification card.

9 The department may grant such person a registry identification card if the department determines

10 that the offense was for conduct that occurred prior to the enactment of the Edward O. Hawkins

11 and Thomas C. Slater Medical Marijuana Act or that was prosecuted by an authority other than

12 the state of Rhode Island and for which the Edward O. Hawkins and Thomas C. Slater Medical

13 Marijuana Act would otherwise have prevented a conviction;

14 (i) All registry identification card applicants shall apply to the state police for a national

15 criminal identification records check that shall include fingerprints submitted to the federal

16 bureau of investigation. Upon the discovery of a felony drug offense conviction or a plea of nolo

17 contendere for a felony drug offense with a sentence of probation, and in accordance with the

18 rules promulgated by the director, the state police shall inform the applicant, in writing, of the

19 nature of the felony and the state police shall notify the department, in writing, without disclosing

20 the nature of the felony, that a felony drug offense conviction or a plea of nolo contendere for a

21 felony drug offense with probation has been found.

22 (ii) In those situations in which no felony drug offense conviction or plea of nolo

23 contendere for a felony drug offense with probation has been found, the state police shall inform

24 the applicant and the department, in writing, of this fact.

25 (iii) All registry identification card applicants shall be responsible for any expense

26 associated with the criminal background check with fingerprints.

27 (8) A registry identification card of a principal officer, board member, agent, volunteer,

28 or employee shall expire one year after its issuance, or upon the expiration of the registered

29 organization's registration certificate, or upon the termination of the principal officer, board

30 member, agent, volunteer or employee's relationship with the compassion center, whichever

31 occurs first.

32 (d) Expiration or termination of compassion center:

33 (1) A compassion center's registration shall expire two (2) years after its registration

34 certificate is issued. The compassion center may submit a renewal application beginning sixty

1 (60) days prior to the expiration of its registration certificate;

2 (2) The department shall grant a compassion center's renewal application within thirty

3 (30) days of its submission if the following conditions are all satisfied:

4 (i) The compassion center submits the materials required under subdivision (c)(4),

5 including a five thousand dollar (\$5,000) fee;

6 (ii) The compassion center's registration has never been suspended for violations of this

7 chapter or regulations issued pursuant to this chapter;

8 (iii) The legislative oversight committee's report, if issued pursuant to subsection (4)(j),

9 indicates that the compassion center is adequately providing patients with access to medical

10 marijuana at reasonable rates; and

11 (iv) The legislative oversight committee's report, if issued pursuant to subsection (4)(j),

12 does not raise serious concerns about the continued operation of the compassion center applying

13 for renewal.

14 (3) If the department determines that any of the conditions listed in paragraphs (d)(2)(i) -

15 - (iv) have not been met, the department shall begin an open application process for the operation

16 of a compassion center. In granting a new registration certificate, the department shall consider

17 factors listed in subdivision (c)(3) of this section;

18 (4) The department shall issue a compassion center one or more thirty (30) day

19 temporary registration certificates after that compassion center's registration would otherwise

20 expire if the following conditions are all satisfied:

21 (i) The compassion center previously applied for a renewal, but the department had not

22 yet come to a decision;

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

24 (iii) The compassion center has not had its registration certificate revoked due to

25 violations of this chapter or regulations issued pursuant to this chapter.

26 (5) A compassion center's registry identification card shall be subject to revocation if the

27 compassion center:

28 (i) Possesses an amount of marijuana exceeding the limits established by this chapter;

29 (ii) Is in violation of the laws of this state;

30 (iii) Is in violation of other departmental regulations; or

31 (iv) Employs or enters into a business relationship with a medical practitioner who

32 provides written certification of a qualifying patient's medical condition.

33 (e) Inspection. - Compassion centers are subject to reasonable inspection by the

34 department of health, division of facilities regulation. During an inspection, the department may

1 review the compassion center's confidential records, including its dispensing records, which shall
2 track transactions according to qualifying patients' registry identification numbers to protect their
3 confidentiality.

4 (f) Compassion center requirements:

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

8 (2) A compassion center may not be located within one thousand feet (1000') of the
9 property line of a preexisting public or private school;

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

14 (4) A compassion center shall notify the department in writing of the name, address, and
15 date of birth of any new principal officer, board member, agent, volunteer or employee and shall
16 submit a fee in an amount established by the department for a new registry identification card
17 before that person begins his or her relationship with the compassion center;

18 (5) A compassion center shall implement appropriate security measures to deter and
19 prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and
20 shall insure that each location has an operational security alarm system. Each compassion center
21 shall request that the Rhode Island state police visit the compassion center to inspect the security
22 of the facility and make any recommendations regarding the security of the facility and its
23 personnel within ten (10) days prior to the initial opening of each compassion center. Said
24 recommendations shall not be binding upon any compassion center, nor shall the lack of
25 implementation of said recommendations delay or prevent the opening or operation of any center.
26 If the Rhode Island state police do not inspect the compassion center within the ten (10) day
27 period there shall be no delay in the compassion center's opening.

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

30 (7) A compassion center is prohibited from acquiring, possessing, cultivating,
31 manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any
32 purpose except to assist registered qualifying patients with the medical use of marijuana directly
33 or through the qualifying patient's other primary caregiver;

34 (8) All principal officers and board members of a compassion center must be residents of

1 the state of Rhode Island;

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

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

7 (i) A job description or employment contract developed for all employees and agents and
8 a volunteer agreement for all volunteers, which includes duties, authority, responsibilities,
9 qualifications, and supervision; and

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

11 (11) Each compassion center shall maintain a personnel record for each employee, agent
12 and volunteer that includes an application and a record of any disciplinary action taken;

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

16 (i) Professional conduct, ethics, and patient confidentiality; and
17 (ii) Informational developments in the field of medical use of marijuana.

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

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

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

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

30 (1) A compassion center or principal officer, board member, agent, volunteer or
31 employee of a compassion center may not dispense more than two and one half ounces (2.5 oz) of
32 usable marijuana to a qualifying patient directly or through a qualifying patient's other primary
33 caregiver during a fifteen (15) day period;

34 (2) A compassion center or principal officer, board member, agent, volunteer or

1 employee of a compassion center may not dispense an amount of usable marijuana or marijuana
2 plants to a qualifying patient or a qualifying patient's other primary caregiver that the compassion
3 center, principal officer, board member, agent, volunteer, or employee knows would cause the
4 recipient to possess more marijuana than is permitted under the Edward O. Hawkins and Thomas
5 C. Slater Medical Marijuana Act.

6 (h) Immunity:

7 (1) No registered compassion center shall be subject to prosecution; search, except by
8 the department pursuant to subsection (e); seizure; or penalty in any manner or denied any right
9 or privilege, including, but not limited to, civil penalty or disciplinary action by a business,
10 occupational, or professional licensing board or entity, solely for acting in accordance with this
11 section to assist registered qualifying patients to whom it is connected through the department's
12 registration process with the medical use of marijuana;

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

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

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

29 (i) Prohibitions:

30 (1) A compassion center must limit its inventory of seedlings, plants, and usable
31 marijuana to reflect the projected needs of registered qualifying patients.

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

1 (3) A person found to have violated paragraph (2) of this subsection may not be an
2 employee, agent, volunteer, principal officer, or board member of any compassion center;

3 (4) An employee, agent, volunteer, principal officer or board member of any compassion
4 center found in violation of paragraph (2) above shall have his or her registry identification
5 revoked immediately; and

6 (5) No person who has been convicted of a felony drug offense or has entered a plea of
7 nolo contendere for a felony drug offense with a sentence or probation may be the principal
8 officer, board member, agent, volunteer, or employee of a compassion center unless the
9 department has determined that the person's conviction was for the medical use of marijuana or
10 assisting with the medical use of marijuana in accordance with the terms and conditions of this
11 chapter. A person who is employed by or is an agent, volunteer, principal officer, or board
12 member of a compassion center in violation of this section is guilty of a civil violation punishable
13 by a fine of up to one thousand dollars (\$1,000). A subsequent violation of this section is a
14 misdemeanor:

15 (j) Legislative oversight committee:

16 (1) The general assembly shall appoint a nine (9) member oversight committee
17 comprised of: one member of the house of representatives; one member of the senate; one
18 physician to be selected from a list provided by the Rhode Island medical society; one nurse to be
19 selected from a list provided by the Rhode Island state nurses association; two (2) registered
20 qualifying patients; one registered primary caregiver; one patient advocate to be selected from a
21 list provided by the Rhode Island patient advocacy coalition; and the superintendent of the Rhode
22 Island state police or his/her designee.

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

25 (i) Patients' access to medical marijuana;

26 (ii) Efficacy of compassion center;

27 (iii) Physician participation in the Medical Marijuana Program;

28 (iv) The definition of qualifying medical condition;

29 (v) Research studies regarding health effects of medical marijuana for patients.

30 (3) On or before January 1 of every even numbered year, the oversight committee shall
31 report to the general assembly on its findings.

1 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 - COMPASSION CENTERS

1 This act would increase the number of permits for medical marijuana compassion centers
2 from three (3) to six (6). The additional compassion centers would be approved by the department
3 of health, with no more than one of each additional compassion center to be located in
4 Providence, Bristol, Newport, or Washington counties.

5 This act would take effect upon passage.

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