**RHODE ISLAND PATIENT ADVOCACY COALITION (RIPAC)**

**TESTIMONY ON**

**DEPARTMENT OF HEALTH REGULATIONS**

**RELATED TO THE MEDICAL MARIJUANA PROGRAM**

**December 7, 2016**

Thank you for the opportunity to submit written commentson the proposed regulations. We would welcome the opportunity to discuss the regulations or answer any questions you may have.

**The regulation for expedited applications for chemotherapy and hospice patients is incomplete**. The proposed regulations state that patients receiving chemotherapy or have been admitted to hospice will be expedited and their applications will be approved within seventy-two (72) hours. This language correctly reflects the recent statutory changes. However, the Department has overlooked the provisions of H7142, (the PTSD bill), which was also enacted. H7142 specifically states that patients who are eligible for hospice care qualify for expedited applications. So, even if a patient declines hospice care, the fact that they are eligible indicates that there is an urgency and the patient qualifies for an expedited application. Further, H7142 requires that patient and caregiver registration fees be waived. H7142 was signed into law by the Governor last July and should have taken effect immediately.

H7142 added paragraph(e) to 21-28.6-6, Administration of Regulations as follows:

(e) If the qualifying patient’s practitioner notifies the department in a written statement that the qualifying patient is eligible for hospice care, the department shall verify the application information in accordance with subsection (c) of this section and issue a registry identification card to the qualifying patient and primary caregivers named in the patient’s application within seventy-two (72) hours of receipt of the completed application. The department shall not charge a registration fee to the patient or caregivers named in the application.

**Authorized purchaser** While it may make sense to distinguish between those who are growing for patients and those who are purchasing and/or transporting medical cannabis on behalf of a patients, it raises the issue of why an individual who is doing a good deed should have to pay so much for the privilege. The proposed regulations state than an authorized purchaser must satisfy the same National Criminal Records Check (35 dollars) but they will also pay a registration fee of 100 dollars per year. This is an obvious obstacle to patients asking for and getting the assistance that they need. Many patients do not have transportation to the compassion centers because they do not have access to a car. Other patients are not mobile due to their disabilities. Only one compassion center has a delivery service and that is restricted to patients who are bed-ridden. Forcing a kind neighbor or relation who is willing to take the time to drive to a dispensary for a patient in need is to undermine that patient’s access to their medicine. This is particularly outrageous when we consider that we only have three compassion centers and none are in South County or the Woonsocket area. So, most Authorized Purchasers will be making more than a five or ten minute drive. It’s not always easy to find someone trustworthy and reliable who has the time to provide consistent volunteer services. It will be much harder to find such a person who is also willing to, not only undergo the NCRC at a coat of 35 dollars, but also pay 100 dollars a year.

We find the requirements placed on Authorized Purchasers to be particularly onerous when we consider that a patient can simply designate anyone to pick up any medication from the pharmacy even if it is dangerous and/or addictive. They just have to present an ID[. http://www.cvs.com/mobilelanding/storepickup/?stop\_mobi=yes](file:///C:\Users\Owner\Documents\.%20%20http:\www.cvs.com\mobilelanding\storepickup\%3fstop_mobi=yes)

We understand that the MMj (Medical Marijuana) Act requires Authorized Purchasers to submit and pass the NCRC, limits them to just one patient, and only allows them to pick up medicine from the compassion centers but not the patient’s caregiver or medicine donated by another patient or caregiver. We strongly urge the Department to not compound the limitations of and the obstacles in appointing an Authorized Purchaser by charging them a fee for their kindness.

**Caregivers could no longer reside out of state. Must be a Rhode Island residents.**

Many patients who will lose their access to medicine if this regulation takes effect. They currently have reliable, trustworthy caregivers who are providing low cost medicine to them. We do not see the positive goal that will be served by this regulation but we do see the harm to patients.

Our understanding is that the MMj Act did not initially exclude out of state residents from becoming caregivers because patients had adult children and caring friends who were willing to assist them but they lived on the other side of the state line. We are aware of several cases where caregivers were Rhode Island residents then moved over the state line but stayed close enough and were committed enough to continue caring and growing for their patients.

In the case of Massachusetts residents, it is hard to believe that many Massachusetts residents would be motivated to be caregivers in Rhode Island Program for nefarious reasons. As of December 15, any Massachusetts resident can grow six cannabis plants for any reason. The Massachusetts medical cannabis program allows patients and caregivers to grow as many plants as they think necessary to give a patient a two month supply. The possession limit is 10 ounces.

Because we know that this regulation would effectively deny patients access to their medicine, we ardently request that you do not promulgate it.

**New proposed requirements for physicians who sign certifications**

The proposed requirements go far beyond the requirements of the MMj Act and are far more burdensome than other states require. We have received an overwhelming negative response from patients who believe these requirements will cause their physicians to refuse to sign their renewal applications. Only a small percentage of Rhode Island physicians are currently signing certifications. Of those that do sign, they do not sign for all their patients who qualify for the MMP. They are afraid to. Many have not forgotten when the names of certifying physicians were released by the Department and appeared in the Providence Journal. We have heard from hundreds, if not thousands of patients who have reported that their physicians believe that they should be in the MMP but they want them to find another doctor to sign the certification. Many are willing to write letters to another physician recommending their patients for the Program. More and more are referring their patients to the MMj clinics.

It is shocking that the Department is considering such drastic requirements after more than 10 years of administering the Program and we are very concerned about the negative message that the Department is sending to physicians and their patients.

These requirements will increase the number of patients utilizing medical marijuana clinics. The problem is that the clinics are cost prohibitive for a large segment of qualifying MMj patients. We expect that a significant number of patients will not renew their patient cards and that new qualifying patients will not apply to the Program. They will take their chances on the illegal market.

Consider the costs that a patient would incur. We are about to switch to annual licensure from the current biennial cycle. This will increase costs to the patient, especially those that use the MMj clinics because they will need to pay for an evaluation every year instead of every two years. Program registration fee is 50 dollars a year. Appointing a caregiver is 100 dollars a year(caregivers may pass the fee along to patients). An initial or renewal evaluation at a MMj clinic is generally 200 dollars. A six month visit is another 50 dollars. That totals 400 dollars every year for thousands of patients and that is before the cost of growing and/or purchasing their medical cannabis. We are aware of the reduced fees for patients on SSI, SSDI, Medicaid, and disabled veterans and that is extremely helpful but there are many patients who are struggling financially who do not qualify for the reduced fees. The clinics generally offer very modest discounts for SSI and SSDI patients or no discounts at all.

We understand and support the need to protect the integrity of the MMP. We believe that only qualified patients belong in the Program. The certifying physician should either be making the qualifying diagnosis or relying on medical records that document the diagnosis. But these proposed regulations do not accomplish that.

Requiring a physician to educate the patient regarding “maximum daily dose of active ingredient, minimum interval between doses” makes no sense to us. There is no way for a physician to predict a dose or effective intervals for an individual patient. They could be advising new patients who are not familiar with cannabis to start slowly, exercise caution with edibles and concentrates, etc. The patient will determine the dosage that works for them and the appropriate intervals through responsible use.

It also makes no sense for a patient who is experienced and doing well with medical cannabis to see a physician every six months to discuss their cannabis use. We have patients who have been successfully using cannabis for more than 10 years. What is the point in requiring them to talk to their physician about it every six months? It will be a particular inconvenience for patients with mobility issues, and a wasteful hassle and expense for all. It might make sense for a certifying physician to check in with a patient who is new to cannabis but to force all patients to have 6 month visits is unwarranted, costly and in many cases, it is just silly.

Requiring the physician to document the patient’s response to conventional therapies needs to be clarified. Patients may decline conventional therapies, such as opioids, and be eligible for the Program. There is no requirement in the statute that patients try conventional therapies first and that should be clear in any regulation.

We question why the certifying physician should be required to update the patient’s primary care physician as to the patient’s cannabis use. It should be up to the patient to communicate with their PCP. We are unaware of other instances where physicians are required to notify a patient’s PCP directly about medication with or without the consent of the patient. We are unaware of a problem that will be solved by this requirement.

Many patients have remarked to us that they believe that the Health Department is trying “to get rid of the Program”. These regulations are being perceived as hostile to patients and they undermine patient access to the Program and patient’s medicine. We fear that these regulations will drive patients out of the Program and back to the illegal market. Patients who struggled to overcome opioid addictions will be at risk of relapse.

We hope that the Department will consider regulations that will support patients in their challenges and further the intent of the MMj Act. For example, the MMj Act protects registered patients from employment discrimination. It prohibits an employer from discriminating against a registered patient because of his or her “status” as a cardholder. Most employers that we have educated about the law are willing to comply with it but more and more employers are willing to defy it. In a pending case brought by the ACLU, an employer is arguing that they are not discriminating against a patient because of her patient “status” but because she uses medical cannabis. We urge the Department to write a regulation that clarifies the law for employers by specifically prohibiting employers from discriminating against a patient cardholder because he or she tested positive for THC in the course of an employment drug screen.

We appreciate your attention to our comments.