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.

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.

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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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