

2014 -- H 7610 SUBSTITUTE A

LC004444/SUB A/3

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

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

Introduced By: Representatives Tomasso, Carnevale, Ucci, Costantino, and Phillips

Date Introduced: February 26, 2014

Referred To: House Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 21-28.6 of the General Laws entitled "The Edward O. Hawkins and
2 Thomas C. Slater Medical Marijuana Act" is hereby amended by adding thereto the following
3 section:

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.

1 (7) Cooperative cultivations must be inspected as follows:

2 (i) A non-residential cooperative cultivation must have displayed prominently on the
3 premises documentation from the municipality where the single location is located that the
4 location and the cultivation has been inspected by the municipal building and/or zoning official
5 and the municipal fire department and is in compliance with any applicable state or municipal
6 housing and zoning codes.

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

11 (8) Cooperative cultivations must report the location of the cooperative cultivation to the
12 division of state police.

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

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

19 SECTION 2. Sections 21-28.6-2, 21-28.6-3, 21-28.6-4, 21-28.6-6, 21-28.6-8 and 21-
20 28.6-9 of the General Laws in Chapter 21-28.6 entitled "The Edward O. Hawkins and Thomas C.
21 Slater Medical Marijuana Act" are hereby amended to read as follows:

22 **21-28.6-2. Legislative findings.** -- The general assembly finds and declares that:

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

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

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

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

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

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

11 (7) It is in the state's interests of public safety, public welfare and the integrity of the
12 medical marijuana program to ensure that the possession and cultivation of marijuana for the sole
13 purpose of medical use for alleviating symptoms caused by debilitating medical conditions is
14 adequately regulated.

15 **21-28.6-3. Definitions.** -- For the purposes of this chapter:

16 (1) "Cardholder" means a qualifying patient, or a primary caregiver,~~or a principal~~
17 ~~officer, board member, employee, volunteer, or agent of a compassion center~~ who has registered
18 with the department and has been issued and possesses a valid registry identification card.

19 (2)(i) "Compassion center" means a not-for-profit corporation subject to the provisions
20 of chapter 7-6, and registered under section 21-28.6-12 that acquires, possesses, cultivates,
21 manufactures, delivers, transfers, transports, supplies or dispenses marijuana, and/or related
22 supplies and educational materials, to ~~registered qualifying patients~~ patient cardholders and/or
23 their registered ~~primary caregivers~~ caregiver cardholder who have designated it as one of their
24 primary caregivers.

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

28 (3) "Debilitating medical condition" means:

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

31 (ii) A chronic or debilitating disease or medical condition or its treatment that produces
32 one or more of the following: cachexia or wasting syndrome; severe, debilitating, chronic pain;
33 severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe
34 and persistent muscle spasms, including but not limited to, those characteristic of multiple

1 sclerosis or Crohn's disease; or agitation of Alzheimer's Disease; or

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

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

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

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

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

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

15 (9) "Primary caregiver" means either a natural person who is at least twenty-one (21)
16 years old or a compassion center. A natural person primary caregiver may assist no more than
17 five (5) qualifying patients with their medical use of marijuana.

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

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

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

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

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

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

34 **21-28.6-4. Protections for the medical use of marijuana.** -- (a) A ~~qualifying~~ patient

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

8 (b) A ~~registered-qualifying~~ patient [cardholder](#), who has in his or her possession a registry
9 identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied
10 any right or privilege, including but not limited to, civil penalty or disciplinary action by a
11 business or occupational or professional licensing board or bureau, for selling, giving, or
12 distributing marijuana of the type and in an amount not to exceed that set forth in subsection (a)
13 above, that he or she has cultivated or manufactured pursuant to this chapter, to a ~~registered~~
14 compassion center [cardholder](#).

15 (c) No school, employer or landlord may refuse to enroll, employ or lease to or otherwise
16 penalize a person solely for his or her status as a cardholder. Provided, however, due to the safety
17 and welfare concern for other tenants, the property, and the public, as a whole, a landlord may
18 have the discretion not to lease or continue to lease to a cardholder who cultivates marijuana in
19 the leased premises.

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

29 (e) ~~Registered primary caregivers and registered qualifying patients~~ [A cardholder](#) shall
30 be allowed to possess a reasonable amount of unusable marijuana, including up to twelve (12)
31 seedlings, which shall not be counted toward the limits in this section.

32 (f) There shall exist a presumption that a ~~qualifying patient or primary caregiver~~
33 [cardholder](#) is engaged in the medical use of marijuana if the ~~qualifying patient or primary~~
34 ~~caregiver~~ [cardholder](#):

1 (1) Is in possession of a registry identification card; and

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

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

9 (h) A natural person ~~registered-as-a~~ primary caregiver [cardholder](#) who has in his or her
10 possession a registry identification card shall not be subject to arrest, prosecution, 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 or occupational or professional licensing board or bureau, for
13 selling, giving, or distributing marijuana, of the type and in an amount not to exceed that set forth
14 in subsection (d) above, to a ~~registered~~ compassion center [cardholder](#) if:

15 (1) The ~~registered~~ natural person primary caregiver [cardholder](#) cultivated the marijuana
16 pursuant to this chapter, not to exceed the limits of paragraph (d) above; and

17 (2) Each ~~qualified~~ patient [cardholder](#) the caregiver [cardholder](#) is connected with through
18 the department's registration process has been provided an adequate amount of the marijuana to
19 meet his or her medical needs, not to exceed the limits of subsection (a) above.

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

26 (j) Any interest in or right to property that is possessed, owned, or used in connection
27 with the medical use of marijuana, or acts incidental to such use, shall not be forfeited.

28 (k) No person shall be subject to arrest or prosecution for constructive possession,
29 conspiracy, aiding and abetting, being an accessory, or any other offense for simply being in the
30 presence or vicinity of the medical use of marijuana as permitted under this chapter or for
31 assisting a ~~registered-qualifying~~ patient [cardholder](#) with using or administering marijuana.

32 (l) A practitioner nurse or pharmacist shall not be subject to arrest, prosecution or
33 penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty
34 or disciplinary action by a business or occupational or professional licensing board or bureau

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

3 (m) A registry identification card, or its equivalent, issued under the laws of another
4 state, U.S. territory, or the District of Columbia to permit the medical use of marijuana by a
5 patient with a debilitating medical condition, or to permit a person to assist with the medical use
6 of marijuana by a patient with a debilitating medical condition, shall have the same force and
7 effect as a registry identification card issued by the department.

8 (n) Notwithstanding the provisions of subsection 21-28.6-4(d) or subsection 21-28.6-
9 4(e), no primary caregiver [cardholder](#) other than a compassion center shall possess an amount of
10 marijuana in excess of twenty-four (24) marijuana plants and five (5) ounces of usable marijuana
11 for ~~qualifying patients~~ [patient cardholders](#) to whom he or she is connected through the
12 department's registration process.

13 (o) A ~~registered qualifying patient or registered primary caregiver~~ [cardholder](#) may give
14 marijuana to another ~~registered qualifying patient or registered primary caregiver~~ [cardholder](#) to
15 whom they are not connected by the department's registration process, provided that no
16 consideration is paid for the marijuana, and that the recipient does not exceed the limits specified
17 in section 21-28.6-4.

18 (p) For the purposes of medical care, including organ transplants, a ~~registered qualifying~~
19 ~~patient's~~ [patient cardholder's](#) authorized use of marijuana shall be considered the equivalent of the
20 authorized use of any other medication used at the direction of a physician, and shall not
21 constitute the use of an illicit substance.

22 **21-28.6-6. Administration of regulations.** -- (a) The department shall issue registry
23 identification cards to qualifying patients who submit the following, in accordance with the
24 department's regulations:

25 (1) Written certification as defined in ~~section 21-28.6-3(14)~~ [§ 21-28.6-3\(15\)](#) of this
26 chapter;

27 (2) Application or renewal fee;

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

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

31 (5) Name, address, and date of birth of each primary caregiver of the qualifying patient,
32 if any.

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

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

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

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

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

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

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

16 (d) The department shall issue a registry identification card to each primary caregiver, if
17 any, who is named in a qualifying patient's approved application, up to a maximum of two (2)
18 primary caregivers per qualifying patient. ~~A person may not serve as a primary caregiver if he or
19 she has a felony drug conviction, unless the department waives this restriction in respect to a
20 specific individual at the department's discretion. Additionally, the department shall allow the
21 person to serve as a primary caregiver if the department determines that the offense was for
22 conduct that occurred prior to the enactment of the Edward O. Hawkins and Thomas C. Slater
23 Medical Marijuana Act or that was prosecuted by an authority other than the state of Rhode
24 Island and for which the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act
25 would otherwise have prevented a conviction.~~

26 (1) The primary caregiver applicant shall apply to the bureau of criminal identification of
27 the department of attorney general, state police or local police department for a national criminal
28 records check that shall include fingerprints submitted to the Federal Bureau of Investigation.
29 Upon the discovery of any disqualifying information as defined in § 21-28.6-6(d)(4), and in
30 accordance with the rules promulgated by the director, the bureau of criminal identification of the
31 department of attorney general, state police or the local police department shall inform the
32 applicant, in writing, of the nature of the disqualifying information; and, without disclosing the
33 nature of the disqualifying information, shall notify the department, in writing, that disqualifying
34 information has been discovered.

1 (2) In those situations in which no disqualifying information has been found, the bureau
2 of criminal identification of the department of attorney general, state police or the local police
3 shall inform the applicant and the department, in writing, of this fact.

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

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

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

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

30 (e) The department shall issue registry identification cards within five (5) days of
31 approving an application or renewal, which shall expire two (2) years after the date of issuance.
32 Registry identification cards shall contain:

- 33 (1) The date of issuance and expiration date of the registry identification card;
34 (2) A random registry identification number; and

- 1 (3) A photograph; and
- 2 (4) Any additional information as required by regulation or the department.
- 3 (f) Persons issued registry identification cards shall be subject to the following:
- 4 (1) A ~~qualifying patient who has been issued a registry identification card~~ patient
- 5 cardholder shall notify the department of any change in the ~~qualifying patient's~~ patient
- 6 cardholder's name, address, or primary caregiver; or if ~~the qualifying patient~~ he or she ceases to
- 7 have his or her debilitating medical condition, within ten (10) days of such change.
- 8 (2) A ~~registered qualifying~~ patient cardholder who fails to notify the department of any
- 9 of these changes is responsible for a civil infraction, punishable by a fine of no more than one
- 10 hundred fifty dollars (\$150). If the ~~person~~ patient cardholder has ceased to suffer from a
- 11 debilitating medical condition, the card shall be deemed null and void and the person shall be
- 12 liable for any other penalties that may apply to the person's nonmedical use of marijuana.
- 13 (3) A ~~registered primary caregiver, principal officer, board member, employee,~~
- 14 ~~volunteer, or agent of a compassion center~~ primary caregiver cardholder or compassion center
- 15 cardholder shall notify the department of any change in his or her name or address within ten (10)
- 16 days of such change. A ~~primary caregiver, principal officer, board member, employee, volunteer,~~
- 17 ~~or agent of a compassion center~~ primary caregiver cardholder or compassion center cardholder
- 18 who fails to notify the department of any of these changes is responsible for a civil infraction,
- 19 punishable by a fine of no more than one hundred fifty dollars (\$150).
- 20 (4) When a ~~qualifying~~ patient cardholder or primary caregiver cardholder notifies the
- 21 department of any changes listed in this subsection, the department shall issue the ~~registered~~
- 22 ~~qualifying~~ patient cardholder and each primary caregiver cardholder a new registry identification
- 23 card within ten (10) days of receiving the updated information and a ten dollar (\$10.00) fee.
- 24 When a ~~principal officer, board member, employee, volunteer, or agent of a~~ compassion center
- 25 cardholder notifies the department of any changes listed in this subsection, the department shall
- 26 issue the cardholder a new registry identification card within ten (10) days of receiving the
- 27 updated information and a ten dollar (\$10.00) fee.
- 28 (5) When a ~~qualifying patient who possesses a registry identification card~~ patient
- 29 cardholder changes his or her primary caregiver, the department shall notify the primary caregiver
- 30 cardholder within ten (10) days. The primary ~~caregiver's~~ 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 is connected to no other patient cardholders in the
- 33 program, he or she must return his or her registry identification card to the department.
- 34 (6) If a cardholder loses his or her registry identification card, he or she shall notify the

1 department and submit a ten dollar (\$10.00) fee within ten (10) days of losing the card. Within
2 five (5) days, the department shall issue a new registry identification card with new random
3 identification number.

4 (7) If a cardholder willfully violates any provision of this chapter as determined by the
5 department, his or her registry identification card may be revoked.

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

10 (h)(1) Applications and supporting information submitted by qualifying patients,
11 including information regarding their primary caregivers and practitioners, are confidential and
12 protected under the federal Health Insurance Portability and Accountability Act of 1996, and shall
13 be exempt from the provisions of the RIGL chapter 38-2 et seq. the Rhode Island access to public
14 records act and not subject to disclosure, except to authorized employees of the department as
15 necessary to perform official duties of the department [and pursuant to subsection \(i\) of this](#)
16 [section](#).

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

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

27 (i) [Notwithstanding subsection \(h\) of this section, the](#) ~~The~~ department shall verify to law
28 enforcement personnel whether a registry identification card is valid solely by confirming the
29 random registry identification number [or name](#).

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

1 department.

2 (k) On or before January 1 of each odd numbered year, the department shall report to the
3 House Committee on Health, Education and Welfare and to the Senate Committee on Health and
4 Human Services on the use of marijuana for symptom relief. The report shall provide:

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

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

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

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

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

18 **21-28.6-8. Affirmative defense and dismissal.** -- (a) Except as provided in section 21-
19 28.6-7, a ~~person~~ qualifying patient ~~and a person's primary caregiver, if any,~~ may assert the
20 medical purpose for using marijuana as a defense to any prosecution involving marijuana, and
21 such defense shall be presumed valid where the evidence shows that:

22 (1) The qualifying patient's practitioner has stated that, in the practitioner's professional
23 opinion, after having completed a full assessment of the person's medical history and current
24 medical condition made in the course of a bona fide practitioner-patient relationship, the potential
25 benefits of using marijuana for medical purposes would likely outweigh the health risks for the
26 qualifying patient; and

27 (2) The ~~person~~ qualifying patient ~~and the person's primary caregiver, if any, were~~
28 ~~collectively~~ was in possession of a quantity of marijuana that was not more than what is permitted
29 under this chapter to ensure the uninterrupted availability of marijuana for the purpose of
30 alleviating the person's medical condition or symptoms associated with the medical condition.

31 (b) A person may assert the medical purpose for using marijuana in a motion to dismiss,
32 and the charges shall be dismissed following an evidentiary hearing where the defendant shows
33 the elements listed in subsection (a) of this section.

34 (c) Any interest in or right to property that was possessed, owned, or used in connection

1 with a ~~person's~~ qualifying patient's use of marijuana for medical purposes shall not be forfeited if
2 the ~~person~~ qualifying patient ~~or the person's primary caregiver~~ demonstrates the ~~person's~~
3 qualifying patient's medical purpose for using marijuana pursuant to this section.

4 **21-28.6-9. Enforcement.** -- (a) If the department fails to adopt regulations to implement
5 this chapter within one hundred twenty (120) days of the effective date of this act, a qualifying
6 patient may commence an action in a court of competent jurisdiction to compel the department to
7 perform the actions mandated pursuant to the provisions of this chapter.

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

12 (c) The department shall revoke and shall not reissue the registry identification card of
13 any cardholder who is convicted of, placed on probation, whose case is filed pursuant to § 12-10-
14 12 where the defendant pleads nolo contendere or whose case is deferred pursuant to § 12-19-19
15 where the defendant pleads nolo contendere for any felony offense under chapter 28 of title 21
16 ("Rhode Island Controlled Substances Act") or a similar offense from any other jurisdiction.

17 (d) If a cardholder exceeds the possession limits set forth in §§ 21-28.6-4 or 21-28.6-14,
18 he or she shall be subject to arrest and prosecution under chapter 28 of title 21 ("Rhode Island
19 Controlled Substances Act").

20 SECTION 3. This act shall take effect on September 1, 2014.

=====
LC004444/SUB A/3
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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

1 This act would make various changes to the medical marijuana act including requiring
2 compliance with municipal building codes for cooperative grow locations, providing landlords
3 the option not to lease to a cardholder who chooses to cultivate marijuana and would also require
4 national criminal background checks on all applications for a primary caregiver and provide for
5 the permanent mandatory revocation of an issued registry identification card upon the conviction
6 of a felony.

7 This act would take effect on September 1, 2014.

=====
LC004444/SUB A/3
=====