

<p>DISTRICT COURT  [Insert jurisdiction], RHODE ISLAND  [court address]</p> <hr/> <p><b>THE PEOPLE OF THE STATE OF RHODE ISLAND,</b>  v.  <b>[Defendant name],</b>  <b>Defendant.</b></p> <hr/> <p>Attorney for Defendant:  [insert attorney info]</p>	<p>ï <b>COURT USE ONLY</b> ï</p> <hr/> <p>Case No. [insert number]</p> <p>Courtroom</p>
<p align="center"><b>MOTION TO DISMISS PURSUANT TO RHODE ISLAND GENERAL LAWS  CHAPTER 21-28.6 THE EDWARD O. HAWKINS AND THOMAS C. SLATER  MEDICAL MARIJUANA ACT</b></p>	

[Defendant’s name], through undersigned counsel, hereby moves that the charges in this case be dismissed, because [Defendant’s name] is a state-licensed caregiver of medical marijuana pursuant to Rhode Island General Laws Chapter 21-28.6 and as grounds therefore, states as follows:

1. The complaint and information in this case charges the following counts against the Defendant: [insert charges, such as Count 1 alleges Cultivation of Marijuana, R.I.G.L. § 21-28-3.06 and count 2 alleges Possession with Intent to Distribute Marijuana, R.I.G.L. § 21-28-4.01].

2. In cultivating and possessing marijuana, the Defendant broke no Rhode Island criminal laws and operated legally under the medical marijuana provisions of

R.I.G.L. § 21-28.6. That section creates a legal right for patients or their primary caregivers to grow or possess medical marijuana with a physician's recommendation, in an amount medically necessary.

3. [If the Defendant is a patient, insert information explaining how he/she qualifies as a patient. Attach the state license and the recommendation from the doctor if possible]. The Defendant falls under the Rhode Island General Laws definition of a medical marijuana patient and there is a complete exemption from state criminal law as long as the patient is within the limits set out in the law. *See* R.I.G.L. § 21-28.6.

4. [If the Defendant is a caregiver, insert information proving he/she is a caregiver] The Defendant falls under the Rhode Island General Laws definition of "primary caregiver R.I.G.L. § 21-28.6 ("Primary caregiver" is "a person who is at least twenty-one (21) years old and who has agreed to assist with a person's medical use of marijuana and who doesn't have a felony drug conviction. A primary caregiver may assist no more than five (5) qualifying patients with their medical use of marijuana."). In this case, the Defendant is the primary caregiver to at least [list number of patients] medical marijuana patients who have received their physicians' recommendations. The Rhode Island General Laws establish an affirmative defense, available to primary caregivers, where the patient was diagnosed and advised by a physician "in the practitioner's professional opinion the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient." R.I.G.L. 21-28.6-3 (10).

5. [This section for caregivers only.] It is not necessary for patients to formally apply to the state health agency to avail themselves or their caregivers of the affirmative defense, only that they have the physician’s recommendation. R.I.G.L 21-28.6 (a) (1). In this case, at least [number] of the patients to whom Defendant serves as primary caregiver have so applied and been accepted, and have been issued their medical marijuana registry numbers. Documents evidencing these patients, and the registry numbers, are filed separately under seal to protect their identities and maintain the confidentiality of their medical records. See R.I.G.L 21-28.6-6 (2) (j) (criminal penalty, “breach the confidentiality of information obtained pursuant to this chapter.”)

7. [This section for caregivers only.] It is medically necessary for the Defendant as primary caregiver for these patients to grow and possess the amount of marijuana that was located at his home, which the government alleges is [numbers of plants] plants. The Rhode Island General Laws specifically provide that a patient or caregiver has a right to possess 2.5 oz and 12 plants, or 5 oz. and 24 plants for multiple patients, R.I.G.L 21-28.6-4 (c). In this case, the amount of medical marijuana grown and possessed by the Defendant was medically necessary for the [insert number] patients supplied to the Court.

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 dismissing the charges against Defendant, and for other relief proper in the premises.

Date: [date]

Respectfully submitted,

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[attorney name]

**CERTIFICATE OF SERVICE**

I hereby certify that on [date], a copy of the foregoing **MOTION TO DISMISS PURSUANT TO RHODE ISLAND GENERAL LAWS CHAPTER 21-28.6 THE EDWARD O. HAWKINS AND THOMAS C. SLATER MEDICAL MARIJUANA ACT** was served in the manner indicated on the following:

Deputy District name and address  
(by U.S. Mail, postage prepaid)

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