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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

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

Introduced By: Senators Perry, Miller, Metts, Jabour, and Tassoni

Date Introduced: February 28, 2012

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 21-28.6-3, 21-28.6-4, 21-28.6-5, 21-28.6-6, 21-28.6-10 and 21-
2 28.6-12 of the General Laws in Chapter 21-28.6 entitled "The Edward O. Hawkins and Thomas
3 C. Slater Medical Marijuana Act" are hereby amended to read as follows:

4 **21-28.6-3. Definitions.** -- For the purposes of this chapter:

5 (1) "Cardholder" means a qualifying patient, a primary caregiver, or a principal officer,
6 board member, employee, volunteer, or agent of a compassion center who has been issued and
7 possesses a valid registry identification card.

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

13 (3) "Debilitating medical condition" means:

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

16 (ii) A chronic or debilitating disease or medical condition or its treatment that produces
17 one or more of the following: cachexia or wasting syndrome; severe, debilitating, chronic pain;
18 severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe

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

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

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

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

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

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

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

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

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) "Unusable marijuana" means marijuana seeds, stalks, seedlings, and unusable roots.
26 "Seedling" means a marijuana plant with no observable flowers or buds.

27 (13) "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 (14) "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 **21-28.6-4. Protections for the medical use of marijuana.** – (a) A qualifying patient
3 who has in his or her possession a registry identification card shall not be subject to arrest,
4 prosecution, or penalty in any manner, or denied any right or privilege, including but not limited
5 to, civil penalty or disciplinary action by a business or occupational or professional licensing
6 board or bureau, for the medical use of marijuana; provided, that the qualifying patient possesses
7 an amount of marijuana that does not exceed twelve (12) mature marijuana plants and two and
8 one-half (2.5) ounces of usable marijuana. Said plants shall be stored in an indoor facility.

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

16 ~~(b)~~(c) No school, employer or landlord may refuse to enroll, employ or lease to or
17 otherwise penalize a person solely for his or her status as a cardholder.

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

27 ~~(d)~~(e) Registered primary caregivers and registered qualifying patients shall be allowed to
28 possess a reasonable amount of unusable marijuana, including up to twelve (12) seedlings, which
29 shall not be counted toward the limits in this section.

30 ~~(e)~~(f) There shall exist a presumption that a qualifying patient or primary caregiver is
31 engaged in the medical use of marijuana if the qualifying patient or primary caregiver:

- 32 (1) Is in possession of a registry identification card; and
33 (2) Is in possession of an amount of marijuana that does not exceed the amount permitted
34 under this chapter. Such presumption may be rebutted by evidence that conduct related to

1 marijuana was not for the purpose of alleviating the qualifying patient's debilitating medical
2 condition or symptoms associated with the medical condition.

3 ~~(g)~~ A primary caregiver may receive reimbursement for costs associated with assisting
4 a registered qualifying patient's medical use of marijuana. Compensation shall not constitute sale
5 of controlled substances.

6 (h) A natural person registered as a primary caregiver who has in his or her possession a
7 registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or
8 denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a
9 business or occupational or professional licensing board or bureau, for selling, giving, or
10 distributing marijuana, of the type and in an amount not to exceed that set forth in subsection (d)
11 above, to a registered compassion center if:

12 (1) The registered natural person primary caregiver cultivated the marijuana pursuant to
13 this chapter, not to exceed the limits of paragraph (d) above; and

14 (2) Each qualified patient the caregiver is connected with through the department's
15 registration process has been provided an adequate amount of the marijuana to meet his or her
16 medical needs, not to exceed the limits of subsection (a) above.

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

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

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

29 ~~(l)~~ A practitioner nurse or pharmacist shall not be subject to arrest, prosecution or
30 penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty
31 or disciplinary action by a business or occupational or professional licensing board or bureau
32 solely for discussing the benefits or health risks of medical marijuana or its interaction with other
33 substances with a patient.

34 ~~(m)~~ A registry identification card, or its equivalent, issued under the laws of another

1 state, U.S. territory, or the District of Columbia to permit the medical use of marijuana by a
2 patient with a debilitating medical condition, or to permit a person to assist with the medical use
3 of marijuana by a patient with a debilitating medical condition, shall have the same force and
4 effect as a registry identification card issued by the department.

5 ~~(n)~~ Notwithstanding the provisions of subsection ~~21-28.6-3(6)~~ [21-28.6-4\(d\)](#) or
6 subsection ~~21-28.6-4(e)~~ [21-28.6-4\(e\)](#), no primary caregiver other than a compassion center shall
7 possess an amount of marijuana in excess of twenty-four (24) marijuana plants and five (5)
8 ounces of usable marijuana for qualifying patients to whom he or she is connected through the
9 department's registration process.

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

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

18 **21-28.6-5. Department to issue regulations.** -- (a) Not later than ninety (90) days after
19 the effective date of this chapter, the department shall promulgate regulations governing the
20 manner in which it shall consider petitions from the public to add debilitating medical conditions
21 to those included in this chapter. In considering such petitions, the department shall include
22 public notice of, and an opportunity to comment in a public hearing, upon such petitions. The
23 department shall, after hearing, approve or deny such petitions within one hundred eighty (180)
24 days of submission. The approval or denial of such a petition shall be considered a final
25 department action, subject to judicial review. Jurisdiction and venue for judicial review are vested
26 in the superior court. The denial of a petition shall not disqualify qualifying patients with that
27 condition, if they have a debilitating medical condition [as defined in subdivision 21-28.6-3\(3\)](#).
28 The denial of a petition shall not prevent a person with the denied condition from raising an
29 affirmative defense.

30 (b) Not later than ninety (90) days after the effective date of this chapter, the department
31 shall promulgate regulations governing the manner in which it shall consider applications for and
32 renewals of registry identification cards for qualifying patients and primary caregivers. The
33 department's regulations shall establish application and renewal fees that generate revenues
34 sufficient to offset all expenses of implementing and administering this chapter. The department

1 may vary the application and renewal fees along a sliding scale that accounts for a qualifying
2 patient's or caregiver's income. The department may accept donations from private sources in
3 order to reduce the application and renewal fees.

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 § 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, if
13 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:

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

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

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

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

31 (d) The department shall issue a registry identification card to each primary caregiver, if
32 any, who is named in a qualifying patient's approved application, up to a maximum of two (2)
33 primary caregivers per qualifying patient. A person may not serve as a primary caregiver if he or
34 she has a felony drug conviction, unless the department waives this restriction in respect to a

1 specific individual at the department's discretion. Additionally, the department shall allow the
2 person to serve as a primary caregiver if the department determines that the offense was for
3 conduct that occurred prior to the enactment of the Edward O. Hawkins and Thomas C. Slater
4 Medical Marijuana Act or that was prosecuted by an authority other than the state of Rhode
5 Island and for which the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act
6 would otherwise have prevented a conviction.

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

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

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

15 (1) A qualifying patient who has been issued a registry identification card shall notify the
16 department of any change in the qualifying patient's name, address, or primary caregiver; or if the
17 qualifying patient ceases to have his or her debilitating medical condition, within ten (10) days of
18 such change.

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

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

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

1 listed in this subsection, the department shall issue the cardholder a new registry identification
2 card within ten (10) days of receiving the updated information and a ten dollar (\$10.00) fee.

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

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

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

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

17 (h) (1) Applications and supporting information submitted by qualifying patients,
18 including information regarding their primary caregivers and practitioners, are confidential and
19 protected under the federal Health Insurance Portability and Accountability Act of 1996, and shall
20 be exempt from the provisions of the RIGL chapter 38-2 et seq. the Rhode Island access to public
21 records act and not subject to disclosure, except to authorized employees of the department as
22 necessary to perform official duties of the department.

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

28 ~~(2)~~(3) The department shall maintain a confidential list of the persons to whom the
29 department has issued registry identification cards. Individual names and other identifying
30 information on the list shall be confidential, exempt from the provisions of Rhode Island Access
31 to Public Information, chapter 2 of title 38, and not subject to disclosure, except to authorized
32 employees of the department as necessary to perform official duties of the department.

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

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

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

9 (1) The number of applications for registry identification cards, the number of qualifying
10 patients and primary caregivers approved, the nature of the debilitating medical conditions of the
11 qualifying patients, the number of registry identification cards revoked, and the number of
12 practitioners providing written certification for qualifying patients;

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

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

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

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

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

27 **21-28.6-10. Severability.** ~~-- Any section of this act being held invalid as to any person or~~
28 ~~circumstances shall not affect the application of any other section of this act that can be given full~~
29 ~~effect without the invalid section or application. If any provision of this chapter or its application~~
30 ~~thereof to any person or circumstance is held invalid, such invalidity shall not affect other~~
31 ~~provisions or applications of this chapter, which can be given effect without the invalid provision~~
32 ~~or application, and to this end the provisions of this chapter are declared to be severable.~~

33 **21-28.6-12. Compassion centers.** ~~--~~ (a) A compassion center registered under this
34 section may acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or

1 dispense marijuana, or related supplies and educational materials, to registered qualifying patients
2 and their registered primary caregivers who have designated it as one of their primary caregivers.
3 A compassion center is a primary caregiver. Except as specifically provided to the contrary, all
4 provisions of the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, sections 21-
5 28.6-1 -- 21-28.6-11, apply to a compassion center unless they conflict with a provision contained
6 in section 21-28.6-12.

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

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

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

12 (ii) The maximum amount of marijuana, in whatever form, a compassion center may
13 possess.

14 ~~(ii)~~(iii) Minimum oversight requirements for compassion centers;

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

16 ~~(iv)~~(v) Minimum security requirements for compassion centers; and

17 ~~(v)~~(vi) Procedures for suspending, revoking or terminating the registration of compassion
18 centers that violate the provisions of this section or the regulations promulgated pursuant to this
19 subsection.

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

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

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

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

32 (6) Within two (2) years of the effective date of this ~~act~~ chapter, the department shall
33 begin accepting applications to provide registration certificates for two (2) additional compassion
34 centers. The department shall solicit input from the public, and issue registration certificates if

1 qualified applicants exist.

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

4 (8) If at any time after three (3) years after the effective date of this ~~act~~ [chapter](#), fewer
5 than three (3) compassion centers are holding valid registration certificates in Rhode Island, the
6 department shall accept applications for a new compassion center. No more than three (3)
7 compassion centers may hold valid registration certificates at one time.

8 [\(9\) Any compassion center application granted and approved by the department prior to](#)
9 [January 1, 2012, shall remain in full force and effect, notwithstanding any provisions of this](#)
10 [chapter to the contrary, but shall be subject to state law adopted herein and rules and regulations](#)
11 [adopted by the department subsequent to passage of this legislation.](#)

12 [\(10\) All compassion center applications granted and approved by the department on or](#)
13 [after January 1, 2012 must be located beyond the distance of the property line of a preexisting](#)
14 [public or private school as identified in 21 U.S.C. 860, notwithstanding any provisions of this](#)
15 [chapter to the contrary.](#)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (iv) The ~~wishes~~ interests of qualifying patients regarding which applicant be granted a
14 registration certificate;

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

16 (vi) The sufficiency of the applicant's plans for record keeping and security, which
17 records shall be considered confidential health care information under Rhode Island law and are
18 intended to be deemed protected health care information for purposes of the Federal Health
19 Insurance Portability and Accountability Act of 1996, as amended; and

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

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

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

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

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

28 (iv) The name, address, ~~and~~ date of birth, and criminal background check if ordered by
29 the department, of each principal officer and board member of the compassion center;

30 (v) The name, address, ~~and~~ date of birth, and criminal background check if ordered by
31 the department, of any person who will be an agent of ~~or employed by~~, employee or volunteer of
32 the compassion center at its inception;

33 (5) The department shall track the number of registered qualifying patients who
34 designate each compassion center as a primary caregiver, and issue a written statement to the

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

7 (6) Except as provided in subdivision (7), the department shall issue each principal
8 officer, board member, agent, volunteer and employee of a compassion center a registry
9 identification card or renewal card within ten (10) days of receipt of the person's name, address,
10 date of birth, [and criminal background check if ordered by the department](#), and a fee in an amount
11 established by the department. Each card shall specify that the cardholder is a principal officer,
12 board member, agent, volunteer, or employee of a compassion center and shall contain the
13 following:

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

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

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

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

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

21 (7) Except as provided in this subsection, the department shall not issue a registry
22 identification card to any principal officer, board member, agent, volunteer, or employee of a
23 compassion center who has been convicted of a felony drug offense. The department may
24 ~~conduct~~ [order](#) a background check of each principal officer, board member, agent, volunteer, or
25 employee in order to carry out this provision. The department shall notify the compassion center
26 in writing of the purpose for denying the registry identification card. The department may grant
27 such person a registry identification card if the department determines that the offense was for
28 conduct that occurred prior to the enactment of the Edward O. Hawkins and Thomas C. Slater
29 Medical Marijuana Act or that was prosecuted by an authority other than the state of Rhode
30 Island and for which the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act
31 would otherwise have prevented a conviction;

32 (8) A registry identification card of a principal officer, board member, agent, volunteer,
33 or employee shall expire one year after its issuance, or upon the expiration of the registered
34 organization's registration certificate, [or upon the termination of the principal officer, board](#)

1 [member, agent, volunteer or employee's relationship with the compassion center](#), whichever
2 occurs first.

3 (d) Expiration or termination of compassion center:

4 (1) A compassion center's registration shall expire two (2) years after its registration
5 certificate is issued. The compassion center may submit a renewal application beginning sixty
6 (60) days prior to the expiration of its registration certificate;

7 (2) The department shall grant a compassion center's renewal application within thirty
8 (30) days of its submission if the following conditions are all satisfied:

9 (i) The compassion center submits the materials required under subdivision (c)(4),
10 including a five thousand dollar (\$5,000) fee;

11 (ii) ~~The department has not ever suspended the~~ [The](#) compassion center's registration [has](#)
12 [never been suspended](#) for violations of this ~~act~~ [chapter](#) or regulations issued pursuant to this ~~act~~
13 ~~chapter~~;

14 (iii) The legislative oversight committee's report, issued pursuant to subsection (j),
15 indicates that the compassion center is adequately providing patients with access to medical
16 marijuana at reasonable rates; and

17 (iv) The legislative oversight committee's report, issued pursuant to subsection (j), does
18 not raise serious concerns about the continued operation of the compassion center applying for
19 renewal.

20 (3) If the department determines that any of the conditions listed in paragraphs (d)(2)(i) -
21 - (iv) ~~exist~~ [have not been met](#), the department shall begin an open application process for the
22 operation of a compassion center. In granting a new registration certificate, the department shall
23 consider factors listed in subdivision (c)(3) [of this section](#);

24 (4) The department shall issue a compassion center one or more thirty (30) day
25 temporary registration certificates after that compassion center's registration would otherwise
26 expire if the following conditions are all satisfied:

27 (i) The compassion center previously applied for a renewal, but the department had not
28 yet come to a decision;

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

30 (iii) The compassion center has not had its registration certificate revoked due to
31 violations of this ~~act~~ [chapter](#) or regulations issued pursuant to this ~~act~~ [chapter](#).

32 [\(5\) A compassion center's registry identification card shall be subject to revocation if the](#)
33 [compassion center](#):

34 [\(i\) Possesses an amount of marijuana, in whatever form, exceeding limits established by](#)

1 the department;

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

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

4 (iv) Employs or enters into a business relationship with a medical practitioner who
5 provides written certification of a qualifying patient's medical condition.

6 (e) Inspection. - Compassion centers are subject to reasonable inspection by the
7 department of health, division of facilities regulation. ~~The department shall give reasonable notice~~
8 ~~of an inspection under this subsection.~~ During an inspection, the department may review the
9 compassion center's confidential records, including its dispensing records, which ~~may~~ shall track
10 transactions according to qualifying patients' registry identification numbers to protect their
11 confidentiality.

12 (f) Compassion center requirements:

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

16 (2) A compassion center may not be located within five hundred feet (500') of the
17 property line of a preexisting public or private school;

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

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

28 (5) A compassion center shall implement appropriate security measures to deter and
29 prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and
30 shall insure that each location has an operational security alarm system.

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

33 (7) A compassion center is prohibited from acquiring, possessing, cultivating,
34 manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any

1 purpose except to assist registered qualifying patients with the medical use of marijuana directly
2 or through the qualifying ~~patients~~ patient's other primary caregiver;

3 (8) All principal officers and board members of a compassion center must be residents of
4 the state of Rhode Island;

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

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

10 (i) A job description or employment contract developed for all employees and agents and
11 a volunteer agreement for all volunteers, which includes duties, authority, responsibilities,
12 ~~qualification~~ qualifications, and supervision; and

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

14 (11) Each compassion center shall maintain a personnel record for each employee, agent
15 and ~~each~~ volunteer that includes an application ~~for employment or to volunteer~~ and a record of
16 any disciplinary action taken;

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

20 (i) Professional conduct, ethics, and patient confidentiality; and

21 (ii) Informational developments in the field of medical use of marijuana.

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

24 (i) The proper use of security measures and controls that have been adopted; and

25 (ii) Specific procedural instructions on how to respond to an emergency, including
26 robbery or violent accident;

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

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

33 (1) A compassion center or principal officer, board member, agent, volunteer or
34 employee of a compassion center may not dispense more than two and one half ounces (2.5 oz) of

1 usable marijuana to a qualifying patient directly or through a qualifying patient's other primary
2 caregiver during a fifteen (15) day period;

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

9 (h) Immunity:

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

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

21 ~~(2)~~(3) No principal officers, board members, agents, volunteers, or employees of a
22 registered compassion center shall be subject to arrest, prosecution, search, seizure, or penalty in
23 any manner or denied any right or privilege, including, but not limited to, civil penalty or
24 disciplinary action by a business, occupational, or professional licensing board or entity, solely
25 for working for or with a compassion center to engage in acts permitted by this section.

26 (i) Prohibitions:

27 (1) A compassion center may not possess an amount of marijuana that exceeds the total
28 of the allowable amount of marijuana in whatever form, as established by the department through
29 regulation, for the registered qualifying patients for whom the compassion center is a registered
30 primary caregiver~~;~~.

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

34 (3) A person found to have violated paragraph (2) of this subsection may not be an

1 employee, agent, volunteer, principal officer, or board member of any compassion center, ~~and~~
2 ~~such person's registry identification card shall be immediately revoked;~~

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 ~~(4)~~(5) No person who has been convicted of a felony drug offense may be the principal
7 officer, board member, agent, volunteer, or employee of a compassion center unless the
8 department has determined that the person's conviction was for the medical use of marijuana or
9 assisting with the medical use of marijuana ~~and issued the person a registry identification card as~~
10 ~~provided under subdivision (e)(7)~~ in accordance with the terms and conditions of this chapter. A
11 person who is employed by or is an agent, volunteer, principal officer, or board member of a
12 compassion center in violation of this section is guilty of a civil violation punishable by a fine of
13 up to one thousand dollars (\$1,000). A subsequent violation of this section is a ~~gross~~
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 one representative of the law
22 enforcement community.

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.

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

1 **21-28.6-13. Construction.** -- [This chapter shall be liberally construed so as to effectuate](#)
2 [the purposes thereof.](#)

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

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LC01989
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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 fine-tune certain provisions of the chapter on medical marijuana such as a
2 clarification that a registered qualifying patient, registered primary caregiver or a registered
3 compassion center will not be subject to arrest or prosecution or denied rights (including
4 disciplinary action by a licensing board) for selling, giving or distributing marijuana of the type
5 and amount permitted by law, the conditions under which a compassion center's registry
6 identification card can be revoked, and a requirement that all compassion centers approved after
7 January 1, 2012 be located a certain distance from schools.

8 This act would take effect upon passage.

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LC01989
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