

<p>DISTRICT COURT, _____ COUNTY, RHODE ISLAND  Court address</p> <hr/> <p><b>THE PEOPLE OF THE STATE OF RHODE ISLAND,</b>  v.  _____,  <b>Defendant.</b></p> <hr/> <p>Attorneys for Defendant:</p>	<p style="text-align: center;"><b>COURT USE ONLY</b></p> <hr/> <p>Case No.</p> <p>Division</p>
<p><b>MOTION TO CLARIFY PROBATION CONDITIONS AND  REQUEST THAT SAME BE FILED UNDER SEAL</b></p>	

Defendant, through undersigned counsel, hereby moves for a clarification of his probation conditions on the ground that Defendant is a state-licensed medical marijuana patient who has received a physician’s recommendation to grow, possess, and use medical marijuana pursuant to the Rhode Island General Law § 21-28.6 (medical marijuana); Rhode Island General Laws § 21-28-3.30 (4) (controlled substances permitted for probationers with prescription) and as grounds therefore, states as follows:

1. Defendant was convicted of/pled guilty to [insert defense for which Defendant is on probation]. He has completed his public service and is making substantial progress toward paying the fines and costs, and remains on probation.

2. Defendant has a physician's recommendation to use medical marijuana (see Physician Certification, attached hereto and incorporated herein as Defendant's Exhibit 1), as well as a State of Rhode Island-issued Medical Marijuana Registry Identification Card reflecting his status as a medical marijuana patient (*see* State of Rhode Island Medical Marijuana Registry, attached hereto and incorporated herein as Defendant's Exhibit 2).

3. In growing, using, and possessing marijuana, Defendant is in compliance with Rhode Island criminal laws and operates legally under the medical marijuana provisions of the R.I.G.L. § 21-28.6. That section creates a legal right for patients or their primary caregivers to grow, possess, and use medical marijuana with a physician's recommendation, in an amount no more than 2.5 oz. and 12 plants for one patient, or 5 oz. and 24 plants for more than 1 patient.

4. Defendant falls under R.I.G.L. definition of a medical marijuana "qualifying patient." R.I.G.L. 21-28.6-3 (7) "Qualifying' patient means a person who has been diagnosed by a physician as having a debilitating medical condition and is a resident of Rhode Island.").

5. The R.I.G.L. establish an affirmative defense to Rhode Island criminal laws governing marijuana, available to both patients and primary caregivers alike, where the patient was diagnosed and advised by a physician that "the potential benefits of using marijuana for medical purposes would likely outweigh the health risks for the qualifying patient." R.I.G.L. 21-28.6-8 (1).

6. Defendant requests that this motion and exhibits be filed under seal to protect and maintain the confidentiality of his medical records. *See* R.I.G.L. (criminal penalty for “breach the confidentiality of information obtained pursuant to this chapter.”); R.I.G.L. 21-28.6-6 (2) (j).

7. It is medically necessary for Defendant, as a medical marijuana patient, to grow, possess, and use medical marijuana.

8. Although Defendant is doing well on probation and has developed a positive rapport with his probation officer, Defendant anticipates the potential for problems with his probation if he continues to use his medical marijuana, and accordingly requests formal clarification from this Honorable Court that he is permitted to grow, possess, and use medical marijuana consistent with the provisions of the Rhode Island General Laws § 21-28.6.

Wherefore, for all of the foregoing reasons and authorities, and those that will be shown at a hearing, Defendant respectfully requests that this Court enter an order clarifying that Defendant is permitted to grow, possess, and use medical marijuana, in quantities that are medically necessary and in accordance with Rhode Island General Laws § 21-28.6, during his probation and thereafter, and for an order that this motion and exhibits are to be maintained under seal and not part of the public court record in this case, and for other relief proper in the premises.

Date:

Respectfully submitted,

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Attorney's name.

**CERTIFICATE OF SERVICE**

I hereby certify that on [Date], a copy of the foregoing **MOTION TO CLARIFY PROBATION CONDITIONS AND REQUEST THAT SAME BE FILED UNDER SEAL** was served in the manner indicated on the following:

Office of the District Attorney  
Address of DA  
(by U.S. Mail, postage prepaid)

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