

2010 -- H 8172

LC02721

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO FOOD AND DRUGS -- MEDICAL MARIJUANA ACT

Introduced By: Representatives Slater, Diaz, Ajello, and DeSimone

Date Introduced: May 25, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

4 **21-28.6-6. Administration of regulations.** -- (a) The department shall issue registry
5 identification cards to qualifying patients who submit the following, in accordance with the
6 department's regulations:

- 7 (1) Written certification as defined in section 21-28.6-3(14) of this chapter;
- 8 (2) Application or renewal fee;
- 9 (3) Name, address, and date of birth of the qualifying patient; provided, however, that if
10 the patient is homeless, no address is required;
- 11 (4) Name, address, and telephone number of the qualifying patient's practitioner; and
- 12 (5) Name, address, and date of birth of each primary caregiver of the qualifying patient,
13 if any.

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

- 16 (1) The qualifying patient's practitioner has explained the potential risks and benefits of
17 the medical use of marijuana to the qualifying patient and to a parent, guardian or person having
18 legal custody of the qualifying patient; and
- 19 (2) A parent, guardian or person having legal custody consents in writing to:

- 1 (i) Allow the qualifying patient's medical use of marijuana;
- 2 (ii) Serve as one of the qualifying patient's primary caregivers; and
- 3 (iii) Control the acquisition of the marijuana, the dosage, and the frequency of the
- 4 medical use of marijuana by the qualifying patient.

5 (c) The department shall verify the information contained in an application or renewal

6 submitted pursuant to this section, and shall approve or deny an application or renewal within

7 fifteen (15) days of receiving it. The department may deny an application or renewal only if the

8 applicant did not provide the information required pursuant to this section, or if the department

9 determines that the information provided was falsified. Rejection of an application or renewal is

10 considered a final department action, subject to judicial review. Jurisdiction and venue for

11 judicial review are vested in the superior court.

12 (d) The department shall issue a registry identification card to each primary caregiver, if

13 any, who is named in a qualifying patient's approved application, up to a maximum of two (2)

14 primary caregivers per qualifying patient. A person may not serve as a primary caregiver if he or

15 she has a felony drug conviction, unless the department waives this restriction in respect to a

16 specific individual at the department's discretion. Additionally, the department shall allow the

17 person to serve as a primary caregiver if the department determines that the offense was for

18 conduct that occurred prior to the enactment of the Edward O. Hawkins and Thomas C. Slater

19 Medical Marijuana Act or that was prosecuted by an authority other than the state of Rhode

20 Island and for which the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act

21 would otherwise have prevented a conviction.

22 (e) The department shall issue registry identification cards within five (5) days of

23 approving an application or renewal, which shall expire two (2) years after the date of issuance.

24 Registry identification cards shall contain:

- 25 (1) The date of issuance and expiration date of the registry identification card;
- 26 (2) A random registry identification number; and
- 27 (3) A photograph; and
- 28 (4) Any additional information as required by regulation or the department.

29 (f) Persons issued registry identification cards shall be subject to the following:

30 (1) A qualifying patient who has been issued a registry identification card shall notify the

31 department of any change in the qualifying patient's name, address, or primary caregiver; or if the

32 qualifying patient ceases to have his or her debilitating medical condition, within ten (10) days of

33 such change.

34 (2) A registered qualifying patient who fails to notify the department of any of these

1 changes is responsible for a civil infraction, punishable by a fine of no more than one hundred
2 fifty dollars (\$150). If the person has ceased to suffer from a debilitating medical condition, the
3 card shall be deemed null and void and the person shall be liable for any other penalties that may
4 apply to the person's nonmedical use of marijuana.

5 (3) A registered primary caregiver, principal officer, board member, employee,
6 volunteer, or agent of a compassion center shall notify the department of any change in his or her
7 name or address within ten (10) days of such change. A primary caregiver, principal officer,
8 board member, employee, volunteer, or agent of a compassion center who fails to notify the
9 department of any of these changes is responsible for a civil infraction, punishable by a fine of no
10 more than one hundred fifty dollars (\$150).

11 (4) When a qualifying patient or primary caregiver notifies the department of any
12 changes listed in this subsection, the department shall issue the registered qualifying patient and
13 each primary caregiver a new registry identification card within ten (10) days of receiving the
14 updated information and a ten dollar (\$10.00) fee. When a principal officer, board member,
15 employee, volunteer, or agent of a compassion center notifies the department of any changes
16 listed in this subsection, the department shall issue the cardholder a new registry identification
17 card within ten (10) days of receiving the updated information and a ten dollar (\$10.00) fee.

18 (5) When a qualifying patient who possesses a registry identification card changes his or
19 her primary caregiver, the department shall notify the primary caregiver within ten (10) days. The
20 primary caregiver's protections as provided in this chapter as to that patient shall expire ten (10)
21 days after notification by the department.

22 (6) If a cardholder loses his or her registry identification card, he or she shall notify the
23 department and submit a ten dollar (\$10.00) fee within ten (10) days of losing the card. Within
24 five (5) days, the department shall issue a new registry identification card with new random
25 identification number.

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

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

32 (h) (1) Applications and supporting information submitted by qualifying patients,
33 including information regarding their primary caregivers and practitioners, are confidential and
34 protected under the federal Health Insurance Portability and Accountability Act of 1996, [and shall](#)

1 [be exempt from the provisions of the RIGL chapter 38-2 et seq. the Rhode Island access to public](#)
2 [records act and not subject to disclosure, except to authorized employees of the department as](#)
3 [necessary to perform official duties of the department.](#)

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

9 (i) The department shall verify to law enforcement personnel whether a registry
10 identification card is valid solely by confirming the random registry identification number.

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

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

20 (1) The number of applications for registry identification cards, the number of qualifying
21 patients and primary caregivers approved, the nature of the debilitating medical conditions of the
22 qualifying patients, the number of registry identification cards revoked, and the number of
23 practitioners providing written certification for qualifying patients;

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

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

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

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

33 (6) The application for qualifying patients' registry identification card shall include a
34 question asking whether the patient would like the department to notify him or her of any clinical

1 studies about marijuana's risk or efficacy. The department shall inform those patients who answer
2 in the affirmative of any such studies it is notified of, that will be conducted in Rhode Island. The
3 department may also notify those patients of medical studies conducted outside of Rhode Island.

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

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

1 This act would exempt information contained in applications and supporting information
2 under the medical marijuana act from provisions of the Rhode Island access to public information
3 act.

4 This act would take effect upon passage.

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