CONCISE EXPLANATORY STATEMENT

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, the following is a concise explanatory statement:

AGENCY: Rhode Island Cannabis Control Commission

RULE IDENTIFIER: 560-RICR-10-05-1

REGULATION TITLE: Administration, Procedures and Enforcement

REASON FOR RULEMAKING: Full Rulemaking, Adoption

In accordance with the 2022 adoption of the Rhode Island Cannabis Act ("RICA") (R.I. Gen. Laws Chapter 21-28.11) and the 2022 amendments to the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act ("Medical Cannabis Act") (R.I. Gen. Laws Chapter 21-28.6), the Commission has proposed the adoption of 560-RICR-10-05-1 as part of the transition of the cannabis regulatory program from the Department of Business Regulation ("DBR") to the Commission.

This regulation establishes standard provisions for the operations of the Commission relative to hearings and enforcement actions, and also contains required rules for public records, petitions for rulemaking and petitions for declaratory rulings. Most of the regulation was built off existing provisions in DBR's Rules of Procedure for Administrative Hearings, 230-RICR-10-00-2, which are the rules for hearings currently followed by the Office of Cannabis Regulation for all enforcement matters. These provisions were modified to meet the needs of the Commission, a public body that is also subject to the Open Meetings Act. The enforcement provisions contained in this regulation were sourced from DBR's existing medical marijuana regulations, 230-RICR-80-05-1, with provisions updated by the Commission to be consistent with the Rhode Island Cannabis Act and the new license types that the Commission is authorized to issue.

REGULATORY ANALYSIS:

Any person or entity involved in an enforcement or regulatory action by the Commission and members of the public requesting records or other actions from the Commission must comply with the requirements set forth in this regulation. This regulation implements existing statutory requirements and does not impose any additional regulatory burdens or costs for individuals or licensees that are not required by statute.

In the development of the proposed regulation consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small businesses. No alternative approach would be as effective and less burdensome as the proposed regulatory language and no duplication or overlap was identified based upon available information.

SUMMARY OF POST-PUBLIC COMMENT CHANGES TO TEXT OF THE RULE:

The following differences exist between the text of the proposed rule as published in accordance with R.I. Gen. Laws § 42-35-2.7 and the rule as adopted. These changes are all consistent with, and a logical outgrowth of, the proposed regulation in the notice of proposed rulemaking in accordance with R.I. Gen. Laws § 42-35-6.1. In addition to this summary of changes, a redlined document showing the exact changes is attached.

1. The following technical, non-substantive changes were made to correct typographical and/or formatting issues in the original proposed regulation:

    a. The main heading of the document was edited to comply with formatting requirements;
    b. At § 1.3, defined terms were capitalized, including "Commissioners" and "Parties;
    c. At § 1.4(A), numbering was adjusted; and
    d. At § 1.5(C)(2)(m), the language "through (m)" was changed to "through (l)" to accurately reflect that the content of (m) is to work in conjunction with a violation of § 1.5(C)(2)(a)-(l).

SUMMARY OF COMMENTS NOT RESULTING IN REGUATORY LANGUAGE CHANGES:

Below is a summary of public comments received that did not result in changes to the text of the regulation, and a brief description of the Commission's reasons for not making any such changes after due consideration.

1. *§ 1.4(A)(6), Inspections and Audits.* Commentary was received stating that this section should include minimal standards to govern when the Commission can involve law enforcement in inspections conducted "to evaluate compliance with the Cannabis Act, the Medical Marijuana Act, and any regulations."

    The identified regulatory language is taken directly from existing law. As cannabis is a federally illegal narcotic that has a thriving illicit market—in Rhode Island and beyond—

there are myriad circumstances—both probable and unforeseen—that could require coordinated inspections with law enforcement. As such, the Commission respectfully chooses to not specify in regulation what circumstances would warrant such coordinated inspections, as doing so may not only hinder the Commission's regulatory authority but also pose an immediate threat to public health and safety.

2. *§ 1.4(C)(4), Inspections and Audits*. Commentary was received regarding requiring patients and caregivers to hold a valid medical home-grow certificate or face an administrative penalty, claiming that patients should be excluded from holding certificates because they may be computer illiterate or not have the means to obtain a medical cannabis home-grow certificate; that adult-use home-grows may consist of three adult plants without a certificate, and that this provision penalizes patients by putting a greater financial burden on medication.

   The Medical Marijuana Act and the Cannabis Act contain specific possession limits and requirements for individuals who grow cannabis, given that cannabis is a federally illegal narcotic. Adults are limited to growing three plant sets, and an individual may only exceed that statutory amount with proper documentation in the form of a home-grow certificate. Patients and caregivers who do not have computers may apply for certificates in person or over the phone.

3. *§ 1.4(C)(5)(b), Inspections and Audits.* Commentary was received that this provision permits home-grow certificates to be revoked for failure to maintain or timely renew a registry identification card and for failing to maintain or produce cultivation records, and that patients should be excluded from this provision because it burdens patients where adult-use personal cultivation does not have to maintain or produce cultivation records.

   The cited provision comes from existing law and has not been changed or newly implemented by the Commission. Any adult may legally grow three plant sets without documentation, however individuals who seek to grow more cannabis plants than that amount must be properly registered and hold proper documentation in accordance with statutory requirements. Such documentation is also required to ensure that registered caregivers are fairly charging patients for only the cost of goods needed to grow cannabis plants, and such documentation consists of printed receipts that do not need to be drafted by patients.

4. *§ 1.4(C)(5)(b), Inspections and Audits.* Commentary was received requesting clarification on the definition of "timely renew patient or caregiver registration," because some patients are not timely with their doctors' appointments due to their chronic medical condition or lack of transportation, which can delay their card being renewed.

"Timely renew patient or caregiver registration" means to renew the patient or caregiver registry identification card prior to its expiration in accordance with applicable law.

5. *§ 1.5(A), Commission Investigations and Enforcement*. Commentary was received that adding "written" before "complaint" would ensure accountability and prevent harassment of cannabis establishment operators.

   This provision is taken directly from existing law. The Commission respectfully declines to adopt the suggested edit, cognizant that cannabis is a federally illegal narcotic that has a thriving illicit market, which has been linked with other criminal behaviors. The Commission is aware that valid complaints may be received in a variety of ways and that limiting the manner of conveyance may result in immediate risk to the health and safety of the public.

6. *§ 1.5(A)(3), Commission Investigations*. Commentary was received on whether this provision will be used to ensure compliance among hemp retailers that are selling THC products that exceed allowable limits, which creates an unfair competitive advantage for hemp businesses while placing unnecessary restrictions on cannabis licensees.

   The provision allows the Commission to take action against any person who is required to be licensed without exception. The Commission does not regulate hemp licensees but is not foreclosed from requiring licensure for regulated activities falling within its jurisdiction.

7. *§ 1.5(C)(2)(e), Commission Investigations and Enforcement.* Commentary was received recommending a nexus to operations in Rhode Island to be required before a cannabis establishment in Rhode Island can be punished for the actions of a cannabis establishment in another state.

   Cannabis remains a federally illegal narcotic that has a thriving interstate illicit market. Licensees who hold cannabis licenses in other states who are found to have engaged in egregious conduct may pose an imminent risk to the health and safety of Rhode Islanders.

8. *§ 1.5(C)(2)(l), Violations and Enforcement*. Commentary was received that the proposed regulatory language requires a cultivator licensee to know or control employees' actions conducted outside the workplace or face administrative actions.

   The identified regulatory language is taken from existing law and was only modified for use by the Commission. The regulatory language states that the Commission may take

action "against a licensee or any person or entity conducting activity requiring a license or registration under the Cannabis Act, the Medical Marijuana Act and/or any regulations promulgated thereunder for … [k]nowingly accepting, purchasing or receiving cannabis and/or cannabis products from an individual or business entity who is not licensed but who is required to be licensed by the Commission[.]" This language creates no requirement upon a licensee to monitor employee personal activity unless the employee is acting on behalf of the licensee.

9. *§ 1.5(C)(2)(m), Violations and Enforcement.* Commentary was received that the provision does not contain standards or guidelines and should be narrowed in scope to avoid arbitrary enforcement actions.

   The citied provision is taken directly from existing law. The provision is already sufficiently narrowed in scope, as it expressly states that it is limited to the immediately preceding list of violations: "In conjunction with any violation of §§ 1.5(C)(2)(a) through (m) of this Part[.]"

10. *§ 1.5(C)(4)(b), Violations and Enforcement*. Commentary was received that proposed regulatory language required licensees to know or control employees' actions conducted outside the workplace or face administrative actions.

    The cited provision governs possession of cannabis and cannabis plants in violation of the law: "If any licensed cannabis establishment or any key person or employee thereof is found to have cannabis plants or cannabis material which are not tracked in accordance with these regulations, the Commission shall impose an administrative penalty in accordance with these regulations on the licensed cannabis establishment or any other person or entity for each untagged cannabis plant or unit of untracked cannabis material." This provision comes from existing law and does not speak to outside work/private employee actions, but rather requires licensees to ensure that cannabis and cannabis products that are under the control of the licensee are properly tracked and maintained.

11. *§ 1.17(A), Conduct of Hearings*. Commentary was received that if the proposed regulation applies to meetings that it be clarified under the Open Meetings Act (OMA), as only two state entities are allowed to conduct remote meetings, and therefore while remote participation by parties, witnesses, and the public might be allowable, the Commission itself would not be allowed to meet remotely.

    The identified language does not apply to Commission meetings; it applies to the conduct of hearings in contested cases, as titled. The Commission is well aware that it is a public body subject to the Open Meetings Act, and that the Open Meetings Act does not allow

for remote participation. The cited language expressly references the Open Meetings Act, thereby providing appropriate notice to the public that Commission hearings must comply with Open Meetings Act requirements.

12. *§ 1.17(K), Conduct of Hearings*. Commentary was received that the proposed regulation be clarified under the Open Meetings Act, stating that while remote participation by parties, witnesses, and the public might be allowable, the Commission itself would not be allowed to meet remotely.

    The cited provision expressly states that the presiding officer of a hearing may conduct components of a contested case by remote access as long as it comports with the Open Meetings Act and all other relevant laws, giving sufficient notice that any proceedings must comply with the Open Meetings Act.

13. *§ 1.18, Administrative Penalties.* Commentary was received agreeing with language included to consider mitigating circumstances in enforcement actions and eliminating minimum fines, because many of the cannabis cultivators in Rhode Island are small businesses, some with less than ten employees.

    No response required.

14. *§ 1.18(C), Administrative Penalties*. Commentary was received that fines of up to $5,000 per unit per day are steep for actions that may result from inadvertent error, and recommends an escalating scale of enforcement that takes into account whether there was an intent to defraud, divert, or gross negligence in complying with inventory standard operating procedures.

    The cited provision is taken directly from existing law and was amended by the Commission to remove mandatory minimum penalties. Every enforcement action is based on different circumstances, and the preceding paragraphs provide notice that the Commission shall "look to past precedent for guidance and may consider any mitigating or aggravating circumstances" when imposing any penalties.

15. *§ 1.18(C), Administrative Penalties*. Commentary was received that large, non-negotiable penalties are imposed for unintentional, honest mistakes, stating that a mandatory fine for a mistake could make or break a cultivator's small business.

    The Commission's regulations removed mandatory minimum penalties that were present in the DBR regulations to avoid situations where noncompliance could result in required penalties. The preceding paragraphs provide notice that the Commission shall "look to

past precedent for guidance and may consider any mitigating or aggravating circumstances" when imposing any penalties.

16. *§ 1.18(D)(6), Administrative Penalties.* Commentary was received that the proposed language does not include any measurable standards as to what would warrant law enforcement involvement and that it should be amended to incorporate the minimal standards for law enforcement involvement that appear in the Commission's proposed regulations governing personal cultivation.

    The identified language is from existing law and has not been changed or newly implemented by the Commission. The provision operates to give notice that the Commission may share a registrant's information with law enforcement so that law enforcement may verify the validity of a registrant's status, thereby avoiding criminal prosecution. The Medical Marijuana Act and the Cannabis Act contain specific statutory possession limits and growing requirements for cannabis, and the Commission cannot speculate under what circumstances law enforcement may need to verify Medical Marijuana Program participation status. Limiting the Commission's authority in this area may pose an immediate threat to public health and safety.

560-RICR-10-05-1

TITLE 560 – CANNABIS CONTROL COMMISSION

CHAPTER 10 – CANNABIS

SUBCHAPTER 05 – Administration and Procedures

PART 1 – ADMINISTRATION, PROCEDURES AND ENFORCEMENT

1.1 Authority

A. R.I. Gen. Laws §§ 21-28.11-4 and 21-28.11-5 authorize the Commission to promulgate such rules and regulations as are necessary and proper to carry out the powers and duties assigned to it by the Cannabis Act, the Medical Marijuana Act and any other provision of law, including those powers and duties transferred to the Commission by the Department of Business Regulation.

1.2 Purpose and Scope

A. The regulations in this Title apply to all activities requiring authorization, registration and/or licensure under the Cannabis Act, the Medical Marijuana Act and these regulations to ensure the safe and regulated use of cannabis in the State of Rhode Island. R.I. Gen. Laws § 21-28.11-5.

B. This regulation shall govern the conduct of administrative adjudicatory proceedings commenced before the Commission after its effective date. All prior and ongoing proceedings by the Department of Business Regulation pursuant to the Cannabis Act, the Medical Marijuana Act and/or DBR regulations shall be transferred to the Commission. R.I. Gen. Laws §§ 21-28.11-10.1(g)(1), 21-28.6-19.

C. All hearings and enforcement actions shall be conducted in accordance with this Part and the Rhode Island Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

1.3 Definitions

A. In addition to the terms defined in R.I. Gen. Laws §§ 21-28.11-3, 21-28.6-3, and all the Parts in this Chapter, for this Part the following terms shall have the following meanings:

1. “APA” means the Rhode Island Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

2. “Cannabis Act” means R.I. Gen. Laws Chapter 21-28.11 entitled, “The Rhode Island Cannabis Act,” as amended.

3. “Chair” or “Chairperson” means the current chairperson of the Cannabis Control Commission or their designee.

4. “Commission” means the Cannabis Control Commission or its designee.

5. “Commissioner” or “cCommissioners” means one or more of the current commissioners of the Cannabis Control Commission.

6. “Commission counsel” means the legal counsel of the Commission, and includes any outside counsel retained by the Commission to participate in any proceeding before the Commission.

7. “Commission regulations” or “these regulations” means all regulations in Title 560 of the Rhode Island Code of Regulations.

8. “Contested case” means as defined in R.I. Gen. Laws § 42-35-1.

9. “DBR” means the Rhode Island Department of Business Regulation, including any Division or Office thereof, or its successor agency.

10. “DBR regulations” collectively means the following regulations:

    a. Rules and Regulations Related to the Medical Marijuana Program Administered by the Department of Business, 230-RICR-80-05-1;

    b. Disclosure Requirements Regarding Public Company Interest Holders in Marijuana Establishment Licensees, 230-RICR-80-05-3; and

    c. Minimum Requirements for Departmental Approval of Volatile Solvent-Based Hydrocarbon Extraction Operations, 230-RICR-80-05-4.

11. “License” means an authorization issued by the Commission, which may be referred to as a license, provisional license, occupational license, permit, card, certificate, approval, registration, and/or charter, granting permission required by law to engage in certain activities.

12. “Licensee” or “cannabis establishment licensee” means any holder of a license.

13. “Medical Marijuana Act” means R.I. Gen. Laws Chapter 21-28.6 entitled, “The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act,” as amended.

14. “Party” or “pParties” means each person named as a respondent and any other person admitted as a participant in a contested case.

15. “Person” or “pPersons” means any individual, partnership, corporation, limited liability company, association, governmental subdivision, public or private organization or any other entity however formed.

16. “Petitioner” means a person seeking relief, not otherwise designated in this section.

17. “Presiding Officer” means the individual(s) authorized by law or duly designated by the Chair to conduct hearings, write decisions, and make recommendations to the Chair and/or the Commission in contested cases, including the Chair, other Commissioners, or the full Commission. Under circumstances where the full Commission hears a matter, the Chair shall act as the Presiding Officer.

18. “Provisional licensee” means an applicant who has been given conditional approval to hold a license that permits the applicant to engage in or proceed with certain actions or activities.

19. “Registrant” means any person who is a registered patient, caregiver or authorized purchaser who is duly registered with the Commission, RIDOH or DBR.

20. “Respondent” means a party who is the subject of an administrative action pursuant to § 1.6 of this Part.

21. “RIDOH” or “DOH” means the Rhode Island Department of Health or its successor agency.

22. “RIDOH Medical Marijuana regulations” means the Rules and Regulations related to the Medical Marijuana Program Administered by the Department of Health, 216-RICR-20-10-3, as the same may be amended from time to time, and the RIDOH Testing Regulations.

23. “RIDOH testing regulations” means the testing requirements, standards, and procedures for conduct of testing through “approved third party testing providers” promulgated by RIDOH, including but not limited to 216-RICR-60-05-6.

24. “Writing” means its normal usage and includes electronic writings if the parties have agreed to conduct the transaction by electronic means in accordance with R.I. Gen. Laws § 42-127.1-7.

1.4 Inspections and Audits

A. Cannabis establishment licensees are subject to reasonable inspection by the Commission. R.I. Gen. Laws § 21-28.11-20.

1. The Commission is authorized to enter a cannabis establishment licensee's premises at reasonable times to inspect in a reasonable manner the premises and all equipment, materials, containers, and other things therein, including without limitation all records, files, financials, sales, transport, pricing and employee data, research, papers, processes, controls and to inventory any stock of cannabis, labels, containers, packages, paraphernalia and other materials and products.

2. During any inspection, the Commission may review the cannabis establishment licensee's confidential records, including but not limited to dispensing records, which track transactions according to identifying information for adult-use purchasers, patients, primary caregivers, and authorized purchasers. Dispensing records for patient cardholders shall be tracked and maintained in accordance with the Medical Marijuana Act.

3. The Commission may review and audit the books and records of cannabis establishment licensees to ascertain compliance with the Cannabis Act, the Medical Marijuana Act and any regulations promulgated thereunder, including continued satisfaction of the legal requirements for the issuance and retention of a license. The cannabis establishment licensee must make such books and records immediately available for reviewing and copying by the Commission. The Commission may retain an independent auditor to act as its agent for purposes of this section, the cost of which shall be borne by the cannabis establishment licensee.

~~4.~~ Nothing herein shall be interpreted to limit the real time access of the Commission to information stored in the cannabis seed-to-sale tracking system.

5. The Commission may coordinate with law enforcement or other state agencies to conduct inspections to evaluate compliance with the Cannabis Act, the Medical Marijuana Act, any regulations promulgated thereunder or any other applicable laws.

6. The Commission may coordinate with and/or retain a licensed testing laboratory to act as its agent to conduct sampling and/or testing for an inspection or investigation, the cost of which shall be borne by the cannabis establishment licensee.

1.5 Commission Investigations and Enforcement

A. Commission Investigations. The Commission, upon receipt of a complaint regarding a licensee, a provisional licensee or any person required to be licensed, or on its own authority, may initiate an investigation and take action:

1. Against a licensee or provisional licensee,

2. Against an applicant for a license or for the renewal of a license,

3. Against any person who is required to be licensed but is not licensed, and

4. Against any person who is subject to the regulatory authority of the Commission.

5. All such actions shall be upon such terms and conditions as are permitted under applicable law and the regulations adopted pursuant thereto.

B. Responses to Complaints and Investigations

1. The Commission may require a licensee, applicant, registrant, provisional licensee, provisional registrant or person required to be licensed or registered to file a response to a complaint, question, or other request within fifteen (15) business days, or within any other time frame specified by the Commission or otherwise required by law.

C. Violations and Enforcement

1. Pursuant to R.I. Gen. Laws § 21-28.11-18, the Commission may take any combination of the following actions:

a. Place on probation, suspend, revoke, or refuse to issue any license, registration, or card issued under the Cannabis Act, the Medical Marijuana Act and/or any regulations promulgated thereunder;

b. Levy an administrative penalty;

c. Order the violator to cease and desist certain actions, which may include but not be limited to ordering a cessation of operations or the quarantine of cannabis plants, cannabis products and/or materials;

d. Order sampling and/or testing of cannabis or cannabis products in accordance with § 10-2.26 of this Chapter and RIDOH Testing Regulations;

e. Require a licensee, registrant, cardholder, person or entity conducting any activities requiring licensure or registration under the Cannabis Act, the Medical Marijuana Act and/or any regulations promulgated thereunder to take such actions as are necessary to comply or ensure compliance with applicable law and any regulations promulgated thereunder; and/or

f. Take any other action authorized by the Cannabis Act and/or the Medical Marijuana Act.

2. The Commission may take any of the actions set forth above against a licensee or any person or entity conducting activity requiring a license or registration under the Cannabis Act, the Medical Marijuana Act and/or any regulations promulgated thereunder for one or more of the following causes:

   a. Providing materially incorrect, misleading, incomplete, or untrue information in a license, commercial identification card or registry identification card application, or in any other communications to the Commission;

   b. Violating any applicable Rhode Island laws, including but not limited to the Cannabis Act, the Medical Marijuana Act and/or any regulations promulgated thereunder;

   c. Obtaining or attempting to obtain a license, commercial identification card or registry identification card, or any local approval required in connection therewith through bribery, fraud, deceit or misrepresentation;

   d. Conducting any unlicensed or unregistered activity;

   e. Having a cannabis related license, registration, card, permit or its equivalent denied, suspended, revoked or otherwise found to be in violation of any other state, province, district, or territory's legalized cannabis program;

   f. Having been convicted, placed on probation, or having a case filed pursuant to R.I. Gen. Laws § 12-10-12 where the licensee or cardholder pleads nolo contendere, or having a case deferred pursuant to R.I. Gen. Laws § 12-19-19 where the licensee or cardholder pleads nolo contendere for any offense identified as a disqualifying or presumptively disqualifying crime in § 10-1.3.6 of this Chapter, or any comparable offense from any other jurisdiction;

   g. Failing to notify the Commission of any disqualifying or presumptively disqualifying criminal conviction, plea of nolo contendere, case filing, or deferral as set forth in § 10-1.3.6 of this Chapter;

   h. Exceeding the possession limits set forth in the Cannabis Act, the Medical Marijuana Act, or these regulations;

   i. Failing to comply with the medical home-grow registration requirements in the Medical Marijuana Act or § 15-1.4 of this Chapter;

j. Forging another's name to an application or to any document related to a license, registration or card;

k. Failing to furnish to the Commission or any person acting on behalf of the Commission within the time required by any written notice from Commission or its designee any information pertaining to a license, registration and/or operations that may be requested by the Commission pursuant to the Cannabis Act, the Medical Marijuana Act and/or these regulations;

l. Knowingly accepting, purchasing or receiving cannabis and/or cannabis products from an individual or business entity who is not licensed but who is required to be licensed by the Commission; or

m. In conjunction with any violation of §§ 1.5(C)(2)(a) through (lm) of this Part, any conduct reflecting adversely upon the licensee's or cardholder's fitness to engage in the cannabis industry.

3. It is sufficient cause to discipline a cannabis establishment licensee in accordance with this section if a principal officer, board member, employee, agent, or volunteer affiliated with a cannabis establishment licensee violates the Cannabis Act, the Medical Marijuana Act or any regulations promulgated thereunder when acting in their capacity as a principal officer, board member, employee, agent, or volunteer of the cannabis establishment licensee.

4. Possession of Cannabis and Cannabis Plants in Violation of the Cannabis Act, the Medical Marijuana Act and/or these Regulations

a. Pursuant to R.I. Gen. Laws § 21-28.6-15(b)(3), if any patient cardholder or primary caregiver cardholder is found to have cannabis plants without a valid medical cannabis home-grow certificate, the Commission shall impose an administrative penalty in accordance with these regulations on the patient cardholder or primary caregiver cardholder.

b. If any licensed cannabis establishment or any key person or employee thereof is found to have cannabis plants or cannabis material which are not tracked in accordance with these regulations, the Commission shall impose an administrative penalty in accordance with these regulations on the licensed cannabis establishment or any other person or entity for each untagged cannabis plant or unit of untracked cannabis material.

5. Revocation of Medical Cannabis Home-Grow Certificates

a. R.I. Gen. Laws § 21-28.6-15(b)(1) authorizes the Commission to revoke medical cannabis home-grow registrations for violations of

any provision of the Cannabis Act, the Medical Marijuana Act and these regulations.

b. Grounds for revocation of medical cannabis home-grow certificates shall include, but are not limited to:

(1) Failure to maintain or timely renew the required underlying qualifying patient or primary caregiver registration;

(2) Having excess and/or unregistered plants;

(3) Misrepresentation in applying for a medical cannabis home-grow certificate;

(4) Permitting unauthorized use of medical home-grow certificate by another party;

(5) Growing in more than one location;

(6) Transferring plants from the registered grow location without complying with the rules for said transport;

(7) Failing to maintain or produce cultivation records in accordance with § 15-1.3.4(B) of this Chapter; and

(8) Other violations of the Cannabis Act, the Medical Marijuana Act or any regulations promulgated thereunder which may result in the suspension of a registry identification card.

c. If the Commission revokes the registration card of a primary caregiver due to disqualifying criminal information as delineated in the Medical Marijuana Act or for any other reason, that primary caregiver's medical cannabis home-grow certificate shall be automatically and immediately revoked.

d. If RIDOH or the Commission revokes the registration of a patient for any reason, any medical cannabis home-grow certificate issued to that patient and/or issued to any caregiver registered to grow for that patient shall be automatically and immediately revoked.

e. Before a medical cannabis home-grow certificate is revoked pursuant to this section, the certificate holder will be given ten (10) business days advance notice to destroy the cannabis plants that were associated with medical cannabis home-grow certificate.

1.6 Notice of Contested Case

A. Notice Required. The Commission shall give notice ("Notice") to all respondents of the initiation of a contested case. The Notice, which may but is not required to be in the form of an order to show cause, shall be designed to afford an opportunity for hearing to all parties pursuant to the APA.

B. Hearings. If the Notice schedules a prehearing conference and/or a hearing, the respondent must comply with the Notice or be subject to a default in accordance with § 1.23 of this Part. If the Notice informs the respondent of its right to a hearing upon request, the respondent must follow the requirement of the Notice and request a hearing, or it will be subject to default in accordance with § 1.23 of this Part.

1. If the respondent requests a hearing in response to a Notice, the Commission shall then provide an additional Notice to the respondent with the date and time of a prehearing conference, an order appointing a Presiding Officer and, to the extent not included in the first Notice, the legal and factual information that forms the basis for the action sought by the Commission.

C. Contents of Notice: The Notice shall comply with the APA.

1.7 Prehearing Conferences

A. It is the policy of the Commission to encourage the use of prehearing conferences as a means of making more effective use of hearing time and to otherwise aid in the disposition of the proceeding or the settlement thereof. Unless necessary to comply with existing law, prehearing conferences and status conferences may be held remotely in accordance with § 1.17(K) of this Part.

B. The Presiding Officer may, with reasonable written notice, require that all parties attend a prehearing conference to consider the following:

1. The simplification, narrowing, and clarification of the issues;

2. The possibility of obtaining written stipulations, admissions, agreements with respect to the introduction of facts, documents or similar agreements which will avoid unnecessary evidence or proof;

3. The identification of witnesses and the limitation of the number of witnesses;

4. The possibility of agreement disposing of all or any of the issues in dispute;

5. The consideration of outstanding motions;

6. The status of settlement negotiations, if any;

7. The use of pre-filed testimony, where appropriate;

8. Any matters of discovery, including limitation of data requests, document requests, or other discovery or resolving disputes as to the scope of discovery;

9. Scheduling of hearings; and

10. Such other matters as may aid in the final disposition of the proceeding.

C. All parties shall attend the prehearing conference fully prepared to discuss all matters related to the proceedings. Failure of any party to attend the prehearing conference may constitute a waiver of all objections to any order or ruling issued as a result of the prehearing conference unless good cause is shown.

D. At the sole discretion of the Presiding Officer, the parties may be permitted to waive the prehearing conference by filing with the Presiding Officer a stipulation prior to the prehearing conference that contains the following:

1. Agreement to the issues in the matter,

2. An agreed to discovery schedule,

3. Three (3) agreed to possible dates for a hearing, and

4. Any other agreements as to matters contained in § 1.7(B) of this Part.

1.8 Representation

A. Appearances

1. The Commission shall notify each party that each party may retain legal counsel admitted in the State of Rhode Island. Said notification shall be set forth in the Commission's order appointing a Presiding Officer.

2. Individuals, and partners of partnerships, may appear pro se if they choose. Corporations, including limited liability corporations, may not appear pro se.

3. If a party is not appearing pro se, the party must be represented by a member in good standing of the Bar of the State of Rhode Island or by out of state attorneys admitted pro hac vice by the Superior Court or by the appropriate court unless exempted pursuant to R.I. Gen. Laws § 11-27-11.

4. All attorneys must conform to the standards of ethical conduct required of practitioners before the courts of the State of Rhode Island.

B. Appearances of Present and Former Employees of the Commission

1. No person who is a current employee of the Commission or the Cannabis Office may appear before the Commission on behalf of any person or to represent any person or act as an expert witness before the Commission except in the performance of their official duties as an employee of the Commission or Cannabis Office.

2. No person having been so employed may, within one (1) year after said employment has ceased, appear before the Commission on behalf of any other person, or to represent any person or act as an expert witness before the Commission in accordance with the R.I. Code of Ethics, R.I. Gen. Laws Chapter 36-14.

1.9 Filing of Pleadings and Other Documents

A. Title. All pleadings and other documents filed with the Commission in any contested case shall, whenever possible, state the file number, the title of the proceeding and the name of the person on whose behalf the filing is made.

B. Form. All pleadings and other documents filed with the Commission shall be filed by electronic mail or other electronic means as specified by the Commission, or by any other manner or means approved by the Presiding Officer. All documents must include, if applicable, the Rhode Island Bar number, address, telephone number, and e-mail address of each attorney and pro se litigant. Electronic receipt by the Commission shall be presumptive of the actual date of filing.

C. Signature. The electronic copy of each pleading shall be signed and dated by the party on whose behalf the pleading is made or by the party's authorized representative. This signature shall constitute a certification that the individual has read the document, knows the contents thereof and to the best of their knowledge believes that such statements are true, that it is not interposed for delay, and that if the pleading has been signed by an authorized representative, that the representative has full power and authority to do so. The signature on the pleading may be handwritten or electronic.

D. Construction. All pleadings shall be liberally construed and errors or defects therein which do not mislead or affect the substantial rights of the parties involved may be disregarded.

1.10 Service

A. Service Upon Respondent and Parties. A copy of all pleadings and other documents filed in any proceeding governed by this regulation shall be served upon all parties.

B. Manner of Service

1. Service of a Notice pursuant to § 1.6(A) of this Part shall be made upon a party's last known address on file with the Commission if the party is a licensee. If the party is not a licensee, service of a Notice pursuant to § 1.6(A) of this Part shall be made upon the party's last known address which the Commission reasonably believes will result in actual delivery to the party.

2. As to all other pleadings, unless otherwise ordered by the Presiding Officer, service under this regulation shall be made upon a party or upon the party's attorney by electronic delivery to the electronic address supplied by the party in the pleadings.

3. Service upon persons who have not yet made an appearance shall be the same as is required for service of a Notice.

4. Service by mail is complete upon mailing.

C. Certificate of Service. There shall accompany and be included in the original of each pleading filed with the Commission a certificate of service showing when and through what means service was effectuated on all parties.

D. Date of Certificate to Govern. In addition to the provisions of § 1.11(A) of this Part, the time for response to all pleadings shall commence as of the date of the certificate of service.

1.11 Time

A. Computation. Unless otherwise specifically provided by law, computation of any time period referred to in this regulation shall begin with the first day following the act which initiates the running of the time period (including Saturday, Sunday and legal holidays). The last day of the time period so computed is to be included unless it is a Saturday, Sunday or legal holiday or any other day on which the Commission is not open for business, in which case the period shall run until the next following business day.

B. Extensions of Time. It shall be within the discretion of the Presiding Officer, for good cause shown, to extend any time limit. All requests for extensions of time shall be made by written motion filed with the Presiding Officer before the expiration of the applicable time period, unless waived by the Presiding Officer. The Presiding officer may grant or deny such motions on the basis of the written request and without a full hearing.

C. Continuances. Except as otherwise provided by law, the Presiding Officer may, in their discretion, continue any proceeding or hearing in the matter. If a party requests a continuance, that request should indicate whether or not the other party(ies) assents to such request. If the continuance is granted the requesting party must immediately notify all other parties of record and if deemed

necessary, prepare and submit an order. The continuance will only be effective when the notification to all other parties of record has been made.

1.12 Motions

A. General. Any party may request that the Presiding Officer enter any order or action not inconsistent with law or this regulation. The types of motions made shall be those which are permissible under this regulation and the Rhode Island Superior Court Rules of Civil Procedure ("Super. R. Civ. P.").

B. Presentation/Objections to Motions. Motions may be made in writing at any time and may be made orally at any in-person or remote proceeding in the matter. Each motion shall set forth the grounds for the desired order or action and state whether oral argument is requested. Within ten (10) days after a written motion is filed with the Presiding Officer and served on the opposing party(ies), a party opposing said motion must file a written objection to the granting of the motion, and shall, if desired, request oral argument. All written motions and objections shall be accompanied by a written memorandum specifying the legal and factual basis for the party's position.

C. Action on Motion. The Presiding Officer shall, if they determine oral argument on the motion is warranted, give notice of the time and place for such argument. The Presiding Officer may rule on a motion without argument if the motion involves a matter as to which the presentation of testimony or oral argument would not advance the Presiding Officer's understanding of the issue(s) involved or if disposition without argument would best serve the public interest. The Presiding Officer may act on a motion when all parties have responded thereto, or the deadline for response has passed, whichever comes first.

1.13 Discovery

A. General. The Commission favors prompt and complete disclosure and exchange of information and encourages informal arrangements among the parties for exchange of discovery. It is the Commission's policy to encourage the timely use of discovery as a means toward effective presentations at hearing.

B. Procedure. Any party, by written request served upon all other parties, may request any discovery allowed under the Superior Court Rules of Civil Procedure. Discovery may be limited by the Presiding Officer.

C. Hearing Delay. No hearing shall be continued to permit the completion of discovery unless due cause is shown.

D. Discovery Schedule. At the discretion of the Presiding Officer, the discovery schedule shall be set at the prehearing conference. The Presiding Officer may amend such discovery schedule at any time at the request of a party or on their own volition.

E. Discovery Disputes. Objections to discovery requests shall be made pursuant to the Superior Court Rules of Civil Procedure. If there is a dispute between the parties relating to a party's failure to respond to discovery, the party requesting the discovery shall comply with Super. R. Civ. P. 37(a)(2) prior to filing a Motion to Compel Discovery with the Presiding Officer.

F. A party is not required to file discovery responses with the Presiding Officer unless the discovery response is used in the proceeding or otherwise ordered by the Presiding Officer, consistent with the Super. R. Civ. P. 5(d).

1.14 Acceptance of Electronic Records and Signatures

A. In accordance with the Uniform Electronic Transactions Act (UETA), R.I. Gen. Laws Chapter 42-127.1, the Commission may determine whether, and the extent to which, it will accept electronic records, documents, notifications, and signatures from other persons or entities where the Cannabis Act or the Commission regulations refer to written records, documents, notifications, and signatures.

1.15 Subpoenas

A. Upon application of any party, subpoenas requiring the attendance and testimony of witnesses and to compel the production and examination of papers, books, accounts, documents, records, certificates and other evidence that may be necessary or proper for the determination and decision of any question before the Presiding Officer may be issued by the Chairperson upon submission by the Presiding Officer. Except as may be otherwise provided by law, including, without limitation, the provisions of R.I. Gen. Laws § 21-28.11-5, in cases where a subpoena is not honored, the Chairperson may elect to make application to the State of Rhode Island Superior Court for an order to show cause why the person who failed to honor the subpoena shall not be held in contempt and for such further relief as may be appropriate.

B. The Presiding Officer may, sua sponte, or on motion of any of the parties or witnesses, issue such protective orders, grant such motions to quash and grant other motions as justice or fairness may require.

1.16 Evidence

A. Rules of Evidence. Irrelevant, immaterial or unduly repetitious evidence shall be excluded in all proceedings wherein evidence is taken. While the rules of evidence as applied in civil cases in the Superior Courts of this state shall be followed to the extent practicable, the Presiding Officer shall not be bound by the technical evidentiary rules. Evidence not otherwise admissible may be admitted, unless precluded by statute, when necessary to ascertain facts not reasonably susceptible of proof under the rules, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The rules of privilege

recognized by law shall apply. Objections to evidentiary offers may be made and shall be noted in the record.

B. Exhibits, Copies. In all cases wherein evidence is taken, exhibits may be introduced in the form of copies or excerpts, if the original is not readily available. Upon request, a party shall be given an opportunity to compare the copy with the original.

C. Administrative Notice. In all proceedings wherein evidence is taken, notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Commission's specialized knowledge; but parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any report or data required by law or regulation to be filed with the Commission, and they shall be afforded an opportunity to contest the material so noticed. The Presiding Officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence. The burden is on the party requesting the Presiding Officer's notice to produce the documents or other matter for the Presiding Officer's review.

D. Commission Employees, Agents and Consultants. The Presiding Officer may use Commission employees, agents and consultants to assist in the evaluation of any evidence introduced at the hearing. No ex parte consultation is allowed, and all such employees, agents and consultants shall be presented as witnesses and be subject to cross examination in the proceedings.

E. Oath. All testimony shall be under oath or by affirmation.

F. Testimony. At the discretion of the Presiding Officer, an adverse inference may be drawn by an assertion by a witness or a party of their Fifth Amendment rights under the U.S. Constitution.

1.17 Conduct of Hearings

A. General. Hearings shall be as informal as may be reasonable and appropriate under the circumstances. All parties, witnesses and other persons at a hearing shall conduct themselves in a manner consistent with the standards of decorum commonly observed in a courtroom. Where such decorum is not observed, the Presiding Officer may take appropriate action including ejectment or adjournment, if necessary. Hearings (in compliance with the Open Meetings Act, R.I. Gen. Laws Chapter 42-46) and status conferences may be held remotely in accordance with § 1.17(K) of this Part.

B. Duties of Presiding Officer. The Presiding Officer shall conduct the hearing, make all decisions regarding admission or exclusion of evidence or any other procedural matters and either administer oaths to all witnesses or ask a designee to do so.

C. Order of Proceedings. Except as otherwise required by law, it shall be the usual practice that the Commission shall open. Where evidence is peculiarly within the knowledge of one party, or in cases in which Contested Cases have been consolidated or where there are multiple parties, the Presiding Officer may, in their discretion, direct who shall open and shall further designate the order of presentation.

D. Rights of Parties. Parties shall have the right to present evidence, cross-examine witnesses, object, make motions and present arguments.

E. Record of Proceedings.

1. A complete record of the proceedings shall be recorded by either audio or video. At the discretion of the Presiding Officer the proceeding may be recorded by stenographic record. In the event the Presiding Officer orders a stenographic record, the Presiding Officer shall declare which party or parties shall bear the cost thereof. Any party may on its own initiative order a stenographic record made of the proceedings. The requesting party shall incur all costs associated therewith and provide a copy of the original stenographic record, at no cost, to the Presiding Officer. When the stenographic record is requested by the respondent, a copy shall be provided to the Commission counsel at no cost to the Commission. Any party may request a copy of the audio or video recording of the proceedings. The requesting party shall bear the cost thereof.

2. If a party chooses to appeal a final Commission decision to the Superior Court pursuant to the APA and the Superior Court requires a transcript of the hearing, the appealing party shall be responsible for having the transcript prepared in a manner acceptable to the Superior Court at the appealing party's expense within twenty (20) days of filing the appeal.

F. Public Hearings. Except as required by law, all hearings are to be open to the public, whether held in person or by remote means as approved by the Presiding Officer. Hearings held before a majority of the Commission must also be duly noticed and otherwise comply with the Open Meetings Act, R.I. Gen. Laws Chapter 42-46. In general, any person who is not a party to a proceeding may, in the discretion of the Presiding Officer, be permitted to make oral or submit written statements on any issues relevant to the proceeding.

G. Close of Proceedings. At the conclusion of the evidence, the Presiding Officer may, in their discretion, permit and/or require the parties to argue orally and/or to submit written briefs. The Presiding Officer may, within their discretion, direct that proposed findings of fact and conclusions of law be submitted by the parties. The record in the proceeding shall close after oral argument, the deadline for the filing of the briefs or upon such date as may be set by the Presiding Officer. No evidence shall be admitted thereafter, unless otherwise ordered by the Presiding Officer. The Presiding Officer may in any case require either party, with

appropriate notice to the other party, to submit additional evidence in any matter relevant to the hearing.

H. Waiver of Hearing. In any proceeding, if the parties agree to waive the hearing, the Presiding Officer may dispose of the matter upon the pleadings and other submittals of the parties.

I. Dispositions. Unless otherwise precluded by law, disposition may be made of any contested case at any time by stipulation, consent agreement, default or dismissal by the Presiding Officer. A joint request for a stay of the hearing or dismissal of proceedings based on a resolution shall be forwarded to the Presiding Officer and may be granted within the sound discretion of the Presiding Officer.

J. Consent Agreements. The Commission has discretion to enter into a consent agreement with a party(ies) to resolve a matter without an administrative hearing. A consent agreement is valid if signed by an authorized Commission representative. A consent agreement may be approved by the Presiding Officer and/or Chairperson, but Presiding Officer and/or Chairperson approval as signatory is not required. If a consent agreement is entered into by the parties a copy shall be forwarded to the Presiding Officer. Consent agreements are public records pursuant to the Access to Public Records Act, R.I. Gen. Laws Chapter 38-2.

K. Nothing herein shall be construed to prohibit the Presiding Officer, in their discretion, from holding a hearing, any component of a hearing, prehearing conference or status conference by means of remote access (telephone, video conference or any other means), subject to the APA, the Open Meetings Act, R.I. Gen. Laws Chapter 42-46, and any other statutes applicable to the particular type of hearing or subject matter. The Presiding Officer may follow any relevant Superior Court procedural rules, protocols and/or orders as it determines to be reasonable in the context of an administrative proceeding.

1.18 Administrative Penalties

A. In determining the appropriate penalty to impose on a party found to be in violation of a statute(s) or regulation(s), the Presiding Officer shall look to past precedent for guidance and may consider any mitigating or aggravating circumstances.

1. Mitigating circumstances may include, but shall not be limited to, the following: the party's licensing or other history, i.e., the absence of prior disciplinary actions; the party's acceptance of responsibility for any violations; the party's cooperation with the Commission; and the party's willingness to give a full, trustworthy, honest explanation of the matter at issue.

2. Aggravating circumstances may include, but shall not be limited to, the following: the party's prior disciplinary history; the party's lack of cooperation and/or candor with the Commission; the seriousness of the violation; whether the party's act undermines the regulatory scheme at issue; whether there has been harm to the public; and whether the party's act demonstrates dishonesty, untrustworthiness, or incompetency.

B. The finding of mitigating factors will not necessarily lead to a reduction in the penalty imposed if the circumstances of the violations found by the Presiding Officer are such that they do not warrant a reduction in penalty.

C. Pursuant to R.I. Gen. Laws §§ 21-28.11-5(a)(24), 21-28.6-9(e)(1)(ii) and 21-28.6-15(b)(3), the Commission adopts the following schedule of administrative penalties with respect to violations of the Cannabis Act, the Medical Marijuana Act and/or these regulations or any other applicable laws pertaining to a license, registration and/or operations in connection therewith:

Violation	Administrative Penalty
Violations by a cannabis establishment licensee, where the Commission determines that a violation does not pose an immediate threat to public health or public safety	A penalty of not more than $5,000 per violation per day
Violations by a cannabis establishment licensee, where the Commission determines that a violation poses an immediate threat to public health or public safety	A penalty of not more than $100,000 per violation per day
Violations of untagged/untracked plants, cannabis or cannabis products	A penalty of up to $5,000 per plant/ounce/unit of product, as applicable, per day
Violations by any person or entity who is conducting activities requiring licensure or registration by the Commission under the law or these Regulations without such licensure or registration, or who is otherwise violating any provisions of the Cannabis Act, the Medical Marijuana Act or these regulations	A penalty of up to $100,000 per violation per day

D. Criminal Penalties and Law Enforcement

1. Administrative enforcement actions including administrative penalties imposed by the Commission on account of violations set forth in this section may be in addition to criminal penalties provided for under R.I. Gen. Laws Chapter 21-28, the "Rhode Island Controlled Substances Act".

2. Pursuant to R.I. Gen. Laws § 21-28.6-6(l), the Commission shall verify to law enforcement personnel whether a registry identification card or commercial identification card is valid and may confirm whether the cardholder is compliant with the provisions of the Cannabis Act, the Medical Marijuana Act and any regulations promulgated thereunder.

3. Pursuant to R.I. Gen. Laws §§ 21-28.11-18(e) and 21-28.6-6(m), nothing in the Cannabis Act, the Medical Marijuana Act or these regulations shall be construed as to prohibit law enforcement, public safety, fire or building officials from investigating violations or enforcing state law.

4. Pursuant to R.I. Gen. Laws §§ 21-28.11-18(e) and 21-28.6-6(m), the Commission may notify law enforcement about falsified or fraudulent information submitted to the Commission in violation of the Cannabis Act, the Medical Marijuana Act or these regulations.

5. Nothing in these regulations shall alter or impair the ability of law enforcement to confiscate excess, untagged, and/or invalidly tagged cannabis plants or cannabis material and revoked and/or otherwise invalid plant tags in accordance with applicable criminal law and procedures.

6. The Commission may provide information to law enforcement in order to verify the validity of medical cannabis home-grow registration data, cardholder registration and compliance with the Medical Marijuana Act and these regulations through data sharing mechanisms in accordance with the Medical Marijuana Act.

1.19 Decisions

A. All decisions rendered by the Commission or the Presiding Officer at the conclusion of a hearing shall be in writing and shall comply with the requirements of the APA. If the Chairperson has chosen to appoint someone else as a Presiding Officer, the decision of the Presiding Officer shall be reviewed by the Chairperson who shall enter an order adopting, modifying or rejecting the decision. The decision and order shall be delivered to all parties with a notice indicating the right to take an appeal of the decision and order to the Superior Court pursuant to the APA.

1.20 Publication of License Suspensions and Revocations

A. Any final decision and order of the Commission is public and may be published or distributed as deemed necessary to adequately inform the public of the action

taken. All decisions and consent agreements may be posted on the Commission's website.

1.21 Reconsideration

A. At any time after the issuance of a final order of the Chair or Commission, any party may, for good cause shown, by motion, petition the Commission to reconsider the final order. The petitioner shall file their motion within twenty (20) days of the issuance of the final order and shall set forth the grounds upon which they rely.

B. The Chair may grant the motion for reconsideration within their discretion and shall order such relief as they deem appropriate under the circumstances. If the request for reconsideration is denied, an appeal for judicial review may be taken in accordance with § 1.22 of this Part.

C. The Commission shall not entertain a motion for reconsideration filed more than twenty (20) days after entry of the final decision, unless the Presiding Officer finds good cause to entertain said motion.

1.22 Judicial Review

A. Any party aggrieved by a final written order of the Commission may file a complaint with the Superior Court pursuant to the APA. In the absence of a timely appeal, the order or decision of the Commission shall become final and no further administrative appeal may be taken.

1.23 Default

A. If any party to a proceeding fails to plead, appear at a prehearing conference or hearing or otherwise fails to prosecute or defend an action as provided by this regulation, the Presiding Officer may enter a default judgment against the defaulting party, take such action based on the pleadings and/or other evidence submitted by the non-defaulting party as the Presiding Officer deems appropriate in their discretion or take such other action as the Presiding Officer deems appropriate in their sole discretion. Challenge to such an order shall be made as a motion for reconsideration pursuant to § 1.21 of this Part.

1.24 Disqualification; Incapacity of Presiding Officer

A. Disqualification. Any party may make a motion to the Commission requesting that they disqualify or remove the Presiding Officer from the proceeding. The motion shall be accompanied by an affidavit setting forth the reasons for the disqualification. If the motion to disqualify is granted, the Commission shall assign another Presiding Officer to the matter.

B. Incapacity. When the Presiding Officer becomes incapacitated or unavailable to complete a hearing and/or render a decision, the hearing shall be conducted and/or the decision shall be rendered by a substitute Presiding Officer appointed by the Commission. If any party objects to the substitution, that party must prove prejudice by presentation of argument and evidence to the substitute Presiding Officer. If the substitute Presiding Officer finds that the objecting party will be prejudiced, the substitute Presiding Officer will issue an Order making such findings and will hear the matter de novo.

1.25 Miscellaneous

A. Intervention. A request to intervene consistent with Super. R. Civ. P. Rule 24 may be initiated by filing a motion to intervene with the Presiding Officer.

B. Ex Parte Consultations. No Person who is a party to or a participant in any proceeding before the Commission or the party's counsel, employee, agent or any other individual acting on the party's behalf, shall communicate ex parte with the Presiding Officer or any Commissioner about any matter related to the proceeding, and the Presiding Officer and/or the Commissioners shall not request or entertain any such ex parte communications. The prohibitions contained above do not apply to those communications which relate to hearing schedules, procedural matters and general information about how hearings are conducted.

C. Consolidation. The Presiding Officer may, in their discretion, consolidate or combine several matters for purposes of hearing or other proceedings, when they find that sufficient common issues of fact or law or both are involved.

D. Plural. Words in the singular number include the plural, and vice-versa, except where the context otherwise requires or where a contrary result appears from necessary implication.

1.26 Protective Orders

A. Motions for protective orders shall be filed in accordance with § 1.11 of this Part.

1.27 Equal Access to Justice for Small Businesses

A. Pursuant to R.I. Gen. Laws Chapter 42-92, the Presiding Officer shall award reasonable litigation expenses incurred by the prevailing party in connection with contested case, if the Presiding Officer finds that all of the following conditions are met:

1. That there was no reasonable basis in fact or law for the Commission's position; and

2. The adjudicatory proceedings involved loss of benefits, the imposition of a fine, the suspension or revocation of a license or permit, or which may result in the compulsion or restriction of activities; and

3. The prevailing party must be either:

a. An individual whose net worth is less than five hundred thousand dollars ($500,000) at the time the adjudication is initiated; or

b. An individual, partnership, corporation, association. or private organization doing business and located in the state, which is independently owned and operated, not dominant in its field, and which employs no more than one hundred (100) persons at the time the adjudication is initiated; and

B. The prevailing party must request reimbursement not later than thirty (30) days following the issuance of the written order, detailing:

1. Compliance with § 1.27(A) of this Part; and

2. The costs incurred in defending against the unreasonable adjudicatory proceedings, including, but not limited to, attorney's fees and witness fees.

C. If found to be applicable, the Presiding Officer shall issue a supplementary order directing the Commission to pay reasonable litigation expenses, as limited by R.I. Gen. Laws § 42-92-2(6).

1.28 Application Review for Individuals Convicted of a Crime

A. Applications by a person who has been convicted of a crime or crime(s) for a license, provisional license, occupational license, permit, certificate, or registration issued by the Commission shall be reviewed consistent with R.I. Gen. Laws §§ 28-5.1-14 and 21-28.11-12.1. To the extent that any Commission regulation conflicts with § 1.28 of this Part, the provisions of § 1.28 of this Part control.

1.29 Access to Public Records

1.29.1 Authority, Purpose, Policy and Limits

A. This section is promulgated in accordance with R.I. Gen. Laws §§ 38-2-3 and 21-28.11-5 to provide procedures for public record access, and in accordance with the Commission's authority to delegate any administrative, procedural or operational matter to the Cannabis Office. R.I. Gen. Laws § 21-28.11-5(a)(31).

B. It is the policy of the Commission that all files and records of the Commission and the Cannabis Office that are required to be disclosed by state or federal law or

otherwise ordered by a court of competent jurisdiction are available for public inspection and copying.

C. The Commission and/or the Cannabis Office shall not disclose files or records that are:

1. Prohibited from disclosure by any state or federal law, or

2. Otherwise prohibited by order of a court of competent jurisdiction.

D. Records that are not deemed public under R.I. Gen. Laws Chapter 38-2 shall not be disclosed by the Commission or the Cannabis Office without the express written approval of the Chairperson.

1.29.2 Procedure for Requesting Public Records

A. A person requesting inspection or copying of public records shall contact the Commission by email, regular mail, telephone, in person or through the online form with the request. The Commission's preferred method of communication is email but all other listed forms will be accepted. The request should indicate:

1. A complete description of the records sought in a manner that will permit their identification and location by Commission personnel; and

2. The method by which the requestor would like delivery of the response. Please include all information necessary for the Commission to make that communication to the requestor (e.g., email address or mailing address).

B. The procedure for requesting public records depends on the manner of the public record request. Please follow the directions on the Commission's website for the most current email, mailing address and telephone number.

C. The Commission will provide a form on its website as a template for information which would be sufficient to allow it to determine whether the records are available or to provide the records in the method selected by the requestor. This form is provided for convenience but is not required to make a public records request.

D. Within ten (10) business days of the request the Commission will respond in the mode requested by the requestor, or, if no manner is specified by the mode in which the request was received, with one or more of the following:

1. That the requestor should contact the Commission to schedule an appointment to inspect the records;

2. A copy of the documents requested;

3. A response that the documents do not exist or are not within the custody or control of the Commission or Cannabis Office;

4. A response that the documents are not "public records" as defined by R.I. Gen. Laws § 38-2-2 and a description of the procedures for appealing that denial;

5. A response that the description of records sought in the request is not sufficient to allow the Commission to identify and locate the requested records;

6. A response that the documents are being produced in a redacted fashion in accordance with R.I. Gen. Laws § 38-2-2; or

7. A response that the records will be produced upon receipt of payment for an amount calculated in accordance with R.I. Gen. Laws §§ 38-2-3(k) and 38-2-4. The estimated amount owed will be set forth and the records will be produced after payment is received.

E. Should it appear that the request cannot be honored within ten (10) business days, the Commission will provide a response indicating that additional time is needed and specify the reason for the additional time, which may be up to an additional twenty (20) business days.

1.29.3 APRA Fees

A. The Cannabis Office may charge a fee for copying and/or search and retrieval of requested documents consistent with applicable state law.

B. All persons requesting delivery of records shall be responsible for the actual cost of delivery.

C. All payments for copies of records shall be paid in advance of delivery, or, at the option of the Commission, at such later time as the Commission may specify. All checks shall be payable to the State of Rhode Island, General Treasurer.

1.29.4 Subpoenas

A. Subpoenas issued pursuant to the rules of any Court will be addressed in accordance with those rules. Section 1.29 of this Part does not apply to such subpoenas.

1.30 Petitions for Declaratory Order

A. Pursuant to R.I. Gen. Laws § 42-35-8, a person may petition the Commission for a declaratory order.

B. A request for a declaratory order must be submitted in writing (electronically or in hard copy) to the Commission's current mailing address or email address listed on its website and must include the following information:

1. The name and address of the petitioner;

2. A plain statement identifying the statute, rule, guidance document, or order at issue;

3. A detailed statement of all facts relied upon by the petitioner;

4. A copy of any and all documents relied upon by petitioner that are not otherwise accessible to the Commission; and

5. A plain statement requesting a declaratory order, and further indicating whether the petitioner seeks:

a. An interpretation or application of a statute administered by the Commission;

b. Clarification as to whether a rule, guidance document, or order issued by the Commission applies to petitioner; and/or

c. Clarification as to how a rule, guidance document, or order issued by the Commission applies to petitioner.

C. The Commission shall consider the petition and respond to the request as provided by R.I. Gen. Laws § 42-35-8(c).

D. The Commission may, at its discretion:

1. Hold a hearing for further consideration and discussion on the petition; or

2. Request further information or documents from the petitioner necessary for the full evaluation of their petition.

E. A petitioner may appeal the Commission's final disposition of the request for declaratory order as provided in R.I. Gen. Laws § 42-35-15.

1.31 Petitions for Promulgation of a Rule or Regulation

A. Pursuant to R.I. Gen. Laws § 42-35-6, any person may petition the Commission requesting the promulgation (adoption, amendment or repeal) any rule or regulation.

B. A request to promulgate a rule must be submitted in writing (electronically or in hard copy) to the Commission's current mailing address or email address listed on its website and include the following information:

1. The name and address of the petitioner;

2. Identification of the rule to be adopted, amended or repealed;

3. A detailed statement of all facts relied upon by the petitioner; and

4. A plain statement indicating whether petitioner seeks a new rule or the amendment or repeal of an existing rule.

a. In the case of a request for the repeal of an existing rule, the petitioner shall identify the rule by title and/or RICR citation.

b. In the case of a request for an amendment to an existing rule, the petitioner must identify with specificity any proposed additions, deletions, or other amendments. New proposed language must be clearly marked using underline formatting for proposed insertions, and strikethrough formatting for proposed deletions.

C. All petitions shall be considered by the Commission. Within thirty (30) days of the submission of a petition the Commission shall, in its sole discretion, take one the following actions:

1. Deny the petition in writing and state its reasons for the denial;

2. Request further information or documents from the petitioner necessary for the full evaluation of the petition;

3. Hold a hearing for further consideration and discussion on the petition; or

4. Initiate rulemaking.

1.32 Severability

A. If any section, term, or provision of these regulations should be adjudged invalid for any reason, that judgment should not effect, impair, or invalidate any remaining section, term, or provision, which shall remain in full force and effect.