

1 citizens.

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

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

9 **21-28.6-3. Definitions.** – The following terms, as used in this act, shall have the
10 meanings set forth in this section:

11 (a) “Debilating medical condition” means:

12 (1) cancer, glaucoma, positive status for human immunodeficiency virus, acquired
13 immune deficiency syndrome, or the treatment of these conditions;

14 (2) a chronic or debilitating disease or medical condition or its treatment that produces
15 one or more of the following: cachexia or wasting syndrome; severe pain; severe nausea;
16 seizures, including those characteristic of epilepsy; or severe and persistent muscle spasms,
17 including those characteristic of multiple sclerosis or Crohn’s disease; or

18 (3) any other medical condition or its treatment approved by the department, as provided
19 for as follows: not later than ninety (90) days after the effective date of this chapter, the
20 department shall promulgate regulations governing the manner in which it will consider petitions
21 from the public to add debilitating medical conditions to those included in this chapter. In
22 considering such petitions, the department shall include public notice of, and an opportunity to
23 comment in a public hearing upon, such petitions. The department shall, after hearing, approve or
24 deny such petitions within one hundred eighty (180) days of submission. The approval or denial
25 of such a petition shall be considered a final department action, subject to judicial review.
26 Jurisdiction and venue for judicial review are vested in the superior court.

27 (b) “Department” means the Rhode Island department of health or its successor agency.

28 (c) “Marijuana” has the meaning given that term in section 21-28-1.02(26).

29 (d) “Medical use” means the acquisition, possession, cultivation, manufacture, use,
30 delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of
31 marijuana to alleviate the symptoms or effects of a qualifying patient’s debilitating medical
32 condition.

33 (e) “Physician” means a person who is licensed pursuant to chapter 37 of title 5, and is
34 licensed with authority to prescribe drugs pursuant to chapter 37 of title 5.

1 (f) “Primary caregiver” means a person who is at least eighteen (18) years old, who has
2 never been convicted of a felony drug offense, and who has agreed not to provide marijuana to
3 any person other than qualifying patients. A qualifying patient may have only one primary
4 caregiver at any one time.

5 (g) “Qualifying patient” means a person who has been diagnosed by a physician as
6 having a debilitating medical condition.

7 (h) “Registry identification card” means a document issued by the department that
8 identifies a person as a qualifying patient or primary caregiver.

9 (i) “Usable marijuana” means the dried leaves and flowers of marijuana, and any mixture
10 or preparation thereof, and does not include the seeds, stalks, and roots of the plant.

11 (j) “Written certification” means the qualifying patient’s medical records, or a statement
12 signed by a physician, stating that in the physician’s professional opinion, after having completed
13 a full assessment of the qualifying patient’s medical history and current medical condition made
14 in the course of a bona fide physician-patient relationship, the qualifying patient has a debilitating
15 medical condition and the potential benefits of the medical use of marijuana would likely
16 outweigh the health risks for the qualifying patient.

17 **21-28.6-4. Protections for the medical use of marijuana.** – (a) A qualifying patient
18 who has in his or her possession a registry identification card shall not be subject to arrest,
19 prosecution, or penalty in any manner, or denied any right or privilege, including civil penalty or
20 disciplinary action by a professional licensing board, for the medical use of marijuana; provided,
21 that the qualifying patient possesses an amount of marijuana which does not exceed six (6)
22 marijuana plants and one ounce of usable marijuana.

23 (b) Subsection (a) of this section shall not apply to a qualifying patient under the age of
24 eighteen (18) years, unless:

25 (1) The qualifying patient’s physician has explained the potential risks and benefits of the
26 medical use of marijuana to the qualifying patient and to a parent, guardian, or person having
27 legal custody of the qualifying patient; and

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

29 (i) allow the qualifying patient’s medical use of marijuana;

30 (ii) serve as the qualifying patient’s primary caregiver; and

31 (iii) control the acquisition of the marijuana, the dosage, and the frequency of the medical
32 use of marijuana by the qualifying patient.

33 (c) A primary caregiver who has in his or her possession a registry identification card
34 shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or

1 privilege, including civil penalty or disciplinary action by a professional licensing board, for
2 assisting the qualifying patient to whom he or she is connected through the department's
3 registration process with the medical use of marijuana; provided, that the primary caregiver
4 possesses an amount of marijuana which does not exceed six (6) marijuana plants and one ounce
5 of usable marijuana.

6 (d) There shall exist a presumption that a qualifying patient or primary caregiver is
7 engaged in the medical use of marijuana if the qualifying patient or primary caregiver:

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

9 (2) is in possession of an amount of marijuana which does not exceed the amount
10 permitted under this act. Such presumption may be rebutted by evidence that conduct related to
11 marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's
12 debilitating medical condition.

13 (e) A primary caregiver may receive reasonable compensation for services provided to
14 assist with a qualifying patient's medical use of marijuana.

15 (f) A physician shall not be subject to arrest, prosecution, or penalty in any manner, or
16 denied any right or privilege, including civil penalty or disciplinary action by the Rhode Island
17 Board of Medical Licensure and Discipline, for providing written certification for the medical use
18 of marijuana to qualifying patients.

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

21 (h) No person shall be subject to arrest or prosecution for "constructive possession,"
22 "conspiracy," or any other offense for simply being in the presence or vicinity of the medical use
23 of marijuana as permitted under this chapter.

24 (i) A registry identification card, or its equivalent, issued by another state government to
25 permit the medical use of marijuana by a qualifying patient, or to permit a person to assist with a
26 qualifying patient's medical use of marijuana, shall have the same force of effect as a registry
27 identification card issued by the department.

28 **21-28.6-5. Procedures and regulations governing registration.** – (a) Not later than
29 ninety (90) days after the effective date of this chapter, the department shall promulgate
30 regulations governing the manner in which it will consider applications for and renewals of
31 registry identification cards for qualifying patients and primary caregivers. The department's
32 regulations shall establish application and renewal fees that generate revenues sufficient to offset
33 all expenses of implementing and administering this chapter. The department may vary the
34 application and renewal fees along a sliding scale that accounts for a qualifying patient's income.

1 The department may accept donations from private sources in order to reduce the application and
2 renewal fees.

3 (b) The department shall issue registry identification cards to qualifying patients who
4 submit the following, in accordance with the department's regulations:

- 5 (1) written certification that the person is a qualifying patient;
- 6 (2) application or renewal fee;
- 7 (3) name, address, and date of birth of the qualifying patient;
- 8 (4) name, address, and telephone number of the qualifying patient's physician; and
- 9 (5) name, address, and date of birth of the qualifying patient's primary caregiver, if any.

10 (c) The department shall verify the information contained in an application or renewal
11 submitted pursuant to this section, and shall approve or deny an application or renewal within
12 thirty (30) days of receipt of the application or renewal. The department may deny an application
13 or renewal only if the applicant did not provide the information required pursuant to this section,
14 or if the department determines that the information provided was falsified.

15 (d) The department shall issue a registry identification card to the primary caregiver who
16 is named in a qualifying patient's approved application, so long as the primary caregiver signs a
17 statement agreeing to provide marijuana only to qualifying patients who have named him or her
18 as primary caregiver; provided, the department shall not issue a registry identification card to a
19 proposed primary caregiver who has previously been convicted of a felony drug offense.

20 (e) The department shall issue registry identification cards within five (5) days of
21 approving an application or renewal, which shall expire one year after the date of issuance.

22 Registry identification cards shall contain:

- 23 (1) name, address, and date of birth of the qualifying patient;
- 24 (2) name, address, and date of birth of the qualifying patient's primary caregiver, if any;
- 25 (3) the date of issuance and expiration date of the registry identification card; and
- 26 (4) other information that the department may specify in its regulations.

27 (f) A person who possesses a registry identification card shall notify the department of
28 any change in the qualifying patient's name, address, physician, or primary caregiver, or change
29 in status of the qualifying patient's debilitating medical condition, within ten (10) days of such
30 change, or the registry identification card shall be deemed null and void.

31 (g) Possession of, or application for, a registry identification card shall not alone
32 constitute probable cause to search the person or property of the person possessing or applying
33 for the registry identification card, or otherwise subject the person or property of the person
34 possessing the card to inspection by any governmental agency.

1 (h) The department shall maintain a confidential list of the persons to whom the
2 department has issued registry identification cards. Individual names and other identifying
3 information on the list shall be confidential, exempt from the provisions of Rhode Island Access
4 to Public Records, chapter 2 of title 38, and not subject to disclosure, except to:

5 (1) authorized employees of the department as necessary to perform official duties of the
6 department; or

7 (2) authorized employees of state or local law enforcement agencies, only as necessary to
8 verify that a person who is engaged in the suspected or alleged medical use of marijuana is
9 lawfully in possession of a registry identification card.

10 (i) The department shall report annually to the legislature on the number of applications
11 for registry identification cards, the number of qualifying patients and primary caregivers
12 approved, the nature of the debilitating medical conditions of the qualifying patients, the number
13 of registry identification cards revoked, and the number of physicians providing written
14 certification for qualifying patients. The department shall not provide any identifying information
15 of qualifying patients, primary caregivers, or physicians.

16 (j) It shall be a misdemeanor, punishable by imprisonment for not more than one hundred
17 eighty (180) days and a fine in the amount of one thousand dollars (\$1,000), for any person,
18 including employees and officials of the department and other state and local governments or
19 agencies, to provide any identifying information of qualifying patients or primary caregivers to a
20 federal official or federal agency.

21 **21-28.6-6. Scope of act.** – (a) This chapter shall not permit:

22 (1) any person to operate, navigate, or be in actual physical control of any motor vehicle,
23 aircraft, or motorboat while under the influence of marijuana; and

24 (2) the smoking of marijuana:

25 (A) in a school bus or other form of public transportation;

26 (B) on any school grounds;

27 (C) in any correctional facility; or

28 (D) at any public park, public beach, public recreation center, or youth center.

29 (b) Nothing in this chapter shall be construed to require:

30 (1) a government medical assistance program or private health insurer to reimburse a
31 person for costs associated with the medical use of marijuana; or

32 (2) an employer to accommodate the medical use of marijuana in any workplace.

33 (c) Notwithstanding any law to the contrary, fraudulent representation to a law
34 enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid

1 arrest or prosecution shall be punishable by a fine of five hundred dollars (\$500) which shall be in
2 addition to any other penalties that may apply for the nonmedical use of marijuana.

3 **21-28.6-7. Affirmative defense.** – (a) A person and a person’s primary caregiver, if any,
4 may assert the medical use of marijuana as a defense to any prosecution involving marijuana, and
5 such defense shall be presumed valid where the evidence shows that:

6 (i) the person’s medical records indicate, or a physician has stated that, in the physician’s
7 professional opinion, after having completed a full assessment of the person’s medical history and
8 current medical condition made in the course of a bona fide physician-patient relationship, the
9 potential benefits of the medical use of marijuana would likely outweigh the health risks for the
10 person; and

11 (ii) the person and the person’s primary caregiver, if any, were collectively in possession
12 of a quantity of marijuana that was not more than was reasonably necessary to ensure the
13 uninterrupted availability of marijuana for the purpose of alleviating the symptoms or effects of
14 the person’s medical condition.

15 **21-28.6-8. Repealer.** – All laws and parts of laws in Rhode Island that are in conflict
16 with this chapter are hereby repealed.

17 **21-28.6-9. Severability.** – Any section of this chapter being held invalid as to any person
18 or circumstances shall not affect the application of any other section of this chapter that can be
19 given full effect without the invalid section or application.

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

=====
LC00980
=====

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

1 This act would protect patients with debilitating medical conditions, and their physicians
2 and primary caregivers, from arrest and prosecution, criminal and other penalties, and property
3 forfeiture if such patients engage in the medical use of marijuana.

4 This act would take effect upon passage.

=====
LC00980
=====

