Mammoth Inc.
Public Comments

January 24, 2025

Kim Ahern, Chairwoman
Rhode Island Cannabis Control Commission
560 Jefferson Blvd.
Warwick, RI 02886

Re: Proposed Regulations: 560-RICR-10-10-2, Operational Requirements for Cannabis Establishments

Dear Chairwoman Ahern and Members of the Commission:

I represent Mammoth Inc, a licensed cultivation facility that has been operating for over 7 years.

I submit this written testimony to express our appreciation and general support for the proposed Cannabis Regulations, while also requesting that the Commission revise the proposed regulations pertaining to the sections noted below.

Proposed Regulations: 560-RICR-10-10-2, Operational Requirements for Cannabis Establishments

A. Packaging/Labeling Information

While we support the goal of ensuring transparency regarding product information for consumers, the proposed changes pertaining to labeling products introduces unnecessary restrictions that will hinder the manufacturing process. Specifically, we believe the proposed Labeling regulations are overly restrictive for the following reasons:

1. **Unclear Definitions:**
   - **2.2A-2: "Cannabinoid profile" – What does this term mean? Currently we are using THC and CBD as Cannabinoid Profile, however, there are numerous others that can be included in that definition.**

   - **Proposed Regulation Issue**: The new restrictions fail to detail what the requirements are of a full "Cannabinoid Profile"

   - **Impact**: If we were to list the entirety of the Cannabinoid Profile as listed per the COA, we would run out of space on small containers to do so. Simply listing the current requirements, THC and CBD. These cannabinoids are the only cannabinoids that the vast majority of consumers are familiar with.

Recommendation: Keep the current THC and CBD labeling requirements.

2. Packaging Dates (Harvest/Batch Date, Use By Date, Passed Test Dates, Date Tested)

- **Proposed Regulation Issue**: 2.7.2-E.4 & 2.7.2-E.6 & 2.7.2-G.8

- Requiring a Use By Date/Expiration date is unnecessary, as the majority of cannabis products (flower and concentrates) can stay shelf stable for years when stored properly. They do not "go bad" and pose a health risk to consumers like a milk product would. Adding a Use By Date is another text box that would need to be added to an area that has limited space (small packaging containers).

- Requiring a "Dated Passed" is unnecessary to list on the packaging, the date that full test results come back is already listed on each product's COA, as well as in Metrc for each item. Adding Date Passed is another text box that would need to be added to an area that already has limited space (small packaging containers).

Recommendation: Keep the current requirements of "Harvest Date" and "Manufacture Date." Keep the current requirements for "THC" and "CBD" regarding cannabinoid profile. It is unnecessary to add "Use By Date" for products other than for possibly Edibles/Salves. It is unnecessary to add "Dated Passed" on all items. If anything, require that a QR code for the product's COA to be on the packaging label; it lists the full cannabinoid profile, date tested, date passed, etc on the COA. Over burdensome labeling requirements mean less space on packaging for information that is relevant for consumers.

3. Non-Psychoactive Cannabinoids (2.19.C)

- **Proposed Regulation Issue**: The restriction should be placed on retailers; dispensaries, liquor stores, convenience stores; disallowing them from selling any non-psychoactive cannabinoid that has been converted into a psychoactive cannabinoid.

- Restricting only manufacturers from converting non-actives into psychoactive products doesn't prevent the sale of those products within the State. They still are available in retail stores (listed above), which those products are unregulated. This impacts our industry, and may pose a significant risk to consumer safety. The OCR has levied significant fines, in the tens of thousands on cultivators for dispensing untested products. A similarly aggressive pursuit against retailers of untested products is reasonable.

Recommendation: Expand the regulation to ban sales of converted psychoactive products to all retail stores; dispensaries, liquor stores, grocery stores, convenience stores, in addition to banning the manufacturing of these product.

4. Compliance Date (2.6-B)

- **Proposed Regulation Issue**: A 90 day period to for businesses to be fully compliant with the new regulations will most likely not be enough time. It places strain on small business.

- Most cultivators are small businesses. We often order packaging in quantities that will last 6-months or longer so we can receive necessary price breaks that keep us operational. Having to quickly redesign and purchase large quantities of packaging items for the 90-day compliance would be burdensome. Turnaround time for packaging can also be 1-2 months by the time packaging is in our hands. The current packaging requirements are sufficient for consumer safety. This has been evident over the first two years of adult use sales.

Recommendation: Extend the 90-day compliance period to 180 days so businesses have enough time to enact the changes and use their current packaging stock and be able to afford the costs associated with the new packaging regulations.

Proposed Regulations – ADMINISTRATION, PROCEDURES AND ENFORCEMENT

1. 1.5 Commission Investigations and Enforcement (2-L) & (4-B)

a. **Proposed Regulation Issue**: It's impossible for Cultivators to know what employees do in their own time. If they are cultivating or receiving plants, products, etc. in the privacy of their personal lives that are arrear of the proposed regulations.

b. Under the proposed regulations cultivators may be fined or face administrative actions for the actions of employees during their own time. This isn't something we can reasonably have control over, we do not have the ability to control our employees actions outside the office.

Recommendation: Remove these regulations as there is no ways to license holders to monitor the private actions of their employees.

Thank you for considering these comments.

Very truly yours,

Jon Connors

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General Manager, Mammoth Inc
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(401) 644-4275

560-RICR-10-10-2 OPERATIONAL REQUIREMENTS FOR CANNABIS ESTABLISHMENTS

APPROVE:

2.11.E3a “Sales to out-of-state patients”.

Patients with out of state medical marijuana cards must possess and present a valid government issued ID that matches the issuing state and the name on the medical marijuana card.

This makes sense seeing that out of state doctors don’t have to follow RI DOH regulations due to the fact there’s no way of monitoring them. These doctors can and do issue cards without medical records or even meeting the patient. These patients then have the same right to discounts and various types of cannabis that might help the legit patients that are following the RI law and maintaining the patient/physician relationship with up-to-date medical records as the DOH regs state.

560-RICR-10-10-1 CANNABIS ESTABLISHMENT APPLICATIONS, LICENSING AND RENEWALS

APPROVE:

1.3.6 “Criminal background checks”

Caregivers are currently required to get a new background check every 2 years. This will instead require mandatory reporting of any and all criminal convictions within ten days, as well as an attestation be included in renewal applications.

This will help both the state and caregivers. Sometimes, it over burdens the person doing the background checks because there's a line (there's other occupations that require background checks). This will help ease on the amount of foot traffic in the State Departments. This will also help the caregivers and patients by not having to take time out of their day to find where they can get a background check.

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560-RICR-10-15-1 CAREGIVER REGISTRATION, MEDICAL HOME GROWS AND PERSONAL CULTIVATION

DO NOT APPROVE:

1.3.2.F3 "Renewal applications must be received by the Commission prior to the expiration of the registry identification card".

This is something that is NOT controlled by the caregiver. Their license is tied to the patient's application and renewal. If the patient renews their application late, the caregiver cannot do anything about it. You would be penalizing a person who has no control over the card and their patient might forget their appointment, have financial issues, health issues or even have difficulties with submitting their application online in a timely manner.

560-RICR-10-05-1 ADMINISTRATION, PROCEDURES AND ENFORCEMENT

DO NOT APPROVE:

1.4.C.4 "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."

There are multiple reasons for patients not letting the government know they are growing. It can be paranoia because people now know that they grow, it can be that they've been in trouble with the law (in the past), it can be that they are afraid of a house invasion (one person knows and tells another person). There should be no penalty on patients if they are within the plant count of 12 mature and 12 immature. They might be computer illiterate or have no access to the internet and not have the means to obtain a medical cannabis home-grow certificate. Not to mention that adult use already allows growing 3 plants without a certificate. To penalize a patient would put more financial burden that they do not need. This is their medicine.

DO NOT APPROVE:

1.4.C.5b "Revocation of medical cannabis home-grow certificates" includes grounds for revocation to include, but not limited to: 1) Failure to maintain or timely renew the required underlying qualifying patient or primary caregiver registration and 7) Failing to maintain or produce cultivation records…"

I don't believe this provision is fair to patients. As a patient myself, I'm not good at maintaining or remembering to maintain records. This feels like a lack of trust with the government and patients. My medical condition (multiple sclerosis and strokes) has left me with numbness in both hands and I'm sure other patients with neuropathy, etc. have issues with writing and/or typing to keep records. As it is, my wife is typing everything out for me on this written testimony.

From: nicole jardin
To: Inquiry, CCC
Subject: New Regulation proposals
Date: Thursday, February 6, 2025 1:04:59 PM

This Message Is From an External Sender
This message came from outside your organization.

Report Suspicious

Hi,

I wanted to reach out about the proposed regulations, two items I wanted to address were the cultivator licensing fees and fines and the 90 day allowance for updated packing.

We own a family owned cultivation with no millionaire backing us and we are far from rich. Our entire life savings was put into our facility, we have been up and running since 2019 and we have yet to get out of the red. The licensing fee of $20,000 a year, $120,000 since we started, is absolutely not helping our situation. This year I had to take out a loan to cover it. I am emailing you today to beg for help.

At the last CCC meeting I was sick to my stomach when people said how much Massachusetts is charging cultivators, why are we paying so much more? There was a proposal by someone who spoke at the meeting that RI should follow the Massachusetts fee structure. That would be amazing and help us to not go out of business and lose everything we worked so hard for. There were also comments about charging cultivators $1.00/ square foot which also seems very fair.

I do love the social equity/co-op ideas and I understand why they do not have to pay fees for the first few years. However, as a family owned and financed business, should we not receive some consideration as well. We are not, and never, have been rich, we saved our whole lives, worked everyday, and are raising two children who we have to tell all the time that there is not enough money for them to do the extras, we assure them someday soon we might be able to. The only people who have the power to make that happen right now is the CCC. So please lower cultivator fees and lower fines imposed on us for incidental issues since those are over the top as well.

We were fined $9,000 for an honest mistake and not anything that was intentional, a mistake that happened while my family was dealing with a bad case of covid. I was told the fees were non-negotiable as much as the DBR claimed they understood and sympathized with us. Non-negotiable fees, really??? Again just a family trying to survive the industry. Astronomical fees with no understanding or consideration of circumstances are killing us.

Lastly, the new packing requirements seem reasonable, however 90 days to be in compliance seems too short a time. Not only for the retailers to move products already on their shelves but for cultivators who have 10,000+ packages already made and paid for. I would suggest 180 would be much more reasonable. Packing is not cheap and most come from overseas so the cost and the time it takes to get them makes this an even more reasonable

request.

I appreciate you taking the time to read this and hope that Rhode Island CCC will try to make the industry successful for everyone involved.

Thank you,

Nicole

560-RICR-10-10-2 OPERATIONAL REQUIREMENTS FOR CANNABIS ESTABLISHMENTS

AGREE:

2.11.E3a “Sales to out-of-state patients”.

Patients with out of state medical marijuana cards must possess and present a valid government issued ID that matches the issuing state and the name on the medical marijuana card.

This is well overdue and will put legitimacy into the RI medical marijuana program and keep the bad actors out. As of today, anyone can get a CA medical marijuana card without any documented medical records, they don’t have to keep a patient/physician relationship, and they don’t have to follow the DOH guidelines. This hurts businesses like ours that have to be monitored by third-party physicians per the DOH. It also hurts the real patients that are following all of the guidelines set forth by the DOH. In addition, patients sometimes cannot get the medicine they need because it is sold out.

560-RICR-10-10-1 CANNABIS ESTABLISHMENT APPLICATIONS, LICENSING AND RENEWALS

AGREE:

1.3.6 “Criminal background checks”

Caregivers are currently required to get a new background check every 2 years. This will instead require mandatory reporting of any and all criminal convictions within ten days, as well as an attestation be included in renewal applications.

This will lessen the burden of having to pay $45 every two years. However, does this also pertain to Authorized Purchasers? If not, it should include them. The authorized

purchaser is very important to patients that are home bound or have difficulties with transportation to the dispensaries.

560-RICR-10-15-1 CAREGIVER REGISTRATION, MEDICAL HOME GROWS AND PERSONAL CULTIVATION

DISAGREE:

1.3.2.F3 “Renewal applications must be received by the Commission prior to the expiration of the registry identification card”.

This is something that is NOT controlled by the caregiver. Their license is tied to the patient’s application and renewal. If the patient renews their application late, the caregiver cannot do anything about it. You would be penalizing a person who has no control over the card and their patient might forget their appointment, have financial issues, health issues or even have difficulties with submitting their application online in a timely manner.

560-RICR-10-05-1 ADMINISTRATION, PROCEDURES AND ENFORCEMENT

DISAGREE:

1.4.C.4 “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.”

Patients should be excluded from this provision. They might be computer illiterate and not have the means to obtain a medical cannabis home-grow certificate. Not to mention

that adult use already allows growing 3 plants without a certificate. To penalize a patient would put more financial burden that they do not need. This is their medicine.

DISAGREE

1.4.C.5b “Revocation of medical cannabis home-grow certificates” includes grounds for revocation to include, but not limited to: 1) Failure to maintain or timely renew the required underlying qualifying patient or primary caregiver registration and 7) Failing to maintain or produce cultivation records…”

Patients should be excluded from this provision. This puts another burden onto patients to where the adult use does not require to maintain or produce cultivation records. Additionally, what is the definition of “timely renew patient or caregiver registration”? Some patients are not timely with their doctors’ appointments due to their chronic medical condition or due to lack of transportation. This can delay their card being renewed.

Talaria, LLC
536 Atwells Ave.
Providence RI 02909

February 7th, 2025

Chairperson Kim Ahern
Commissioner Layi Oduyingbo
Commissioner Robert Jacquard
Administrator Michelle Reddish
Cannabis Control Commission
560 Jefferson Blvd.
Warwick RI, 02886

RE: Proposed Rules and Regulations for Adult Use Cannabis

Dear Commissioners, and CCC Staff,

We sincerely appreciate the dedication, effort, and thoughtful consideration that you and your staff have invested in developing these new regulations. Your commitment to establishing a well-regulated adult-use cannabis industry is essential, and we recognize the complexity of this undertaking.

We are especially grateful that the Commission has remained focused on its mission to create a competitive market in line with neighboring states, support Rhode Island's small businesses, increase per capita income, and build a sustainable cannabis industry. These priorities are essential to ensuring the long-term success and stability of the market.

Below, we have outlined a number of questions and requests regarding the proposed regulations for your review and consideration.

560-RICR-10-05-1 Administration, Procedures and Enforcement

Hemp Derived THC Enforcement

We would like to know if there is a strategy for enforcement of the hemp regulations. Section 1.5 of the regulations establishes the Commission's authority to investigate and enforce compliance among cannabis-related businesses. Specifically, Section 1.5(A)(3) states that the Commission may "initiate an investigation and take action against any person who is required to be licensed, but is not licensed." Given this provision, we request clarification on whether the Commission

intends to use this authority to address non-compliance among hemp retailers selling THC products that exceed the allowable limits.

Currently, many liquor stores and hemp retail license holders in Rhode Island are selling 5mg THC single-serving drinks in multipacks and cases. This appears to be in direct violation of existing hemp regulations, which limit hemp-derived THC products to 1mg per serving and 5mg per package. Despite repeated discussions with the Department of Business Regulation (DBR) about enforcement, these products remain widely available. Allowing such sales outside of licensed cannabis dispensaries undermines the regulated cannabis industry by offering consumers a tax-free alternative to dispensary products, which are subject to a 20% cannabis tax and rigorous compliance and safety requirements.

We urge the Commission to clarify whether it will enforce Section 1.5(A)(3) to ensure compliance among hemp retailers that are effectively selling unlicensed cannabis products. Since hemp and cannabis are chemically identical when processed into THC, we urge the CCC to either enforce restrictions on hemp THC sales or allow licensed cannabis businesses to sell to hemp retailers under equivalent conditions. Without this parity, the current regulations create an unfair competitive advantage for hemp businesses while placing unnecessary restrictions on the licensed cannabis industry.

Administrative Penalties

In Section 1.18 administrative penalties are addressed. We sincerely appreciate and agree with your decision to consider mitigating circumstances and eliminating minimum fines. We appreciate your knowledge of the fact that many of the cannabis cultivators in this state are very small businesses, many with less than 10 employees who cannot afford large fines.

560-RICR-10-10-1 CANNABIS ESTABLISHMENT APPLICATIONS, LICENSING AND RENEWALS

Industry Representation on the Advisory Board

Section 1.3B precludes any interest holder or owner of any cannabis license from being a member of the cannabis advisory board. The cannabis act included specific provisions for representation of dispensaries, cultivators and labs. Excluding owners and interest holders would lessen industry representation in the commission rulemaking process. We would request that there be industry representation.

Clarification on ownership of multiple licenses

Section 1.3.2(A)(2) lays out rules about investing and ownership of multiple licenses. However, section 1.3.1(A)(7) states that anyone with a “material financial interest” and is “in conflict" with the cannabis act or medical marijuana act, must disclose that interest and have a divesture plan.

What does it mean to be “in conflict” with the cannabis act or medical marijuana act, and does 1.3.1(A)(7) preclude someone from having a “material financial interest” in more than one license? If someone currently has a “material financial interest” in a license, are they eligible to be on a retail cannabis dispensary application without a plan for divesture?

Zoning

Section 1.3.1A5b requires applicants to have evidence of full compliance with local zoning laws in the form of a certificate or letter certifying compliance and receipt of all final zoning approvals. We are happy to see this provision included so that any applicant that is awarded a license can open in a timely manner. While we understand that it is impossible at this time to give a timeline for the application being promulgated and awarded, it would be immensely helpful to have some clarity on how long we will have to complete the application and obtain zoning. Some municipalities require a special use permit, and that process can be lengthy.

Long Term Social Equity Compliance

Section 1.5K1 says that all social equity license holders have a continuing obligation to maintain qualified social equity status. I have a couple of questions regarding this. Once you are social equity status are you continually qualified or do you have to re-apply yearly or on some other time frame. If you qualify through the provision that requires you to live in a disproportionately impacted area, and win a license that would require you to move to an area that was not disproportionately impacted, how would that work? The same question could be asked about the provision that qualifies someone if they work in a disproportionately impacted area, if after winning license you work in a non-disproportionately impacted area, how would that work?

Awarding Process for Manufacturer Licenses and New Cultivation

We were surprised to see that there were no provisions about a lottery to award new potential manufacturing licenses or any potential new cultivation licenses. In the CCC’s statements they have spoken about how a lottery with a high bar to entry would shield the CCC from potential lawsuits when awarding new dispensaries. Why is the same not true for these license types?

Section 1.10.4A discusses the ability to open the application window for new cultivators. However, it does not reference an updated market study. We would like to implore you to conduct a market study before any new manufacturer or cultivation licenses are awarded. There is currently an excess amount of cultivation licenses that also have the potential to manufacture.

Many of us have not had the opportunity to expand to our full potential because of fierce competition due to a lack of retail locations to sell to. We would like the opportunity to utilize the already licensed space before the commission adds anymore.

Section 1.10.4C3 states that any adult cannabis cultivation wanting to open a facility larger than ten thousand square feet must contact the commission prior to submitting an application. It is my understanding of the cannabis act that no cultivations may be larger than ten thousand square feet of canopy. Can you please clarify when and if any facilities can be over ten thousand square feet of canopy, how this would apply, and if it would apply to current cultivators.

Compassion Center Cultivation Expansion

There was no place in the new regulation that I could find any limitation on expansion of compassion center's cultivation facilities. As cultivators we are limited by square footage of canopy, and I think it would be fair for the compassion centers to also have some limits as they already have a competitive advantage by being vertically integrated.

Cultivation Licensing Fees

We appreciate the 10% reduction in licensing fees laid out in section 1.10.3A. However, the reduction still does not address the unfairness of the fees based on cost per square foot. It simply does not make sense that a Micro-license is paying $1.8 a square foot, while a Class A pays $3.6 per square foot and a Class B $3.15 a square foot. We would like to see more equity in these fees, especially as a class A cultivator. In addition, we would like to see a further overall reduction in fees.

560-RICR-10-10-2 OPERATIONAL REQUIREMENTS FOR CANNABIS ESTABLISHMENTS

Definition of Cannabinoid Profile

In Section 2.2A2 Cannabinoid Profile is defined as, "the complete breakdown of the commonly known and tested phytocannabinoids present in cannabis product, as well as the amount of each cannabinoid the product contains expressed in milligrams per gram, or as otherwise determined by the Commission.

Furthermore, in Section 2.7.2E4 it says, "all packages containing retail ready cannabis products must be clearly labeled with the following information: the cannabinoid profile as provided by a licensed cannabis testing laboratory". Below is an image of the cannabinoid profile report that we receive from the testing laboratories.

SOP-2.4: CANNABINOID PROFILE BY UHPLC-DAD // ANALYST: JOSHUA VANVOORHIS, DATE: JAN 11, 2025

ANALYTE	LIMIT	AMT	AMT	LOD/LOQ (mg/g)	REGULATED	ANALYTE	LIMIT	AMT	AMT	LOD/LOQ (mg/g)	REGULATED
CBC		ND	ND	0.416/2.35	X	CBN		ND	ND	0.415/2.35	X
CBCA		< LOQ	< LOQ	0.416/2.35	X	Δ^8-THC		ND	ND	0.539/2.35	X
CBD		ND	ND	0.285/2.35	✓	Δ^9-THC		0.271 %	2.71 mg/g	0.821/2.35	✓
CBDA		< LOQ	< LOQ	0.229/2.35	✓	THCA		28.9 %	289 mg/g	0.342/2.35	✓
CBDV		ND	ND	0.404/2.35	X	THCV		ND	ND	0.240/2.35	X
CBDVA		ND	ND	0.376/2.35	X	THCVA		< LOQ	< LOQ	0.376/2.35	X
CBG		0.296 %	2.96 mg/g	0.357/2.35	X	TOTAL THC **		25.6 %	256 mg/g		✓
CBGA		1.22 %	12.2 mg/g	0.211/2.35	X	TOTAL CBD **		< LOQ	< LOQ		✓

** TOTAL THC = DELTA-8-THC + DELTA-9-THC + (THCA X 0.877)
** TOTAL CBD = CBD + (CBDA X 0.877)

We would like to request clarity on which of the above cannabinoids need to be listed on the container (not under the QR code). If all of the above 14 cannabinoids need to be listed and the THC symbol has to be 1"x1" it will be almost impossible to fit all the information on most packaging. For example, a single preroll tube would not be able to include all the information and a secondary container would be required. In fact, many products will need a secondary container, increasing the already high cost of packaging and waste. If, however, some of this testing information could be put behind a QR code it would significantly decrease the amount of space it would take up on each package.

Additionally, it is stated in the proposed regulations that the amount of each cannabinoid should be listed in mg/g. However, customers are used to seeing flower expressed as a percentage. We would like to request the option to use a percentage number instead.

One of the stated goals of the Commission is to make the Rhode Island Cannabis industry more competitive with our neighboring states. In our previous public comment we have talked about changing from listing total THC to listing THCa and Delta 9 THC independently. This change would make comparing items between Massachusetts and Rhode Island more of a 1:1 comparison.

In our opinion it would be best if Total Active Cannabinoids (TAC) and THCa were listed on the package with the remainder of the cannabinoids allowed to be included in the QR code.

Mixing of cultivars and strains

Section 2.2A3c(2) defines a batch of dried cannabis as: "A batch of dried cannabis shall not exceed twenty (20) pounds for the purpose of sampling for required testing and shall not consist of more than one strain, cultivar, or genetic composition".

The language that prohibits licensees from including more than one strain or cultivar in a batch is a new regulation. Previously we have been able to mix strains to create larger batches, to decrease overall testing costs, or to get a unique composition of cannabinoids and terpenes in each product. This new regulation makes sense for flower; however, it does not make sense for preroll material or concentrates or any other product categories. We would like to request the ability to continue to mix strains in products other than flower.

Definition of RSO

Section 2.2A25: ""RSO" means Rick Simpson Oil" My understanding of RSO is that it involves specific parts of the cannabis plant as well as using ethanol exclusively as the solvent. This is not what is being currently sold as RSO. I would like to see further clarification on what can be or cannot be classified as RSO.

Packaging requirements

We are requesting more clarity on the requirements for childproof packaging. Below is a list of definitions for "immediate container" and "outer packaging". There is no definition listed in the regulations for "Exit Packaging".

§2.2A14" "Immediate container" means the container or other form of packaging immediately in contact with the cannabis product."

§2.2A16 " "Outer packaging" or "secondary container" means the form of packaging in which an immediate container is placed."

The regulations state the following:

§2.6D6 any package containing retail-ready cannabis product must: "Be child resistant"

§2.7.4C "If the immediate container or secondary container are not child-resistant, both containers must be placed into a child-resistant exit package in compliance with §2.6(E) upon sale."

§ 2.6E "Exit Package
1. Except for retail-ready cannabis-infused products, upon Commission approval, any other retail-ready cannabis product placed into a container that is not child-resistant shall be placed into a child-resistant exit package at the point of sale.

2. The exit package is not required to be labeled pursuant to § 2.7 of this Part if the package(s) within the exit package containing the retail-ready cannabis product comply with all packaging and labeling requirements pursuant to §§ 2.6 & 2.7 of this Part."

The distinction between outer packaging and an exit package is unclear to us. Our understanding of an Exit package is a child proof bag that the retail dispensary puts a variety of products in before a customer leaves the store. Our understanding of secondary packaging would be packaging that holds only one product.

It is unclear to us what layers of packaging are required to be childproof. For example, many brands currently place small childproof jars of concentrate in simple boxes. We have also seen non-childproof immediate containers placed into an outer package that is childproof. To require all layers of packaging to be childproof would place an undue burden on small business cultivators and manufacturers causing them to redesign many of their current packaging containers, increase cost, and produce more waste.

The language pertaining to the Exit bag is also confusing. What retail-ready cannabis products would be eligible to be "placed into a container that is not child-resistant and shall be placed into a child-resistant exit package at the point of sale"? If an Exit bag is used does any item in it need to be childproof?

We would appreciate clarification on what layers need to be childproof, and what the definition of exit bag is.

Packaging Rule Changes regarding color and transparency

SS 2.6D

We are pleased to see that in the proposed regulations there is no longer a color restriction (other than neon and fluorescent), as well as the ability to place things into a transparent container. We agree with the desire to keep these products out of the hands of children but allowing us this freedom will make us more competitive with neighboring states.

Tamper Evidence

§2.6D3

We believe that currently, without the requirement of tamper evidence the product inside is secure. Until it leaves the dispensary it is always on camera. Adding a tamper evident seal or sticker would increase waste in our already wasteful industry.

Liquid Edibles

§ 2.6F5c Retail Ready Edible Cannabis-Infused Products in Liquid Form "If containing multiple serving units must include a measuring device such as a measuring cap, cup or dropper with the package containing the retail-ready cannabis product. Hash marks on the package do not qualify as a measuring device."

We would like to see the ability to use hash marks on the package as a measuring device. Again, it would reduce waste. Perhaps there could be measuring devices available for those who want them at the point of sale.

THC Limits in Topicals and Tincture

Section 2.6H2 limits topicals to 100mg per unit.

We do not believe that there should be a 100mg limit for topicals because there are no psychoactive qualities to THC cream and increasing the THC in the cream can help to relieve more pain and swelling.

In addition, we would like to note that the hemp regulations have recently changed regarding hemp derived THC limits in Tinctures. CBD manufacturers are now allowed to have up to 100mg of THC in their tincture products. This is a large amount of THC. In fact, it is the limit allowed to be sold in a multipack of edibles available at dispensaries. We would urgently request that you revisit this recent change to the regulations for CBD manufacturers. Allowing such sales outside of licensed cannabis dispensaries undermines the regulated cannabis industry by offering consumers a highly concentrated tax-free alternative to dispensary products, which are subject to a 20% cannabis tax and rigorous compliance and safety requirements.

Universal Warning Symbol Size

Section 2.7.2E5 states that the THC Universal Warning Symbol can be no smaller than 1”x1”. In Massachusetts the required size of the THC warning is only .25”x.25”. Reducing the size would allow more room for warnings and cannabinoid profiles especially on the single preroll tubes which are used extensively throughout the industry. We would request that the symbol be reduced to .5”x.5” on any package the size of a single preroll or smaller. Furthermore, we would request that the largest THC Universal Warning Symbol can be no smaller than 1”x1” and shall not be required to be larger than 1.5”x1.5” regardless of the size of the logo.

In Section 2.7.5A1 the regulations state that “any logo or graphic that appears on retail ready packaging must not be larger than the Universal Symbol”. In adult use markets, branding and packaging becomes more important as the market matures. Limiting the size of the logo or graphic in comparison to the Universal Warning Symbol would make brands less distinctive and make us less competitive with our neighboring competitors.

In addition, further clarification is needed as to what a graphic is defined as and how it will be measured. Is the restriction simply on the logo, and graphics included in the logo, or would it include any design on the packaging? Would any patterns be allowed? Would a sunburst in the background be included in the size of the logo or graphic when compared to the Universal Warning? If you have a glossy background repeating logo does that count when compared to the Universal Warning? We would recommend that the logo or graphic only consist of the name and graphic included in the logo.

2.7.3A states that each edible serving can be stamped or wrapped with the Universal Symbol. We agree with the additional ability to wrap a serving with the warning and appreciate this change.

Hybrid Cannabis Retailers and New Manufacturing License Restrictions

Thank you for including Section 2.11B which states that "cannabis product manufacturers may only purchase or receive cannabis for processing from licensed cannabis cultivators and transfer or sell cannabis products to entities licensed pursuant to the cannabis act and the medical marijuana act" and Section 2.11C1 which states that "Compassion centers, hybrid cannabis retailers and other retail cannabis establishments shall not sell or transfer cannabis or cannabis products to any other compassion center, hybrid cannabis retailer, or other retail cannabis establishment, or vice versa."

These sections combined will ensure that the cultivators will have an opportunity to develop a robust market with the new retail stores.

Remediation

The remediation regulations and requirements (Section 2.26G) are similar to those that are currently in place. The proposed regulations state "A cannabis establishment may request from the Commission an opportunity to remediate the batch before requesting the batch be retested. The Commission shall review and determine in its sole discretion whether the request to remediate will be approved." However, in the DBR Metrc Combined Implementation Guidance amended on May 12, 2023, the DBR changed the requirements regarding "requesting the opportunity for remediation". It states that, "A licensee is required to request permission for a retest in writing from OCR pursuant to 230- RICR-80-05-1.11(D)(2). For failed heavy metals, microbiological, water activity and residual solvent failures, no request is required at this time." In other words, it is no longer required to request in approval in writing for remediation of heavy metals, microbiological, water activity and residual solvent failures. We would request that this guidance be incorporated into the proposed regulations.

We would also like to request that when a retest is needed, that batch only be retested for the failed section. For example, if a batch fails for microbial contamination, after remediation only the microbials would need to be retested. This would decrease high testing costs on cultivators when remediation is required.

Furthermore, in section 2.7.2G3 It states that, "whether the product has been remediated and the remediation used, if applicable, may be included" on the label. We agree with this decision because some facilities have a "remediation" machine on site. If cannabis product is run through those machines prior to testing it is currently not considered remediation, and is not listed in

METRC as “remediated”, despite the cannabis going through the exact same process. Therefore, if remediation labeling was required, it would give an unfair advantage to facilities that can afford extremely expensive “remediation” machines. In addition, there is no way for a testing lab to verify if product has or has not been run through one of these “remediation” machines. For these reasons, we agree with the decision to include remediation on the label as optional.

Packaging Waste

There was no mention of how to handle packaging waste. We would love to see a waste diversion program or recycling program be developed to increase sustainability in this new market.

Conclusion

Thank you for taking the time to consider our comments and the concerns we’ve raised. We know that crafting these regulations is a complex task, and we appreciate the effort that has gone into balancing industry growth, consumer safety, and compliance. By addressing these issues, the Commission can help create a fair and sustainable cannabis market that supports small businesses and ensures clear guidelines for everyone involved. We look forward to working together and appreciate the opportunity to be part of this process.

Sincerely,

Adina Birnbaum, Sasha Gorski, Valentine Gorski
Talaria, LLC

By Email: cccinquiry@ccc.ri.gov

February 7, 2025

Kim Ahern, Chair
Cannabis Control Commission
560 Jefferson Boulevard, Suite 200
Warwick, RI 02886

Dear Chairperson Ahern and Members of the Cannabis Control Commission:

We would like to thank the Cannabis Control Commission for the thoughtfulness that the members and staff have put into the draft regulations. They are a promising start to the Adult Use Program.

Below are recommendations for changes to strengthen and clarify the regulations, adopt sustainable practices, make the regulations consistent with other states, and eliminate undue burden on operators.

560-RICR-10-05-1 Administration and Procedures

1.5 Commission Investigations and Enforcement

In Section 1.5, we recommend inserting "written" before complaint to ensure accountability and prevent harassment of cannabis establishment operators.

Section 1.5(C)(2)(e) proposes to allow the Commission to take action against cannabis establishments for any violation whatsoever in any other market in which the cannabis establishment operates, regardless of the nature of the violation. Even worse, if any cannabis-related license, permit or registration is denied, with no limit on nature or scope, the Commission can take action against an operator. Under this language, the denial of a zoning permit to operate a cannabis establishment in Connecticut renders an operator subject to enforcement action in Rhode Island. We recommend that a nexus to operations in Rhode Island be required before a cannabis establishment in one state can be punished for the actions of a cannabis establishment in another state. It's analogous to allowing enforcement action against a Warwick McDonald's restaurant for the violation of the Manhattan zoning code by a New York McDonald's.

Similarly, Section 1.5(C)(2)(m) allows the Commission unfettered discretion to decide that "any conduct reflecting adversely upon the licensee's or cardholder's fitness to engage in the cannabis industry" allows enforcement action to be taken against the licensee. There are no standards, guidelines or safeguards for operators provided. The section is so vague that operators, their employees or agents are left without any direction as to the actions or conduct prohibited that would subject them to enforcement action.

Section 1.18(C) imposes fines for violations of untagged or untracked plants, cannabis or cannabis products of up to $5,000 per unit per day. This is a very steep fine for actions that may result from inadvertent human error that results in an inventory discrepancy. We recommend an escalating

scale of enforcement that takes into account whether there was an intent to defraud or divert or gross negligence in complying with inventory standard operating procedures before issuing crippling monetary sanctions.

560-RICR-10-10-1 Cannabis Establishment Applications, Licensing and Renewals

Section 1.3.3(A)(4)(i) requires sixty day prior notice to any floor plan change, which could prove limiting to business responsiveness. While the intent may be to only apply the requirement to relatively major updates (use of the term "construction"), it is not clear and as currently phrased, could be interpreted that something as simple as moving a display case would trigger this. We recommend adding a clarifying term such as "major" or "significant."

Section 1.3.3(A)(4)(n) requires operators to give 60 days advanced notice of enforcement or discipline in other jurisdictions, which is literally impossible. We recommend changing this requirement to remove it from the 60 days notice section and require notice within 5 business days.

Section 1.3.5(C)(2)(a) mandates display of an employees' date of birth on a badge required to be worn and therefore visible to customers (and other employees), which creates a safety hazard for employees. Unnecessary personal identifying information causes identity theft and stalking risk without sufficient justification. Going through the application process the Commission is aware that all employees are over 21 years of age. For any employees with identical names, photos and random ID numbers differentiate them sufficiently. We recommend elimination of this requirement.

1.3 General Requirements for all Cannabis Establishment Licensees

Section 1.3(B) prohibits members of the Cannabis Advisory Board from applying for or having any ownership interest or being an interest holder of any of the licenses issued by the Commission. "Interest holder" is defined broadly and includes "[a]ll officers, directors, members, managers or agents of the applicant/licensee, and any other entities described in § 1.2(A)(12)(a)…" This section appears to be in direct conflict with the express provisions of the Rhode Island Cannabis Act, § 21-28.11-6(b)(2), which requires members of the advisory board to be appointed by the Speaker of the House, including someone who represents the cannabis cultivation industry, and members to be appointed by the President of the Senate, one of whom shall represent the cannabis retail industry.

Aside from the conflict between the state law and proposed regulations, it is important for the cannabis industry to be represented on the advisory board as a key stakeholder to assist the Commission in developing policy that reflects an informed approach to addressing the latest issues in the cannabis industry.

560-RICR-10-10-2 Operational Requirements For Cannabis Establishments

2.2 Definitions

In Section 2.2(A)(2), the definition of "cannabinoid profile" should be limited to the major cannabinoids, with discretion left up to operators to highlight minor cannabinoids, as requiring the entire cannabinoid profile of "commonly known and tested phytocannabinoids" is open to

interpretation as to what cannabinoids are specifically "commonly known and tested" (a characterization that will be fluid as cannabis science evolves) and with 100 known cannabinoids,[1] far too voluminous to print. We therefore recommend the following substitute definition:

> "Cannabinoid Profile" for the purposes of these regulations means the amounts of delta-nine-tetrahydrocannabinol, cannabidiol, tetrahydrocannabinolic acid and cannabidiolic acid in a cannabis product, expressed in milligrams per gram, or as otherwise determined by the Commission. Amounts of other Cannabinoids may be disclosed by the cannabis establishment or as otherwise determined by the Commission.

Section 2.2(A)(34) defines "THC" to include tetrahydrocannabinol acid (THCA). This will result in a double-counting of THCA in the formula for "Total potential THC" in Section 35 and therefore produce an inaccurate result for total potential THC. We recommend removal of THCA from the definition of THC.

2.4.2 Cannabis Products Designated for Retail Sale

The language in section 2.4.2(C)(1) reads: "[t]he Commission will not designate any product as retail ready if: 1. The Commission has received information, data or research that such product is not safe for inhalation, application or ingestion…" We recommend rather than identifying specific routes or methods of consumption, that the Commission use more flexible language that will accommodate future innovation without requiring a change to the regulations:

> The Commission has received information, data or research that such product is not safe <u>for use as intended</u> ~~inhalation, application or ingestion~~…"

The language in subsection 2 states "[a]nything about the product targets or is appealing to minors." This language is vague, subjective and difficult to interpret. We recommend the following clarifying changes:

> Anything about the product targets or is <u>specifically</u> appealing to minors<u>, such as use of cartoon characters, toys, mascots, or other depictions commonly used to market products to minors</u>

2.4.3 Cannabis Concentrates intended to be inhaled, vaporized or aerosolized

Section 2.4.3(A)(1) prohibits inclusion of "[f]lavoring or coloring has been added except for flavors or coloring that are derived solely from cannabis and/or hemp and have been procured in accordance with applicable Rhode Island laws[…]" This prohibition could be interpreted to prohibit any botanically-derived terpenes not derived from cannabis or hemp. Such an approach would seem contrary to science, as terpenes exist in both cannabis and hemp, but other natural products as well. Limonene, Myrcene, Caryophyllene, Linalool and other terpenes can be found in other plant sources, such as citrus fruits, lavender or black pepper. The notion that they are less safe because they are not derived from cannabis or hemp would not withstand scientific scrutiny.

[1] National Center for Complementary and Integrative Health, "Cannabis (Marijuana) and Cannabinoids: What You Need to Know (https://www.nccih.nih.gov/health/cannabis-marijuana-and-cannabinoids-what-you-need-to-know).

Nonetheless, if there is a concern around safety for botanically-derived terpenes, adding a requirement that a cannabis establishment be required to maintain a Certificate of Analysis for botanical terpenes should address such concern.

We therefore recommend instead that the language be amended as follows:

> "Flavoring or coloring has been added except for: flavors or coloring that are derived solely from cannabis and/or hemp and have been procured in accordance with applicable Rhode Island laws; or botanically-derived terpenes for which a cannabis establishment must maintain a Certificate of Analysis to be made available upon written request.

2.4.3(A)(2) prohibits "unapproved additives" "such as" nicotine, but provides no guidance to operators as to which substances are prohibited. As such the operators have no information on which to base business decisions as to what additives are prohibited based on the plain language of the regulation. We recommend the section be deleted or clarification be provided so that operators know what is and is not "unapproved additives."

2.4.5 Infused Cannabis Products

The section prohibits the Commission from designating a product as "retail-ready cannabis" if the product meets certain conditions. We recommend the following changes to the language to provide greater clarity.

In section 2.4.5(A)(1), the Commission prohibits colors that appeal to minors but also prohibits bright and neon colors, which is presumably due to the Commission's belief that bright or neon colors appeal to minors, as there would be no reason to prohibit bright or neon colors for adults. The two sections should be consolidated, so that companies are on notice that these are the colors to be avoided, by eliminating subsection 4.

> Appeals to minors, whether by shape, bright or neon colors, and/or placement on a stick for consumption;

In section 2.4.5(A)(2), there is a prohibition against using geometric shapes. This is an incredibly broad prohibition that could be interpreted to ban circles, ovals, ellipses, crescents, curvilinear triangles, quatrefoils, parallelograms, squares, rectangles, trapezoids, trapeziums, triangles, diamonds, rhombus, pentagons, hexagons, heptagons, octagons, nonagons, decagons and any combination thereof, preventing a company from engaging in normal graphic design for packaging without any explanation for the basis of the ban, as they are not deemed by its plain language to be shapes that appeal to minors or there would be no reason to identify them separately. We therefore recommend the following deletion to clarify the intent of this provision:

> The product is not ~~of a geometric shape or is~~ in a shape that appeals to minors, including any human shape, stars, hearts, animal shapes, cartoon characters or any other shape that is especially attractive or enticing to children as determined by the Commission;

In section 2.4.5(A)(5), the language "has a resemblance to" is unduly broad and vague. While we support a prohibition against mimicking packaging of branded consumer products, the "resemblance" language could be interpreted to prohibit commonly used color schemes (blue and

green, for example), simply because a branded consumer product also uses similar colors. We therefore recommend the following deletion to clarify the intent of this provision:

> Imitates ~~or has a resemblance to~~ any existing branded consumer products, including foods, snacks, candies and beverages that do not contain cannabis; or

2.4.6 Cannabis Products Designated for Medical Use Only

Section 2.4.6(A)(2) does not include edibles in the products eligible for treatment as medical use only. We encourage that Commission to reconsider allowing edibles as a medical use only product, as patients increasingly desire edibles[2] as a safer alternative to smoking when using cannabis to treat their conditions.

2.6 Packaging Requirements for Retail-Ready Cannabis Products

In Section 2.6(B), the Commission allows 90 days for compliance with the new regulations. While we appreciate the Commission's recognition that regulatory change can render materials that were compliant when purchased obsolete, we respectfully recommend that the time be expanded to 120 days to allow businesses sufficient time to run through all such materials as that is more consistent with the time frame running through an existing package order would take.

Section 2.6(E) mandates the use of exit bags. In an era where many governmental entities are banning the use of unnecessary bags, the Commission has gone in the opposite direction and is forcing cannabis establishments to contribute unnecessarily to waste production. Rhode Island itself passed the Plastic Waste Reduction Act, effective January 1, 2024, to ban single use plastic bags. We recommend the elimination of the exit bag requirement, as it is a relic of early cannabis state laws from a decade ago and is not consistent with nationwide efforts to lessen the environmental impact of the industry.

In Section 2.6(F)(3), we recommend adding a variance of 10% +/- for potency in both serving size and package limits, as cannabis is a plant with inherent variability. Creating a hard limit, where an edible will be unusable if it goes even a small fraction over the top (and is not permitted on the medical market) creates waste and imposes a tremendous cost on operators. We recommend the following additional language: "Cannabis products tested for potency shall be subject to a potency variance of no greater than +/- 10%."

In Section 2.6(F)(5)(c), the proposed regulations require "a measuring device such as a measuring cap, cup or dropper with the package containing the retail-ready cannabis product" if it contains multiple servings and states that "[h]ash marks on the package do not qualify as a measuring device." This requirement will be incredibly costly and limiting for operators to implement, as well as contribute to the production of unnecessary waste. We recommend that hashmarks be permitted to denote multiple servings, as they provide the appropriate indication to consumers without requiring awkward and wasteful extra components.

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[2] Cannabis Use Preferences and Decision-making Among a Cross-sectional Cohort of Medical Cannabis Patients with Chronic Pain, Boehnke, Kevin F. et al., The Journal of Pain, Volume 20, Issue 11, 1362 – 1372.

Section 2.6(G)(1) provides for a "consumer testing certificate" for cartridges and other devices, but no further information is provided as to what is being tested and what the desired standards to be met are. Without this information, operators are left with insufficient information to be compliant. We recommend deletion of this section until further information can be developed.

In Section 2.6(H)(2), the topical potency is capped at 100mg, which is low for topicals. We recommend matching the maximum set forth for tinctures at 500mg, which will provide a more efficacious and cost-efficient topical product without the potential for over consumption which underlies the 100mg cap of ingestible/edible products.

2.7.1 Labeling Requirements for Retail-Ready Cannabis Products, Authority and Applicability

Section 2.7.1(B) allows 90 days for cannabis establishments to come into compliance with the regulations. Consistent with our earlier comment, we recommend an adjustment to 120 days as that is more consistent with the time it takes to get through stock of pre-existing labels, which have portions that are pre-printed.

2.7.2 General Labeling Requirements

Section 2.7.2(B)(1) calls for language to be at least size 6 font. This is a large font considering the amount of language required to be on any given label under the proposed label. We recommend a reduction in font size to size 4 font in this section.

Section 2.7.2(E)(2) requires that "[t]he business or tradename and license number of the cannabis establishment selling the product;" which is another relic of early adopting cannabis legalization states. Other products sold in pharmacies or liquor stores are not required to print the retail location selling the product on their label, because the information is identified in a receipt. There is even less of a reason to do so in the cannabis industry, because products are tracked in the seed -to-sale software and readily identifiable through that system. There is so much information required to be on a cannabis label that patients and consumers find the labels difficult to read. Deleting section E.2 would serve as a commonsense adjustment to eliminate redundant information and make the label easier to read.

Section 2.7.2(E)(5) requires the printing of a mini-universal symbol on each vape cartridge. This is a costly and time-consuming requirement, made worse by the lack of universality in symbols across the different states (so it cannot be universally etched into the cartridges by the manufacturer). We recommend deletion of the mini label requirement if the ASTM symbol is not adopted as the universal symbol or an alternate symbol.

In Section 2.7.2(F)(1), there is a requirement that cannabinoid profile be printed in red. The switch in colors is difficult and costly for operators and is not required in any other jurisdiction of which we are aware. We recommend that if the purpose is to distinguish the text, requiring it to be printed in bold is more cost-effective while still emphasizing the information to the consumer or patient.

Section 2.7.2(G)(3) requires a cannabis establishment to disclose whether a product has been remediated and what method of remediation has been used. This requirement is unduly burdensome and lends support to fearmongering not supported by science that remediated cannabis is somehow harmful to patients or consumers, despite the fact that the state would not

permit the cannabis to be sold unless it could pass stringent testing regulations. Other mainstream products, such as food and pharmaceuticals, that go through processing are not required to disclose the details of such processing to their customers and it is unclear for what purpose the cannabis industry is required to do so.

Section 2.7.2(G)(4) uses terminology not commonly used in the cannabis industry: "For processed cannabis products, the processing technique or solvent(s) used to produce the product[.]" For the purposes of clarity, we recommend the following change:

> For processed cannabis products, the extraction method ~~processing technique or solvent(s)~~ used to produce the product

In Section 2.7.2(G)(8) and (9), information is required on the label that is already contained in a certificate of analysis. We recommend replacing those sections with the option to provide a link or QR code to the certificate of analysis.

2.7.3 Imprinting of the Universal Symbol

We recommend that the Cannabis Control Commission either adopt the ASTM International Intoxicating Cannabinoid Product Symbol (IICPS) or allow it as an alternative. The IICPS has been adopted by many states, including Montana, New Jersey, South Dakota and Vermont, and being considered by others. Making a global warning symbol for cannabis rather than the patchwork of different "universal" symbols adopted by various states is more protective of public health and safety.

2.7.4 Requirements for Small Containers

As previously stated, the current definition of "cannabinoid profile" is untenably inclusive for labels, even on larger containers, but the problem becomes much more difficult for smaller containers.

2.7.5 Prohibitions

Section 2.7.5(A)(1) requires proportional sizing of the universal warning symbol, resulting in the symbol being required to be unusually large in comparison to other markets. The change would require a complete redesign of packaging and present costly compliance challenges. While wanting the universal symbol to be visible is understandable, the minimum size requirement should serve that function without requiring operators to completely redesign their packaging. We therefore recommend deletion of the proportional sizing requirement. We further recommend an exception on size be created for small containers due to the challenges presented by both the minimum size requirement and the proportionality requirement (if it is maintained).

Section (A)(2)(a) prohibits graphics on packaging from using animal characters, characterizing them as automatically targeting individuals under the age of twenty-one years of age. The prohibition is unduly broad. While cartoonish animal characters may appeal to minors, there are plenty of products that are age-restricted that are associated with sophisticated stylized animal characters, such as the dog used in Birddog Whiskey (https://birddogwhiskey.com/) and the Mustang used in the Ford line of cars (https://www.ford.com/cars/mustang/). We recommend that the broad prohibition against use of animal characters be eliminated to allow the Commission to determine,

in its discretion, if the proposed use of an animal graphic is "reasonably targeted" at minors based on design and context.

2.7.6 Warnings

Similar to our earlier comment, we recommend that the font required in Section (A)(3) be proportionately reduced to size 6 font, due to the sheer volume of information required to be disclosed.

Under Section 2.7.6(A)(5), a requirement to have warning text surrounded by a yellow box is mandated, which is a requirement not in any other jurisdiction of which we are aware. Printing such warnings in multiple colors adds complexity that will be challenging for operators. We recommend switching to a bold black box outline as eye-catching, but more cost-efficient.

In Section 2.7.6(B), the word "Warning" is required to proceed each individual sentence in a multiple sentence warning, which is redundant and takes up precious space. When presented together, a single "Warning" in the beginning will alert consumers and patients as to the information to follow.

2.8 Advertising

Including the passive website of a cannabis establishment as advertising is inconsistent with the definition of "Advertising" in Section 2.2. as a "means the act or practice of calling public attention to one's product or service."

a. Online media, ~~including cannabis establishment websites,~~ video advertisements, social media, and pop-up advertisements;

Characterizing a cannabis establishment website as advertising is unduly restrictive, as an individual must proactively visit the website to access the information within it, which is different from every other form of media included as advertising in this list, as they actively reach out to consumers and invite them to consider products.

We agree that cannabis websites should remain age-gated and suggest that a separate section be created to ensure that websites have adequate age verification mechanisms:

> A cannabis establishment's website must have a mechanism to verify that each visitor is either 21 years of age or older or a qualified patient before allowing the visitor to access the cannabis establishment website.

In Section (B)(5), there is a rather harsh requirement in which a cannabis establishment is burdened with taking "immediate" action when another entity uses its intellectual property. The language does not even require that the cannabis establishment have notice that its intellectual property has been used, but nevertheless makes it responsible for taking action without any opportunity for investigation and verification. We recommend the following changes to ensure that cannabis establishments are not responsible for violations of which they are not aware and that they are given an opportunity to investigate and verify the use of their intellectual property:

~~In the event~~ Upon notice that a third party has used a cannabis establishment's brand, trademark, brand name, location, or other distinguishing characteristics in an advertisement that does not comply with § 2.8 of this Part or any other statute, rule or regulation, the cannabis establishment must investigate and ~~immediately~~ notify the Commission within 48 hours of verification of unlawful use under this section and issue a cease-and-desist notice to such third party.

Section 2.8(B)(4)(h) prohibits advertising to reference content about "any other substance," which is too broad and vague to inform operators how to comply. We recommend clarifying the term to be "any other highly regulated substance or controlled substance."

2.9 Cannabis Seed-to-Sale Tracking System

In Section (B)(1), we recommend inserting the term "At least" before "One" to provide greater flexibility and increased compliance.

At least ~~O~~one owner and one compliance manager identified as administrators of the licensee's system;

2.10 Tagging of Plants and Cannabis Inventory

Section (E)(2) & (3) appear to be different angles on an identical requirement, with (2) providing the additional specificity that the amount is per month. It is confusing to have both present. If they are meant to be different, we recommend that the sections be reworded to make the difference more clear. Otherwise, we recommend the deletion of (3) as redundant.

2.11 Permitted and Prohibited Sources of Cannabis; Contract Requirements; Sales and Transfers

Section 2.11(C) prohibits compassion centers from selling cannabis or cannabis products to other compassion centers, licensed hybrid cannabis retailers, and/or other type of retail cannabis establishment. As the market matures, such an artificial restraint on trade should be eliminated to allow companies to trade freely with each other in compliance with applicable law and regulations.

Section 2.11(E)(3)(b) requires on top of the verification already required under the regulations that out-of-state patients complete an "intake form." This additional redundant process seems unduly burdensome and impracticable on both the business and patient without providing any additional benefit to either. We recommend deleting this requirement.

Section 2.11(E)(3)(e) requires cannabis establishments to distribute information regarding the governing state and federal laws. This section should either be deleted or the information that the Commission wishes to be distributed should be created by the Commission so as to be consistent across all license types, and perhaps made available through a link or QR code on a receipt.

We recommend that the language in 2.11(E)(4) be revised, as the term "residences" may create complicated nuance (e.g., is a temporary residence a "residence" for the purposes of this section). If the Commission wishes to limit where the deliveries may be received, such limitations should be

expressly identified to put both businesses and consumers or patients on notice of such restrictions.

> Sales for delivery ~~to~~ within Rhode Island ~~residences~~ are deemed permitted provided that such sales comply with § 2.17 of this Part.

2.12 Inventory Control

We recommend that physical separation occur at point of sale or left to operator discretion, as there is no purpose to keep identical products physically separated earlier in the supply chain and it creates burdens on operators in terms of space limitations imposed by various code requirements. We therefore recommend the following clarification:

> Cannabis products designated as "Medical Use Only" shall be kept separate and apart from all other cannabis products at point of sale and shall only be sold to medical patients, caregivers or authorized purchasers.

2.13 Minimum Security Requirements

Section 2.13 (B)(4) includes a sentence requiring that "Any visitor that regularly gains access to the cannabis establishment may be required by the Commission to obtain a commercial identification card." This requirement is very vague and does not provide any direction to operators as to the circumstances under which the Commission may determine a visitor may be required to obtain a commercial identification card. Where an operator is not given sufficient information to determine how to comply with the requirement, it should be deleted or revised to provide more information on which to base compliance.

Similarly, Section 2.13(B)(6) requires licensed cannabis retailers to "make reasonable efforts to limit the number of customers present in relation to the number of licensed establishment commercial cardholders to assure adequate monitoring and control of point of sale area activities." This requirement is vague. Occupancy load requirements are already established in the Rhode Island Building Code, so it is unclear what additional limits are being imposed by this section. No guidance is provided so as to enable compliance by the operators or ensure consistent enforcement by Commission staff. We therefore recommend deletion of this section as occupancy is already addressed by state regulation.

Section 2.13(D)(1)(c) requires time to be measured in Eastern Standard Time year-round, but Rhode Island follows Daylight Savings Time from March to November. To avoid confusion, we recommend changing the language to something more flexible referencing the Eastern Time Zone.

Section 2.13(E)(2) requires continuous recording 24 hours, 7 days a week. We recommend motion-activated cameras in grow rooms with the lights out, as doing so would also reduce the amount of footage required in retention saving digital space and costs for operators.

Section 2.13(I)(2) requires that "immediately upon discovery of the event, or as a soon as possible following a conclusion of a security incident, the licensed cannabis establishment shall provide telephone notification to the appropriate municipal and/or state law enforcement authorities and first responders regarding any of the following "emergency events[.]" We recommend that

"immediately" be replaced with "Within 48 hours" so as to allow cannabis establishments the opportunity to conduct investigations and verify facts associated with incidents, to avoid confusion and support providing accurate reports to the appropriate authorities. We also recommend that the notification be performed by email, so that all parties have a record of when the communication was transmitted and what was contained in the transmission.

Similarly, in Section 2.13(I)(2)(e) the emergent reporting of "any alarm activation" would require the reporting of known false alarms, which will become administratively burdensome to the Commission and operator alike. We suggest rephrasing to "legitimate alarm activation" or words to that effect.

We recommend the same change in Section 2.13(I)(2) be made to the immediate notification requirement in Section 2.13(I)(3). We further recommend that the follow-up telephone notification be deleted, as such notification is redundant to the written notification already required and burdensome on operators who are already coping with the aftermath of an emergency event.

We recommend that the follow-up report required in Section 2.13(I)(4) be pushed out further in time to at least 1 week later, to allow for further time to investigate and reduce the burden of duplicative reports on an operator while they are dealing with an emergency event.

Section 2.14(B)(3)(a)(10) requires sanitation records to be kept in the operations manual, which is very unusual. We recommend re-evaluation of this requirement and revision of the language if the intent is to require a sanitation plan.

Section 2.16(C)(6) appears to contemplate 3 copies of the manifest (originating location needs to have one on the person of the driver and back with the product, and then receiving location), but only two of those are then discussed as being signed and retained. This creates a compliance risk of the wrong copies being saved. We suggest the originating location have the manifest either on the driver's person or with the product.

The blanket prohibition in Section 2.19(C) may be too inflexible to keep up with innovation in the industry, particularly with regard to minor cannabinoids. To protect public safety, we suggest giving the Commission oversight by adding "unless approved by the Commission" to the end of this subsection.

While we appreciate the expansion of the batch limit reflected in Section 2.26(C) to 20lbs, this is still half the 40 lb batch size approved in Connecticut and under consideration in Massachusetts, making Rhode Island less competitive than its neighboring states right out of the gate, without any demonstrable gains in public health and safety. The best practices, according to the scientific community, are to employ comprehensive sanitary requirements throughout the cultivation and product manufacturing process, with testing serving as a safety net.

2.16 Transportation of Cannabis Products

Section 2.16(C)(4) requires 2 authorized agents to be in a transportation vehicle. Massachusetts imposed a similar requirement, which made transportation financially difficult for small operators,

while even law enforcement officials who had initially recognized the two-agent requirement later recognized that it was not necessary for public safety and supported its rescission. [3]

2.17 Home Delivery – Licensed Cannabis Retailers Only

Section 2.16(C)(5) calls for the delivery of products to patients under certain circumstances. While we do not object to the requirement, we recommend that it be limited to operators that generally offer delivery, rather than force an operator who is not already engaged in delivery to undertake it.

> For compassion centers and hybrid cannabis retailers only: If a cannabis establishment licensee offers delivery services as a routine part of its operations and a patient requires a cannabis product that is available at the retail location, but is not offered for delivery, the cannabis establishment licensee must make that product available for delivery to that patient upon their request, provided that the requested product is in stock, and may not charge a delivery fee in excess of ten dollars ($10.00) per delivery to Rhode Island registered patients.

2.21 Required Patient Outreach Activities –Compassion Centers and Hybrid Cannabis Retailers Only

To reduce waste and administrative burden on operators, we recommend requiring that cannabis establishments make a frequently asked questions sheet available, rather than compelling operators to provide it to new registered qualifying patients. That way a patient may take the sheets if they would like it rather than have it forced upon them, only to dispose of it.

Thank you for your consideration of these recommendations. We appreciate the hard work and research that went into crafting such thorough regulations. Please do not hesitate to reach out if you have any questions regarding these recommendations or if you require further information.

[3] December 14, 2023 Meeting Minutes of the Massachusetts Cannabis Control Commissioner, reflecting that Newton Police Chief John Carmichael, Chair of the Massachusetts Police Chiefs Controlled Substances Committee, wrote a letter supporting the elimination of the two-agent rule; https://www.masslive.com/cannabis/2024/03/a-big-change-is-coming-to-massachusetts-cannabis-delivery-companies-cant-wait.html.

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COMMENTS ON PROPOSED CANNABIS CONTROL COMMISSION REGULATIONS
[560-RICR-10-15-1; 560-RICR-10-10-2; 560-RICR-10-05-1; 560-RICR-10-10-1]
February 7, 2025

As longtime supporters of Rhode Island's medical marijuana program and the legalization of recreational marijuana, the ACLU of Rhode Island appreciates the Commission's work and thanks the Commission for the opportunity to comment on these proposed regulations. We wish to offer some suggestions for revisions that we believe will make the regulations more equitable and also address some ambiguities. While these comments do not address every question we had in reviewing these detailed proposals, we hope they are helpful to the Commission's deliberations and review.

Medical Cannabis Program and Personal Cultivation [560-RICR-10-15-1]

1. **1.3.2(A):** This section requires a national criminal background check for all registered primary caregivers prior to the issuance of a registry identification card or medical home-grow certificate. As we have often pointed out, broad-based criminal checks can inappropriately bar otherwise qualified people from licensing they seek. In that regard, we note that this provision does not contain any reference to the "fair chance licensing" statute that the General Assembly enacted in 2020, and thus creates a potential for unfair license denials. That statute, R.I.G.L. 28-5.1-14(m), specifies that its provisions apply to all licensing decisions by state agencies unless explicitly exempted. We therefore urge that this section be clarified to reference that statute and ensure that criminal record check reviews will be conducted in accordance with its protections. We note that "fair chance" language is reflected in the subchapters of two of the other regulations being considered (560-RICR-10-05-1, 1.28(A); 560-RICR-10-10-1, 1.3.6(g)), and this section should be amended to do the same.

Regulation of Cannabis Establishments [560-RICR-10-10-2]

1. **2.13(B)(4):** We urge a clarification of this provision, which states that "any person who does not have a valid commercial identification card issued for the cannabis establishment premises who enters any area where cannabis and cannabis products are grown, cultivated, stored, weighed, packaged, processed, manufactured, or ***sold*** shall be considered a 'visitor' and must be escorted at all times by a commercial card holder." Similarly, 2.13(B)(6) requires the retailers to "make reasonable efforts to limit

the number of customers present in relation to the number of licensed establishment commercial cardholders to assure adequate monitoring and control of point of sale area activities." Read together, it appears that every customer entering a cannabis establishment must be "escorted" the entire time they are there. We assume this is not the intent of this language, but ask that the Commission clarify it to more clearly reflect to whom this provision applies.

2. **2.8(B)(2)(a)(i).** This provision requires that any "cannabis establishment websites and online media advertisements shall only be accessible to those twenty-one (21) years of age or older." Although we do not oppose other provisions in this section designed to ensure that cannabis advertising does not target young people, we are very concerned about any requirement that websites or advertising engage in age verification protocols. They raise significant privacy issues by requiring the collection of personal information and unduly burden the First Amendment rights of establishments and consumers alike. We urge deletion of this provision.

   In a similar vein, we urge that **Section 2.8(C)** be amended to require establishments to provide "verifiable" audience composition data where advertising is done only where such information is readily available. A mandate for such information in all circumstances could unduly hamper legitimate advertising to adults. The restrictions contained in Section 2.8(B)(4)(b-e) should be sufficient to serve the Commission's legitimate goal of restricting advertising aimed at young people.

3. **2.13(D)(1)(g):** This provision requires that "all video surveillance records and recordings must be made available to the Commission upon request." We ask that this provision be amended to require the Commission to specify a reason for seeking these recordings in order to avoid arbitrary "fishing expeditions."

4. **2.13(I)(3):** This section requires licensed cannabis establishments to notify the Commission of "any data breach or cybersecurity threat to the cannabis seed-to-sale tracking system." As it is currently written, this provision does not require notification to any person whose personal data may have been involved in the breach. We ask that this provision be amended to reflect the Rhode Island Identity Theft Protection Act of 2015 (RIGL §11-49.3-4) to include notification to the individuals impacted by any breach and information related to the breach.

Administration, Procedures And Enforcement [560-RICR-10-05-1]

1. **1.4(A)(6):** This section allows the Commission to "coordinate with law enforcement to conduct inspections to evaluate compliance with the Cannabis Act, the Medical Marijuana Act, and any regulations." We would urge the inclusion of some minimal standards to govern when the Commission can involve law enforcement in these inspections.

2. **1.5(C)(2)(m):** After citing numerous other types of conduct that might warrant action against a licensee, this provision states that, "any conduct reflecting adversely upon the licensee's or cardholder's fitness to engage in the cannabis industry" could also warrant Commission action. We are concerned about the breadth of this catch-all provision and would urge the Commission to consider clarifying and narrowing its scope to avoid arbitrary enforcement actions.

3. **1.17(a) and (k):** Both of these sections provide that, "in compliance with the Open Meetings Act," hearings may be held remotely. If these sections are also intended to encompass public ***meetings*** under the OMA, we believe that is inappropriate. Under that Act, only two state entities – the University of Rhode Island Board of Trustees and the Rhode Island Life Science Hub Board of Directors – are allowed to conduct remote meetings. If any ***hearings*** are covered by the OMA, we believe the same restriction would apply: while remote participation by parties, witnesses, and the public might be allowable, the Commission itself would not be allowed to meet remotely. We would urge that this be clarified.

4. **1.18(D)(6):** This provision grants the Commission the ability to "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." Because this provision does not include any measurable standards which would warrant law enforcement involvement, we urge that it be amended to incorporate the minimal standards for law enforcement involvement that appear in the Commission's proposed regulations governing personal cultivation. *See* 560-RICR-10-15-1; Section 1.5(A)(1) and (A)(2).

Regulation of Cannabis Establishments, [560-RICR-10-10-1]

1. **1.3.5(B)(1)(c):** This section states that the Commission "may waive commercial cannabis identification card application fees for approved social equity applicants." While we do not argue that the Commission should have this discretion, we believe it should be amended to automatically waive the card application fees for social equity applicants, similar to 1.5(E)(1) which states that "the Commission shall waive the license application fee for approved social equity applicants who apply for the initial six (6) social equity retail licenses." While we understand that pursuant to 1.12.8(A), the Commission is under no obligation to issue any requested waiver, any application fee can stand as an unnecessary barrier to entry for potential social equity applicants and, therefore, should be waived.

2. **1.3.5(C)(2)(a):** This provision states that all required individuals involved in the operation of a cannabis retailer must possess a commercial identification card that includes "the name, address and date of birth of the person." Pursuant to 1.3.5(C)(4), this "card must be worn by the cardholder at all times while at the licensed facility."

While we understand the necessity of maintaining a secure premises for a retail establishment, we worry that mandating an identification card to include such personal information as the person's address and birthdate raises significant privacy concerns. We believe that data should not be printed on the ID card itself.

3. **1.3.6(F):** This section lists numerous "presumptively disqualifying crimes" which would disqualify candidates for new licenses. This non-exhaustive list includes "the conviction of or pleading guilty or nolo contendere to ***any felony charge*** or crime of (including conspiracy and/or attempt to commit) an act constituting a crime of forgery, embezzlement… obstruction of justice, perjury, false swearing…" etc. This section proceeds to reference the Fair Chance Licensing Act, which provides at RIGL §28-5.1-14(d), that "no person shall be disqualified to pursue in any occupation… for which an occupational license… is required to be issued by the state or any of its agencies or any state licensing board or commission, solely or in part, because of a prior conviction of a crime or crimes unless the underlying crime or crimes substantially relate to the occupation to which the license applies." We struggle to see how the Commission's broad definition of presumptively disqualifying crimes fits within that law's goals.

4. **1.4(F)(2) and 1.5(F)(2):** Under these provisions, "applications which the Commission has determined to be complete" are considered "for further evaluation and review." Additionally, "incomplete applications" are not considered. **Section 1.12.5(B)** states that "the Commission may request additional information in connection with any resource application, and **in its sole discretion** may permit the resubmission of any resource application rejected as being incomplete or deficient." In light of the important interests at stake in these applications, we believe that, as a matter of course, applicants whose applications are considered "incomplete" should be notified of this fact and given the opportunity to correct any deficiencies before their applications are completely rejected. We do not consider it fair for the Commission to exercise unbounded discretion in deciding whether an applicant should be granted this accommodation. However minor or large the deficiency may be, applicants should be given a chance to correct the problem.

We appreciate your attention to our views, and trust that you will give them your careful consideration. If the suggestions we have made are not adopted, we request, pursuant to R.I.G.L. §42-35-2.6(1), a statement of the reasons for not accepting the arguments we have made.

Submitted by:
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