



Governor's Commission on Disabilities Joint Legislation & Executive Committee Notice

Monday, March 21, 2016 3:30 - 5:00 PM

John O. Pastore Center, 41 Cherry Dale Court,
Cranston, RI 02920-3049

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Executive Committee Attendees: Rosemary Carmody, (Vice Chair.); Casey Gartland; Jack Ringland;

Absentees: Timothy Flynn (Chair.); Andrew Argenbright; Judi Drew; Sarah Everhart Skeels; Harvey Salvias; Linda Ward; & Gary Witman

Legislation Cmte. Attendees: Jack Ringland (Vice Chair.); Rosemary C. Carmody; Casey Gartland; & William R. Inlow

Absentees: Linda Ward (Chair.); Regina Connor; Linda Deschenes; Timothy Flynn; Kathleen Heren; Barbara Henry; Arthur M. Plitt; Meredith Sheehan; Msgr. Gerard O. Sabourin; Angelina Stabile; & Dawn Wardyga

Staff: Bob Cooper



3:30 Call to Order, Timothy Flynn, Chairperson & Linda Ward, Legislation Committee Chairperson

Vice Chairs calls the meeting to order at: 3:38 PM
Introductions of Commissioners and guests

Action Items:



3:35 Review of Budget Article: Bob Cooper, Executive Secretary

Purpose/Goal: To review and comment on 16 H 7454 Budget Article that Affect People with Disabilities

16 H 7454 Art. 07 An Article Relating To Medicaid Reform Act Of 2008 Resolution

This article establishes the legal authority for the Secretary of the Executive Office of Health and Human Services to review and coordinate any Medicaid section 1115-demonstration waiver requests and renewals as well as any initiatives and proposals requiring amendments to the Medicaid state plan or category II or III changes as described in the demonstration. The changes include: Nursing Facility Payment Rates; Beneficiary Liability Collection Enhancements; Medicaid Managed Care Organizations (MCO) - Administrative Rate-Setting; Managed Care Plan Re-procurement; Increase in Long Term Services and Supports (LTSS) Home Care Provider Wages; Integrated Care Initiative (ICI) - Enrollment; Alternative Payment Arrangements; Implementation of Approved Authorities: Section 1115 Waiver Demonstration Extension and Amendments; and Federal Financing Opportunities.

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RELATING TO MEDICAID REFORM ACT OF 2008 RESOLUTION

SECTION 1. Rhode Island Medicaid Reform Act of 2008 Resolution.

WHEREAS, the General Assembly enacted Chapter 12.4 of Title 42 entitled "The Rhode

5 Island Medicaid Reform Act of 2008”; and

6 WHEREAS, a Joint Resolution is required pursuant to Rhode Island General Law § 42-
7 12.4-1, et seq. for federal waiver requests and/or state plan amendments; and

8 WHEREAS, Rhode Island General Law § 42-7.2-5 provides that the Secretary of the
9 Executive Office of Health and Human Services (hereafter “the Secretary”) is responsible for the
10 review and coordination of any Medicaid section 1115 demonstration waiver requests and
11 renewals as well as any initiatives and proposals requiring amendments to the Medicaid state plan
12 or category II or III changes as described in the demonstration, with “the potential to affect the
13 scope, amount, or duration of publicly-funded health care services, provider payments or
14 reimbursements, or access to or the availability of benefits and services provided by Rhode Island
15 general and public laws”; and

16 WHEREAS, in pursuit of a more cost-effective consumer choice system of care that is
17 fiscally sound and sustainable, the Secretary requests general assembly approval of the following
18 proposals to amend the demonstration:

19 **(a) Nursing Facility Payment Rates.** The Executive Office of Health and Human Services
20 (hereafter “EOHHS”) proposes to eliminate the projected nursing facility rate increase that would
21 otherwise take effect during the state fiscal year 2017. Implementation of this initiative may
22 require amendments to the Rhode Island’s Medicaid state plan and/or Section 1115 waiver under
23 the terms and conditions of the demonstration. Further, implementation of these initiatives may
24 require the adoption of new or amended rules, regulations and procedures.

25 **(b) Beneficiary Liability Collection Enhancements** – Federal laws and regulations require
26 beneficiaries who are receiving Medicaid-funded long-term services and supports (LTSS) to pay
27 a portion of any excess income they may have once eligibility has been determined toward in the
28 cost of care. The amount the beneficiary is obligated to pay is referred to as a liability or cost-
29 share and must be used solely for the purpose of offsetting the agency’s payment for the LTSS
30 provided. The EOHHS is seeking to implement new methodologies that will make it easier for

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1 beneficiaries to make these payments and enhance the agency’s capacity to collect them in a
2 timely and equitable manner. The EOHHS may require federal state plan and/or waiver authority
3 to implement these new methodologies. Amended rules, regulations and procedures may also be
4 required.

5 **(c) Medicaid Managed Care Organizations (MCO) – Administrative Rate-Setting.** The
6 EOHHS seeks to alter the manner in which administrative rates are set for Medicaid MCOs from
7 a variable to a fixed approach. Changes in rate-setting methodology may require section 1115
8 waiver or Medicaid State Plan authorities.

9 **(d) Managed Care Plan Re-procurement.** The EOHHS is re-procuring its managed care
10 delivery system by September 1, 2016. The re-procurement includes RItE Care plans for children
11 and families and Rhody Health Partners plans for low-income elders and persons with disabilities
12 and adults ages nineteen (19) to sixty-four (64) eligible under the federal Affordable Care Act of
13 2010. The re-procurement process will take into account a range of initiatives affecting the
14 delivery system such as accountable care entities, **STOP and CEDARR direct services** which will
15 change the organization and financing of certain Medicaid services and various performance-
16 based payment incentives and rewards. Therefore, the re-procurement process may require state
17 plan and/or waiver amendments as well as actuarial analyses. Any reconfiguration of in-plan and
18 out-of-plan benefits will also necessitate amendments to agency rules, processes and procedures.

19 **(e) Increase in LTSS Home Care Provider Wages.** To further the goal of rebalancing the
20 long-term care system to promote home and community based alternatives, the EOHHS proposes
21 to establish a wage-pass through program targeting **certain home health care professionals**.
22 Implementation of the program may require amendments to the Medicaid State Plan and/or
23 section 1115 demonstration waiver due to changes in payment methodologies.

24 (f) **Integrated Care Initiative (ICI) – Enrollment.** The EOHHS proposes to establish
25 mandatory enrollment for all Medicaid beneficiaries including but not limited to beneficiaries
26 receiving LTSS through the ICI, including those who are dually eligible for Medicaid and
27 Medicare. Implementation of mandatory enrollment requires section 1115 waiver authority under
28 the terms and conditions of the demonstration. New and/or amended rules, regulations and
29 procedures are also necessary to implement this proposal.

30 (g) **Alternative Payment Arrangements** – The EOHHS proposes to leverage all available
31 resources by repurposing funds derived from various savings initiatives and obtaining federal
32 financial participation for costs not otherwise matchable to expand the reach and enhance the
33 effectiveness of alternative payment arrangements that maximize value and cost-effectiveness,
34 and tie payments to improvements in service quality and health outcomes. Amendments to the

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1 section 1115 waiver and/or the Medicaid state plan may be required to implement any alternative
2 payment arrangements the EOHHS is authorized to pursue.

3 (h) **Implementation of Approved Authorities: Section 1115 Waiver Demonstration**
4 **Extension and Amendments.** The EOHHS, in conjunction with the departments of Human
5 Services, Children, Youth and Families, Health, Behavioral Healthcare, Developmental
6 Disabilities and Hospitals, proposes to implement the authorities approved under the section 1115
7 waiver demonstration extension and subsequent amendments as follows: (1) the Division of
8 Elderly Affairs of DHS plans to obtain federal financial participation for costs-otherwise not
9 matchable for certain Medicaid dementia care services provided to otherwise ineligible
10 participants in its copay program with income up to two-hundred and fifty (250) percent of the
11 Federal Poverty Level ; (2) the EOHHS is continuing efforts to re-balance the LTSS system by
12 instituting, with the assistance of the DHS, an expedited eligibility pathway for applicants seeking
13 care in the home or community-based setting who meet certain income and clinical criteria; (3)
14 all EOHHS agencies are pursuing waiver authorities promoting the utilization of care
15 management models that offer a “health home”, promote access to preventive care, and provide
16 an integrated system of services; and (4) the EOHHS plans to use waiver authorized program
17 refinements that recognize and assure access to the non-medical services and supports, such as
18 peer navigation and housing stabilization services, that optimize a person’s health, wellness and
19 safety, reduce or delay the need for long term services and fill gaps in the integrated system of
20 care;

21 (i) **Federal Financing Opportunities.** The EOHHS proposes to review Medicaid
22 requirements and opportunities under the U.S. Patient Protection and Affordable Care Act of
23 2010 and various other recently enacted federal laws and pursue any changes in the Rhode Island
24 Medicaid program that promote service quality, access and cost-effectiveness that may warrant a
25 Medicaid State Plan Amendment or amendment under the terms and conditions of Rhode Island’s
26 section 1115 Waiver, its successor, or any extension thereof. Any such actions the EOHHS takes
27 shall not have an adverse impact on beneficiaries or cause an increase in expenditures beyond the
28 amount appropriated for state fiscal year 2017; now, therefore, be it

29 RESOLVED, that the general assembly hereby approves proposals (a) through (i) listed
30 above to amend the demonstration; and be it further

31 RESOLVED, that the Secretary is authorized to pursue and implement any waiver
32 amendments, state plan amendments, and/or changes to the applicable department’s rules,
33 regulations and procedures approved herein and as authorized by § 42-12.4-7; and be it further

34 RESOLVED, that this joint resolution shall take effect upon passage. <add>

16 H 7454 Article 09 Relating To Medical Assistance And Hospital Uncompensated Care
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This article implements several changes to the organization, financing and delivery of the
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Medicaid program that build on the foundation of the Reinventing Medicaid Act including leveraging funds from all available sources to ensure access to coordinated health care services and promotion of better health outcomes through performance-based payment incentives and reforms.
The changes include § 27-18-64. Coverage for early intervention services; § 40-8-13.4. Rate methodology for payment for in state and out of state hospital services; § 40-8-19. Rates of payment to nursing facilities; Chapter 40-8.3 13 Uncompensated Care; Chapter 40-8.4 19 Health Care for Families; Chapter 40-8.5 Health Care for Elderly and Disabled Residents Act; Chapter 40-8.9 Medical Assistance - Long-Term Care Service and Finance Reform; Chapter 40-8.13 Long-Term Managed Care Arrangements; Chapter 42-7.2 Office of Health and Human Services; § 42-12-29. Children's health account.

ARTICLE 9

RELATING TO MEDICAL ASSISTANCE AND UNCOMPENSATED CARE

Preamble: Building on the foundation of the Reinventing Medicaid Act of 2015, Rhode Island is seeking to leverage funds from all available sources to ensure access to coordinated health care services and promote higher-quality care through payment incentives and reform. Accordingly, the Executive Office of Health and Human Services is taking the opportunity to maximize and repurpose funds derived from redesigning certain financing mechanisms and health care delivery systems and to implement innovative care models and payment systems that encourage and reward quality, efficiency and healthy outcomes.

SECTION 1. Section 27-18-64 of the General Laws in Chapter 27-18 entitled “Accident and Sickness Insurance Policies” is hereby amended to read as follows:

§ 27-18-64. Coverage for early intervention services. – (a) Every individual or group hospital or medical expense insurance policy or contract providing coverage for dependent children, delivered or renewed in this state on or after July 1, 2004, shall include coverage of early intervention services which coverage shall take effect no later than January 1, 2005. Such coverage shall not be subject to deductibles and coinsurance factors. Any amount paid by an insurer under this section for a dependent child shall not be applied to any annual or lifetime maximum benefit contained in the policy or contract. For the purpose of this section, “early intervention services” means, but is not limited to, speech and language therapy, occupational therapy, physical therapy, evaluation, case management, nutrition, service plan development and review, nursing services, and assistive technology services and devices for dependents from birth to age three (3) who are certified by the executive office of health and human services as eligible for services under part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

(b) Insurers shall reimburse certified early intervention providers, who are designated as such by the executive office of health and human services, for early intervention services as defined in this section ^{add} at rates of reimbursement equal to or greater than the prevailing integrated state Medicaid rate for early intervention services as established by the executive office of health and human services. _{<add}}

(c) This section shall not apply to insurance coverage providing benefits for: (1) hospital

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confinement indemnity; (2) disability income; (3) accident only; (4) long-term care; (5) Medicare supplement; (6) limited benefit health; (7) specified disease indemnity; (8) sickness or bodily injury or death by accident or both; and (9) other limited benefit policies.

SECTION 2. Sections 40-8-13.4 and 40-8-19 of the General Laws in Chapter 40-8 entitled “Medical Assistance” are hereby amended to read as follows:

§ 40-8-13.4. Rate methodology for payment for in state and out of state hospital services. – (a) The executive office of health and human services (“executive office”) shall implement a new methodology for payment for in state and out of state hospital services in order

9 to ensure access to and the provision of high quality and cost-effective hospital care to its eligible
10 recipients.

11 (b) In order to improve efficiency and cost effectiveness, the executive office of health
12 ~~and human services~~ shall:

13 (1)(i) With respect to inpatient services for persons in fee for service Medicaid, which is
14 non-managed care, implement a new payment methodology for inpatient services utilizing the
15 Diagnosis Related Groups (DRG) method of payment, which is, a patient classification method
16 which provides a means of relating payment to the hospitals to the type of patients cared for by
17 the hospitals. It is understood that a payment method based on ~~Diagnosis-Related-Groups~~
DRG

18 may include cost outlier payments and other specific exceptions. The executive office will review
19 the DRG payment method and the DRG base price annually, making adjustments as appropriate
20 in consideration of such elements as trends in hospital input costs, patterns in hospital coding,
21 beneficiary access to care, and the Center for Medicare and Medicaid Services national CMS
22 Prospective Payment System (IPPS) Hospital Input Price index. For the twelve (12) month period
23 beginning July 1, 2015, the DRG base rate for Medicaid fee-for-service inpatient hospital services
24 shall not exceed ninety-seven and one-half percent (97.5%) of the payment rates in effect as of
25 July 1, 2014.

26 (ii) With respect to inpatient services, (A) it is required as of January 1, 2011 until
27 December 31, 2011, that the Medicaid managed care payment rates between each hospital and
28 health plan shall not exceed ninety and one tenth percent (90.1%) of the rate in effect as of June
29 30, 2010. Negotiated increases in inpatient hospital payments for each annual twelve (12) month
30 period beginning January 1, 2012 may not exceed the Centers for Medicare and Medicaid
31 Services national CMS Prospective Payment System (IPPS) Hospital Input Price index for the
32 applicable period; (B) provided, however, for the twenty-four (24) month period beginning July
33 1, 2013 the Medicaid managed care payment rates between each hospital and health plan shall not
34 exceed the payment rates in effect as of January 1, 2013 and for the twelve (12) month period

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1 beginning July 1, 2015, the Medicaid managed care payment inpatient rates between each
2 hospital and health plan shall not exceed ninety-seven and one-half percent (97.5%) of the
3 payment rates in effect as of January 1, 2013; (C) negotiated increases in inpatient hospital
4 payments for each annual twelve (12) month period beginning July 1, 2016 may not exceed the
5 Centers for Medicare and Medicaid Services national CMS Prospective Payment System (IPPS)
6 Hospital Input Price Index, less Productivity Adjustment, for the applicable period; (D) The
7 ~~Rhode Island~~ executive office ~~of health and human services~~ will develop an
audit methodology

8 and process to assure that savings associated with the payment reductions will accrue directly to
9 the Rhode Island Medicaid program through reduced managed care plan payments and shall not
10 be retained by the managed care plans; (E) All hospitals licensed in Rhode Island shall accept
11 such payment rates as payment in full; and (F) for all such hospitals, compliance with the
12 provisions of this section shall be a condition of participation in the Rhode Island Medicaid
13 program.

14 (2) With respect to outpatient services and notwithstanding any provisions of the law to
15 the contrary, for persons enrolled in fee for service Medicaid, the executive office will reimburse
16 hospitals for outpatient services using a rate methodology determined by the executive office and
17 in accordance with federal regulations. Fee-for-service outpatient rates shall align with Medicare
18 payments for similar services. Notwithstanding the above, there shall be no increase in the
19 Medicaid fee-for-service outpatient rates effective on July 1, 2013, July 1, 2014, or July 1, 2015.
20 For the twelve (12) month period beginning July 1, 2015, Medicaid fee-for-service outpatient
21 rates shall not exceed ninety-seven and one-half percent (97.5%) of the rates in effect as of July 1,

22 2014. Thereafter, ~~changes to outpatient rates will be implemented on July 1 each year and shall~~
23 ~~align with Medicare payments for similar services from the prior federal fiscal year~~
24 increases in
25 the outpatient hospital payments for each annual twelve (12) month period beginning July 1, 2016
26 many not exceed the CMS national Outpatient Prospective Payment System (OPPS) Hospital
27 Input Price Index for the applicable period.^{<add>} With respect to the outpatient rate, (i) it is required as
28 of January 1, 2011 until December 31, 2011, that the Medicaid managed care payment rates
29 between each hospital and health plan shall not exceed one hundred percent (100%) of the rate in
30 effect as of June 30, 2010; ~~(ii)~~ Negotiated increases in hospital outpatient payments for each
31 annual twelve (12) month period beginning January 1, 2012 may not exceed the Centers for
32 Medicare and Medicaid Services national CMS Outpatient Prospective Payment System (OPPS)
33 hospital price index for the applicable period; ~~(ii)~~ ^{<add>} (iii) provided, however, for the
34 twenty-four (24)
month period beginning July 1, 2013, the Medicaid managed care outpatient payment rates
between each hospital and health plan shall not exceed the payment rates in effect as of January 1,

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1 2013 and for the twelve (12) month period beginning July 1, 2015, the Medicaid managed care
2 outpatient payment rates between each hospital and health plan shall not exceed ninety-seven and
3 one-half percent (97.5%) of the payment rates in effect as of January 1, 2013; ~~(iii)~~ ^{<add>} (iv) negotiated
4 increases in outpatient hospital payments for each annual twelve (12) month period beginning
5 July 1, 2016 may not exceed the Centers for Medicare and Medicaid Services national CMS
6 ~~Outpatient Prospective Payment System (OPPS)~~ Hospital Input Price Index, less
7 Productivity
8 Adjustment, for the applicable period.

9 (3) "Hospital" as used in this section shall mean the actual facilities and buildings in
10 existence in Rhode Island, licensed pursuant to § 23-17-1 et seq. on June 30, 2010; and thereafter
11 any premises included on that license, regardless of changes in licensure status pursuant to § 23-
12 17.14 (hospital conversions) and § 23-17-6(b) (change in effective control), that provides short-
13 term acute inpatient and/or outpatient care to persons who require definitive diagnosis and
14 treatment for injury, illness, disabilities, or pregnancy. Notwithstanding the preceding language,
15 the negotiated Medicaid managed care payment rates for a court-approved purchaser that acquires
16 a hospital through receivership, special mastership or other similar state insolvency proceedings
17 (which court-approved purchaser is issued a hospital license after January 1, 2013) shall be based
18 upon the newly negotiated rates between the court-approved purchaser and the health plan, and
19 such rates shall be effective as of the date that the court-approved purchaser and the health plan
20 execute the initial agreement containing the newly negotiated rate. The rate-setting methodology
21 for inpatient hospital payments and outpatient hospital payments set forth in the §§ 40-8-
22 13.4(b)(1)(ii)(C) and 40-8-13.4(b)(2), respectively, shall thereafter apply to negotiated increases
23 for each annual twelve (12) month period as of July 1 following the completion of the first full
year of the court-approved purchaser's initial Medicaid managed care contract.

24 (c) It is intended that payment utilizing the ~~Diagnosis Related Groups~~ DRG method
25 shall reward hospitals for providing the most efficient care, and provide the executive office the
26 opportunity to conduct value based purchasing of inpatient care.

27 (d) The secretary of the executive office ~~of health and human services~~ is hereby
28 authorized to promulgate such rules and regulations consistent with this chapter, and to establish
29 fiscal procedures he or she deems necessary for the proper implementation and administration of
30 this chapter in order to provide payment to hospitals using the ~~Diagnosis Related Group~~
^{<add>} DRG^{<add>}
31 payment methodology. Furthermore, amendment of the Rhode Island state plan for ~~medical~~
32 ~~assistance~~ (Medicaid) pursuant to Title XIX of the federal Social Security Act is hereby

33 authorized to provide for payment to hospitals for services provided to eligible recipients in
34 accordance with this chapter.

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1 (e) The executive office shall comply with all public notice requirements necessary to
2 implement these rate changes.

3 (f) As a condition of participation in the DRG methodology for payment of hospital
4 services, every hospital shall submit year-end settlement reports to the executive office within one
5 year from the close of a hospital's fiscal year. Should a participating hospital fail to timely submit
6 a year-end settlement report as required by this section, the executive office shall withhold
7 financial cycle payments due by any state agency with respect to this hospital by not more than
8 ten percent (10%) until said report is submitted. For hospital fiscal year 2010 and all subsequent
9 fiscal years, hospitals will not be required to submit year-end settlement reports on payments for
10 outpatient services. For hospital fiscal year 2011 and all subsequent fiscal years, hospitals will not
11 be required to submit year-end settlement reports on claims for hospital inpatient services.
12 Further, for hospital fiscal year 2010, hospital inpatient claims subject to settlement shall include
13 only those claims received between October 1, 2009 and June 30, 2010.

14 (g) The provisions of this section shall be effective upon implementation of the
15 ~~amendments and~~ new payment methodology set forth ~~pursuant to~~ this
section and § 40-8-13.3,

16 which shall in any event be no later than March 30, 2010, at which time the provisions of §§ 40-
17 8-13.2, 27-19-14, 27-19-15, and 27-19-16 shall be repealed in their entirety.

18 **§ 40-8-19. Rates of payment to nursing facilities.** – (a) Rate reform. (1) The rates to be
19 paid by the state to nursing facilities licensed pursuant to chapter 17 of title 23, and certified to
20 participate in the Title XIX Medicaid program for services rendered to Medicaid-eligible
21 residents, shall be reasonable and adequate to meet the costs which must be incurred by
22 efficiently and economically operated facilities in accordance with 42 U.S.C. § 1396a(a)(13). The
23 executive office of health and human services ("executive office") shall promulgate or
modify the

24 principles of reimbursement for nursing facilities in effect as of July 1, 2011 to be consistent with
25 the provisions of this section and Title XIX, 42 U.S.C. § 1396 et seq., of the Social Security Act.

26 (2) The executive office ~~of health and human services ("Executive Office")~~ shall
review

27 the current methodology for providing Medicaid payments to nursing facilities, including other
28 long-term care services providers, and is authorized to modify the principles of reimbursement to
29 replace the current cost based methodology rates with rates based on a price based methodology
30 to be paid to all facilities with recognition of the acuity of patients and the relative Medicaid
31 occupancy, and to include the following elements to be developed by the executive office:

32 (i) A direct care rate adjusted for resident acuity;

33 (ii) An indirect care rate comprised of a base per diem for all facilities;

34 (iii) A rearray of costs for all facilities every three (3) years beginning October, 2015,

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1 which may or may not result in automatic per diem revisions;

2 (iv) Application of a fair rental value system;

3 (v) Application of a pass-through system; and

4 (vi) Adjustment of rates by the change in a recognized national nursing home inflation
5 index to be applied on October 1st of each year, beginning October 1, 2012. This adjustment will
6 not occur on October 1, 2013 or October 1, 2015, but will occur on April 1, 2015. The
7 adjustment

will also not occur on October 1, 2016. Said inflation index shall be applied without regard for

8 the transition factor in subsection (b)(2) below.

9 (b) Transition to full implementation of rate reform. For no less than four (4) years after
10 the initial application of the price-based methodology described in subdivision (a)(2) to payment
11 rates, the executive office of health and human services shall implement a transition plan to
12 moderate the impact of the rate reform on individual nursing facilities. Said transition shall
13 include the following components:

14 (1) No nursing facility shall receive reimbursement for direct care costs that is less than
15 the rate of reimbursement for direct care costs received under the methodology in effect at the
16 time of passage of this act; and

17 (2) No facility shall lose or gain more than five dollars (\$5.00) in its total per diem rate
18 the first year of the transition. An adjustment to the per diem loss or gain may be phased out by
19 twenty-five percent (25%) each year; except, however, for the years beginning October 1, 2015
20 ~~and October 1, 2016~~, there shall be no adjustment to the per diem gain or loss, but the phase
out

21 shall resume thereafter; and

22 (3) The transition plan and/or period may be modified upon full implementation of
23 facility per diem rate increases for quality of care related measures. Said modifications shall be
24 submitted in a report to the general assembly at least six (6) months prior to implementation.

25 (4) Notwithstanding any law to the contrary, for the twelve (12) month period beginning
26 July 1, 2015, Medicaid payment rates for nursing facilities established pursuant to this section
27 shall not exceed ninety-eight percent (98%) of the rates in effect on April 1, 2015.

28 SECTION 3. Sections 40-8.3-2 and 40-8.3-3 of the General Laws in Chapter 40-8.3
29 entitled "Uncompensated Care" are hereby amended to read as follows:

30 **40-8.3-2. Definitions.** -- As used in this chapter:

31 (1) "Base year" means for the purpose of calculating a disproportionate share payment for
32 any fiscal year ending after September 30, ~~2014~~ ~~2012~~ ~~2013~~ ~~2014~~ ~~2015~~ ~~2016~~, the period from October 1,
~~2012~~ ~~2013~~ ~~2014~~ ~~2015~~ ~~2016~~,
33 through September 30, ~~2013~~ ~~2014~~ ~~2015~~ ~~2016~~, and for any fiscal year ending after September
30, ~~2015~~ ~~2016~~,
34 the period from October 1, ~~2014~~ ~~2015~~ through September 30, ~~2014~~ ~~2015~~

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1 (2) "Medicaid inpatient utilization rate for a hospital" means a fraction (expressed as a
2 percentage) the numerator of which is the hospital's number of inpatient days during the base year
3 attributable to patients who were eligible for medical assistance during the base year and the
4 denominator of which is the total number of the hospital's inpatient days in the base year.

5 (3) "Participating hospital" means any nongovernment and nonpsychiatric hospital that:

6 (i) was licensed as a hospital in accordance with chapter 17 of title 23 during the base
7 year; and shall mean the actual facilities and buildings in existence in Rhode Island, licensed
8 pursuant to § 23-17-1 et seq. on June 30, 2010, and thereafter any premises included on that
9 license, regardless of changes in licensure status pursuant to § 23-17.14 (hospital conversions)
10 and § 23-17-6(b) (change in effective control), that provides short-term acute inpatient and/or
11 outpatient care to persons who require definitive diagnosis and treatment for injury, illness,
12 disabilities, or pregnancy. Notwithstanding the preceding language, the negotiated Medicaid
13 managed care payment rates for a court-approved purchaser that acquires a hospital through
14 receivership, special mastership or other similar state insolvency proceedings (which court-
15 approved purchaser is issued a hospital license after January 1, 2013) shall be based upon the
16 newly negotiated rates between the court-approved purchaser and the health plan, and such rates
17 shall be effective as of the date that the court-approved purchaser and the health plan execute the
18 initial agreement containing the newly negotiated rate. The rate-setting methodology for inpatient

19 hospital payments and outpatient hospital payments set for the §§ 40-8-13.4(b)(1)(B)(iii) and 40-
20 8-13.4(b)(2), respectively, shall thereafter apply to negotiated increases for each annual twelve
21 (12) month period as of July 1 following the completion of the first full year of the court-
22 approved purchaser's initial Medicaid managed care contract.

23 (ii) achieved a medical assistance inpatient utilization rate of at least one percent (1%)
24 during the base year; and

25 (iii) continues to be licensed as a hospital in accordance with chapter 17 of title 23 during
26 the payment year.

27 (4) "Uncompensated care costs" means, as to any hospital, the sum of: (i) the cost
28 incurred by such hospital during the base year for inpatient or outpatient services attributable to
29 charity care (free care and bad debts) for which the patient has no health insurance or other third-
30 party coverage less payments, if any, received directly from such patients; and (ii) the cost
31 incurred by such hospital during the base year for inpatient or out-patient services attributable to
32 Medicaid beneficiaries less any Medicaid reimbursement received therefor; multiplied by the
33 uncompensated care index.

34 (5) "Uncompensated care index" means the annual percentage increase for hospitals

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1 established pursuant to § 27-19-14 for each year after the base year, up to and including the
2 payment year, provided, however, that the uncompensated care index for the payment year ending
3 September 30, 2007 shall be deemed to be five and thirty-eight hundredths percent (5.38%), and
4 that the uncompensated care index for the payment year ending September 30, 2008 shall be
5 deemed to be five and forty-seven hundredths percent (5.47%), and that the uncompensated care
6 index for the payment year ending September 30, 2009 shall be deemed to be five and thirty-eight
7 hundredths percent (5.38%), and that the uncompensated care index for the payment years ending
8 September 30, 2010, September 30, 2011, September 30, 2012, September 30, 2013, September
9 30, 2014, ~~and~~ September 30, 2015, ~~and~~ September 30, 2016^{add}, and
September 30, 2017^{add} shall be
10 deemed to be five and thirty hundredths percent (5.30%).

11 **§ 40-8.3-3. Implementation.** ~~(a) For federal fiscal year 2014, commencing on October 1,~~
12 ~~2013 and ending September 30, 2014, the executive office of health and human services shall~~
13 ~~submit to the Secretary of the U.S. Department of Health and Human Services a state plan~~
14 ~~amendment to the Rhode Island Medicaid state plan for disproportionate share hospital payments~~
15 ~~(DSH Plan) to provide:~~

16 ~~(1) That the disproportionate share hospital payments to all participating hospitals, not to~~
17 ~~exceed an aggregate limit of \$136.8 million, shall be allocated by the executive office of health~~
18 ~~and human services to the Pool A, Pool C and Pool D components of the DSH Plan; and,~~

19 ~~(2) That the Pool D allotment shall be distributed among the participating hospitals in~~
20 ~~direct proportion to the individual participating hospital's uncompensated care costs for the base~~
21 ~~year, inflated by the uncompensated care index to the total uncompensated care costs for the base~~
22 ~~year inflated by uncompensated care index for all participating hospitals. The disproportionate~~
23 ~~share payments shall be made on or before July 14, 2014 and are expressly conditioned upon~~
24 ~~approval on or before July 7, 2014 by the Secretary of the U.S. Department of Health and Human~~
25 ~~Services, or his or her authorized representative, of all Medicaid state plan amendments necessary~~
26 ~~to secure for the state the benefit of federal financial participation in federal fiscal year 2014 for~~
27 ~~the disproportionate share payments.~~ ~~<delete>~~

28 ~~(b)(a)~~ For federal fiscal year 2015, commencing on October 1, 2014 and ending
29 September 30, 2015, the executive office of health and human services shall submit to the
30 Secretary of the U.S. Department of Health and Human Services a state plan amendment to the
31 Rhode Island Medicaid state plan for disproportionate share hospital payments (DSH Plan) to
32 provide:

33 (1) That the ~~disproportionate share hospital payments~~ DSH Plan to all
34 participating hospitals, not to exceed an aggregate limit of \$140.0 million, shall be allocated by the executive
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1 office of health and human services to the Pool A, Pool C and Pool D components of the DSH
2 Plan; and,

3 (2) That the Pool D allotment shall be distributed among the participating hospitals in
4 direct proportion to the individual participating hospital's uncompensated care costs for the base
5 year, inflated by the uncompensated care index to the total uncompensated care costs for the base
6 year inflated by uncompensated care index for all participating hospitals. The ~~disproportionate~~
7 ~~Share~~ DSH Plan payments shall be made on or before July 13, 2015 and are expressly
8 conditioned
9 upon approval on or before July 6, 2015 by the Secretary of the U.S. Department of Health and
10 Human Services, or his or her authorized representative, of all Medicaid state plan amendments
11 necessary to secure for the state the benefit of federal financial participation in federal fiscal year
12 2015 for the disproportionate share payments.

13 (e)(b) For federal fiscal year 2016, commencing on October 1, 2015 and ending
14 September 30, 2016, the executive office of health and human services shall submit to the
15 Secretary of the U.S. Department of Health and Human Services a state plan amendment to the
16 Rhode Island Medicaid ~~state plan for disproportionate share hospital payments~~ ~~(~~ DSH
17 Plan ~~)~~ to
18 provide:

19 (1) That the disproportionate share hospital payments to all participating hospitals, not to
20 exceed an aggregate limit of \$ ~~138.2~~ 125.0 million, shall be allocated by the
21 executive office of
22 health and human services to the Pool A, Pool C and Pool D components of the DSH Plan; and,

23 (2) That the Pool D allotment shall be distributed among the participating hospitals in
24 direct proportion to the individual participating hospital's uncompensated care costs for the base
25 year, inflated by the uncompensated care index to the total uncompensated care costs for the base
26 year inflated by uncompensated care index for all participating hospitals. The ~~disproportionate~~
27 ~~share payments~~ DSH Plan shall be made on or before July 11, 2016 and are
28 expressly conditioned
29 upon approval on or before July 5, 2016 by the Secretary of the U.S. Department of Health and
30 Human Services, or his or her authorized representative, of all Medicaid state plan amendments
31 necessary to secure for the state the benefit of federal financial participation in federal fiscal year
32 2016 for the disproportionate share payments.

33 federal financial participation in federal fiscal year 2016 for the ~~disproportionate share~~
34 ~~payments~~ DSH Plan.

31 (c) For federal fiscal year 2017, commencing on October 1, 2016 and ending September
32 30, 2017, the executive office of health and human services shall submit to the Secretary of the
33 U.S. Department of Health and Human Services a state plan amendment to the Rhode Island
34 Medicaid DSH Plan to provide:

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1 (1) That the DSH Plan to all participating hospitals, not to exceed an aggregate limit of
2 \$125.0 million, shall be allocated by the executive office of health and human services to the Pool
3 A, Pool C and Pool D components of the DSH Plan; and,

4 (2) That the Pool D allotment shall be distributed among the participating hospitals in
5 direct proportion to the individual participating hospital's uncompensated care costs for the base

6 year, inflated by the uncompensated care index to the total uncompensated care costs for the base
7 year inflated by uncompensated care index for all participating hospitals. The disproportionate
8 share payments shall be made on or before July 11, 2017 and are expressly conditioned upon
9 approval on or before July 5, 2017 by the Secretary of the U.S. Department of Health and Human
10 Services, or his or her authorized representative, of all Medicaid state plan amendments necessary
11 to secure for the state the benefit of federal financial participation in federal fiscal year 2017 for
12 the disproportionate share payments.^{<add>}

13 (d) No provision is made pursuant to this chapter for disproportionate share hospital
14 payments to participating hospitals for uncompensated care costs related to graduate medical
15 education programs.

16 (e) The executive office of health and human services is directed, on at least a monthly
17 basis, to collect patient level uninsured information, including, but not limited to, demographics,
18 services rendered, and reason for uninsured status from all hospitals licensed in Rhode Island.

19 (f) Beginning with federal FY 2016, Pool D DSH payments will be recalculated by the
20 state based on actual hospital experience. The final Pool D payments will be based on the data
21 from the final DSH audit for each federal fiscal year. Pool D DSH payments will be redistributed
22 among the qualifying hospitals in direct proportion to the individual qualifying hospital's
23 uncompensated care to the total uncompensated care costs for all qualifying hospitals as
24 determined by the DSH audit. No hospital will receive an allocation that would incur funds
25 received in excess of audited uncompensated care costs.

26 SECTION 4. Section 40-8.3-10 of the General Laws in Chapter 40-8.3 entitled
27 "Uncompensated Care" is hereby repealed.

28 **§ 40-8.3-10. Hospital adjustment payments.** – ~~Effective July 1, 2012 and for each~~
29 ~~subsequent year, the executive office of health and human services is hereby authorized and~~
30 ~~directed to amend its regulations for reimbursement to hospitals for inpatient and outpatient~~
31 ~~services as follows:~~

32 ~~(a) Each hospital in the state of Rhode Island, as defined in subdivision 23-17-~~
33 ~~38.19(b)(1), shall receive a quarterly outpatient adjustment payment each state fiscal year of an~~
34 ~~amount determined as follows:~~

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1 ~~(1) Determine the percent of the state's total Medicaid outpatient and emergency~~
2 ~~department services (exclusive of physician services) provided by each hospital during each~~
3 ~~hospital's prior fiscal year;~~

4 ~~(2) Determine the sum of all Medicaid payments to hospitals made for outpatient and~~
5 ~~emergency department services (exclusive of physician services) provided during each hospital's~~
6 ~~prior fiscal year;~~

7 ~~(3) Multiply the sum of all Medicaid payments as determined in subdivision (2) by a~~
8 ~~percentage defined as the total identified upper payment limit for all hospitals divided by the sum~~
9 ~~of all Medicaid payments as determined in subdivision (2); and then multiply that result by each~~
10 ~~hospital's percentage of the state's total Medicaid outpatient and emergency department services~~
11 ~~as determined in subdivision (1) to obtain the total outpatient adjustment for each hospital to be~~
12 ~~paid each year;~~

13 ~~(4) Pay each hospital on or before July 20, October 20, January 20, and April 20 one~~
14 ~~quarter (1/4) of its total outpatient adjustment as determined in subdivision (3) above.~~

15 ~~(b) Each hospital in the state of Rhode Island, as defined in subdivision 3-17-38.19(b)(1),~~
16 ~~shall receive a quarterly inpatient adjustment payment each state fiscal year of an amount~~
17 ~~determined as follows:~~

18 ~~(1) Determine the percent of the state's total Medicaid inpatient services (exclusive of~~
19 ~~physician services) provided by each hospital during each hospital's prior fiscal year;~~

20 ~~(2) Determine the sum of all Medicaid payments to hospitals made for inpatient services~~

21 ~~(exclusive of physician services) provided during each hospital's prior fiscal year;~~
22 ~~(3) Multiply the sum of all Medicaid payments as determined in subdivision (2) by a~~
23 ~~percentage defined as the total identified upper payment limit for all hospitals divided by the sum~~
24 ~~of all Medicaid payments as determined in subdivision (2); and then multiply that result by each~~
25 ~~hospital's percentage of the state's total Medicaid inpatient services as determined in subdivision~~
26 ~~(1) to obtain the total inpatient adjustment for each hospital to be paid each year;~~
27 ~~(4) Pay each hospital on or before July 20, October 20, January 20, and April 20 one~~
28 ~~quarter (1/4) of its total inpatient adjustment as determined in subdivision (3) above.~~
29 ~~(e) The amounts determined in subsections (a) and (b) are in addition to Medicaid~~
30 ~~inpatient and outpatient payments and emergency services payments (exclusive of physician~~
31 ~~services) paid to hospitals in accordance with current state regulation and the Rhode Island Plan~~
32 ~~for Medicaid Assistance pursuant to Title XIX of the Social Security Act and are not subject to~~
33 ~~recoupment or settlement.~~ ^{<delete>}

34 SECTION 5. Sections 40-8.4-3 and 40-8.4-12 of the General Laws in Chapter 40-8.4

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1 entitled "Health Care for Families" are hereby amended to read as follows:

2 **§ 40-8.4-3. Definitions.** – (a) ^{{delete>} ~~"Family" means a minor child or children and the parent(s)~~
3 ~~or relative as defined in § 40-5.1-3, with whom they reside including two parent families in which~~
4 ~~one parent is working more than one hundred (100) hours per month.~~ ^{<delete>} ^{[add]>} "Cost-effective"
5 means that
6 the portion of the ESI that the state would subsidize, as well as costs for wrap-around services and
7 coverage, that would on average cost less to the State than enrolling that same individual/family
8 in a managed care delivery system.

9 (b) "Cost sharing" means any co-payments, deductibles or co-insurance associated with
10 ESI.

11 (c) "Employee premium" means the monthly premium share an individual or family is
12 required to pay to the employer to obtain and maintain ESI coverage.

13 (d) "Employer-Sponsored Insurance or ESI" means health insurance or a group health
14 plan offered to employees by an employer. This includes plans purchased by small employers
15 through the State health insurance marketplace, Healthsource, RI (HSRI).

16 (e) "Minor child" means a child under the age of eighteen (18) or who is eighteen (18)
17 and a full-time student in a secondary school or in the equivalent level of vocational or technical
18 training.

19 (f) "Policy holder" means the person in the household with access to ESI, typically the
20 employee.

21 (g) "RIte Share-approved employer-sponsored insurance (ESI)" means an employer-
22 sponsored health insurance plan that meets the coverage and cost-effectiveness criteria for RIte
23 Share.

24 (h) "RIte Share buy-in" means the monthly amount an Medicaid-eligible policy holder
25 must pay toward RIte Share-approved ESI that covers the Medicaid-eligible children, young
26 adults or spouses with access to the ESI. The buy-in only applies in instances when household
27 income is above 150% the FPL.

28 (i) "RIte Share premium assistance program" means the Rhode Island Medicaid premium
29 assistance program in which the State pays the eligible Medicaid member's share of the cost of
30 enrolling in a RIte Share-approved ESI plan and, in instances in which it is cost-effective to do
31 so, the cost of the ineligible policy holder. This allows the State to share the cost of the health
32 insurance coverage with the employer.

33 (j) "RIte Share Unit" means the entity within EOHHS responsible for assessing the cost-
34 effectiveness of ESI, contacting employers about ESI as appropriate, initiating the RIte Share
enrollment and disenrollment process, handling member communications, and managing the

1 overall operations of the RItE Share program.

2 (k) "Third Party Liability (TPL)" means other health insurance coverage. This insurance
3 is in addition to Medicaid and is usually provided through an employer. Since Medicaid is always
4 the payer of last resort, the TPL is always the primary coverage.

5 (l) "Wrap-around services or coverage" means any health care services not included in
6 the ESI plan that would have been covered had the Medicaid member been enrolled in a RItE
7 Care or Rhody Health Partners plan. Coverage of deductibles and co-insurance is included in the
8 wrap. Co-payments to providers are not covered as part of the wrap-around coverage.^{<add>}

9 **§ 40-8.4-12. RItE Share Health Insurance Premium Assistance Program.** ~~—(a)~~

10 ~~Basie~~^{{delete>} RItE Share Health ^{<delete>} **Insurance** ^{<delete>} Premium Assistance Program. ^{{delete>} ~~The office of health and~~
11 ~~human~~

12 ~~services is authorized and directed to amend the medical assistance Title XIX state plan to~~
13 ~~implement the provisions of section 1906 of Title XIX of the Social Security Act, 42 U.S.C.~~
14 ~~section 1396e, and establish the Rhode Island health insurance premium assistance program for~~
15 ~~RItE Care eligible families with incomes up to two hundred fifty percent (250%) of the federal~~
16 ~~poverty level who have access to employer-based health insurance. The state plan amendment~~
17 ~~shall require eligible families with access to employer-based health insurance to enroll themselves~~
18 ~~and/or their family in the employer-based health insurance plan as a condition of participation in~~
19 ~~the RItE Share program under this chapter and as a condition of retaining eligibility for medical~~
20 ~~assistance under chapters 5.1 and 8.4 of this title and/or chapter 12.3 of title 42 and/or premium~~
21 ~~assistance under this chapter, provided that doing so meets the criteria established in section 1906~~
22 ~~of Title XIX for obtaining federal matching funds and the department has determined that the~~
23 ~~individual's and/or the family's enrollment in the employer-based health insurance plan is cost-~~
24 ~~effective and the department has determined that the employer-based health insurance plan meets~~
25 ~~the criteria set forth in subsection (d). The department shall provide premium assistance by~~
26 ~~paying all or a portion of the employee's cost for covering the eligible individual or his or her~~
27 ~~family under the employer-based health insurance plan, subject to the cost sharing provisions in~~
28 ~~subsection (b), and provided that the premium assistance is cost effective in accordance with Title~~
29 ~~XIX, 42 U.S.C. section 1396 et seq.~~^{<delete>{add>} - Under the terms of Section 1906 of Title XIX of the
30 U.S.

31 ^[add] Social Security Act, states are permitted to pay a Medicaid eligible individual's share of the costs
32 for enrolling in employer-sponsored health insurance (ESI) coverage if it is cost effective to do
33 so. Pursuant to general assembly's direction in Rhode Island Health Reform Act of 2000, the
34 Medicaid agency requested and obtained federal approval under § 1916 to establish the RItE
Share premium assistance program to subsidize the costs of enrolling Medicaid eligible
individuals and families in employer sponsored health insurance plans that have been approved as

1 meeting certain cost and coverage requirements. The Medicaid agency also obtained, at the
2 general assembly's direction, federal authority to require any such persons with access to ESI
3 coverage to enroll as a condition of retaining eligibility providing that doing so meets the criteria
4 established in Title XIX for obtaining federal matching funds.^{<add>}

5 ~~(b)~~^{{delete>} ~~Individuals who can afford it shall share in the cost. The office of health and human~~
6 ~~services is authorized and directed to apply for and obtain any necessary waivers from the~~
7 ~~secretary of the United States Department of Health and Human Services, including, but not~~
8 ~~limited to, a waiver of the appropriate sections of Title XIX, 42 U.S.C. section 1396 et seq., to~~
9 ~~require that families eligible for RItE Care under this chapter or chapter 12.3 of title 42 with~~
10 ~~incomes equal to or greater than one hundred fifty percent (150%) of the federal poverty level pay~~

11 ~~a share of the costs of health insurance based on the individual's ability to pay, provided that the~~
12 ~~cost sharing shall not exceed five percent (5%) of the individual's annual income. The department~~
13 ~~of human services shall implement the cost sharing by regulation, and shall consider co-~~
14 ~~payments, premium shares or other reasonable means to do so.~~

15 ~~(e) Current RIte Care enrollees with access to employer-based health insurance. The~~
16 ~~office of health and human services shall require any family who receives RIte Care or whose~~
17 ~~family receives RIte Care on the effective date of the applicable regulations adopted in~~
18 ~~accordance with subsection (f) to enroll in an employer-based health insurance plan at the~~
19 ~~individual's eligibility redetermination date or at an earlier date determined by the department,~~
20 ~~provided that doing so meets the criteria established in the applicable sections of Title XIX, 42~~
21 ~~U.S.C. section 1396 et seq., for obtaining federal matching funds and the department has~~
22 ~~determined that the individual's and/or the family's enrollment in the employer-based health~~
23 ~~insurance plan is cost effective and has determined that the health insurance plan meets the~~
24 ~~criteria in subsection (d). The insurer shall accept the enrollment of the individual and/or the~~
25 ~~family in the employer-based health insurance plan without regard to any enrollment season~~
26 ~~restrictions.~~ ^{<delete>{add>} RIte Share Populations. Medicaid beneficiaries subject to RIte Share include

27 ^[add] children, families, parent and caretakers eligible for Medicaid or the Children's Health Insurance
28 Program under this chapter or chapter 42-12.3 and adults under age 65 eligible under chapters 40-
29 8.5 and 40-8.12 as follows:

30 (1) The income of Medicaid beneficiaries shall affect whether and in what manner they
31 must participate in RIte Share as follows:

32 (i) Income at or below 150% of FPL -- Individuals and families determined to have
33 household income at or below 150% of the Federal Poverty Level (FPL) guidelines based on the
34 modified adjusted gross income (MAGI) standard or other standard approved by the secretary are

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1 required to participate in RIte Share if a Medicaid-eligible adult or parent/caretaker has access to
2 cost-effective ESI. Enrolling in ESI through RIte Share shall be a condition of maintaining
3 Medicaid health coverage for any eligible adult with access to such coverage.

4 (ii) Income above 150% FPL -- Premium assistance is available when the household
5 includes Medicaid-eligible members, but the ESI policy holder, typically a parent/ caretaker or
6 spouse, is not eligible for Medicaid. Premium assistance for parents/caretakers and other
7 household members who are not Medicaid-eligible may be provided in circumstances when
8 enrollment of the Medicaid-eligible family members in the approved ESI plan is contingent upon
9 enrollment of the ineligible policy holder and the executive office of health and human services
10 (executive office) determines, based on a methodology adopted for such purposes, that it is cost-
11 effective to provide premium assistance for family or spousal coverage.

12 (c) RIte Share Enrollment as a Condition of Eligibility. For Medicaid beneficiaries over
13 the age of nineteen (19) enrollment in RIte Share is a condition of eligibility except as exempted
14 below and by regulations promulgated by the executive office.

15 (1) Medicaid-eligible children and young adults up to age nineteen (19) shall not be
16 required to enroll in a parent/caretaker relative's ESI as a condition of maintaining Medicaid
17 eligibility. Medicaid-eligible children and young adults shall remain eligible for Medicaid and
18 shall be enrolled in a RIte Care plan if the person with access to RIte Share-approved ESI does
19 not enroll as required.

20 (2) There shall be a limited six (6) month exemption from the mandatory enrollment
21 requirement for persons participating in the RI Works program pursuant to § 40-5.2. ^{<add>}

22 ^[add] The executive office ^[add] ~~of~~
23 ^{{delete}>} ~~health and human services~~ ^{<delete>} shall adopt regulations providing for the approval of
24 employer-based

health insurance plans for premium assistance and shall approve employer-based health insurance

25 plans based on these regulations. In order for an employer-based health insurance plan to gain
26 approval, the ~~department~~ ^{executive office} must determine that the benefits
27 offered by the
28 employer-based health insurance plan are substantially similar in amount, scope, and duration to
the benefits provided to ~~RItE Care~~ ^{Medicaid-} eligible persons ~~by the RItE~~
~~Care program~~ ^{enrolled in}
29 ^{Medicaid managed care plan}, when the plan is evaluated in conjunction with available
30 supplemental benefits provided by the office. The office shall obtain and make available to
31 persons otherwise eligible for ~~RItE Care~~ ^{Medicaid identified in this section} as
supplemental
32 benefits those benefits not reasonably available under employer-based health insurance plans
33 which are required for RItE Care eligible persons by state law or federal law or regulation. ^{Once it}
34 has been determined by the Medicaid agency that the ESI offered by a particular employer is RItE

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1 Share-approved, all Medicaid members with access to that employer's plan are required
2 participate in RItE Share. Failure to meet the mandatory enrollment requirement shall result in the
3 termination of the Medicaid eligibility of the policy holder and other Medicaid members nineteen
4 (19) or older in the household that could be covered under the ESI until the policy holder
5 complies with the RItE Share enrollment procedures established by the executive office.

6 (e) Premium Assistance – EOHHS Payment. The executive office shall provide premium
7 assistance by paying all or a portion of the employee's cost for covering the eligible individual or
8 his or her family under such a RItE Share-approved ESI plan subject to the buy-in provisions in
9 this section.

10 (f) Buy-in – Beneficiary Costs. The executive office is authorized and directed to apply
11 for and obtain any necessary waivers from the secretary of the U.S. DHHS to require that families
12 enrolled in a RItE Share-approved employer-based health plan who have income equal to or
13 greater than one hundred fifty percent (150%) of the FPL to buy-in to pay a share of the costs
14 based on the ability to pay, provided that the buy-in cost shall not exceed five percent (5%) of the
15 individual's annual income. The executive office shall implement the buy-in by regulation, and
16 shall consider co-payments, premium shares or other reasonable means to do so. ^{<add>}

17 ~~(e)~~^(g) Maximization of federal contribution. The office of health and human services is
18 authorized and directed to apply for and obtain federal approvals and waivers necessary to
19 maximize the federal contribution for provision of medical assistance coverage under this section,
20 including the authorization to amend the Title XXI state plan and to obtain any waivers necessary
21 to reduce barriers to provide premium assistance to recipients as provided for in Title XXI of the
22 Social Security Act, 42 U.S.C. section 1397 et seq.

23 ~~(f)~~^(h) Implementation by regulation. The office of health and human services is
24 authorized and directed to adopt regulations to ensure the establishment and implementation of
25 the premium assistance program in accordance with the intent and purpose of this section, the
26 requirements of Title XIX, Title XXI and any approved federal waivers.

27 SECTION 6. Section 40-8.5-1.1 of the General Laws in Chapter 40-8.5 entitled “Health
28 Care for Elderly and Disabled Residents Act” is hereby amended to read as follows:

29 **§ 40-8.5-1.1. Managed health care delivery systems.** – (a) To ensure that all medical
30 assistance beneficiaries, including the elderly and all individuals with disabilities, have access to
31 quality and affordable health care, the ~~department of human services~~ ^{executive office}
of health
32 and human services (“executive office”) ^{<add>} is authorized to implement mandatory managed care
33 health systems.

34 (b) "Managed care" is defined as systems that: integrate an efficient financing mechanism

1 with quality service delivery; provides a "medical home" to assure appropriate care and deter
2 unnecessary services; and place emphasis on preventive and primary care. For purposes of
3 ~~Medical Assistance~~ this section, managed care systems ~~are also~~
4 may also be defined to include a
5 primary care case management model ~~in which ancillary services are provided under the~~
6 ~~direction~~
7 ~~of a physician in a practice~~ community health teams, and/or other such arrangements that
8 ~~meets~~
9 meet standards established by the ~~department of human services~~ executive office and
10 serve the
11 purposes of this section. Managed care systems may also include services and supports that
12 optimize the health and independence of ~~recipients~~ beneficiaries who are
13 determined to need
14 Medicaid funded long-term care under chapter 40-8.10 or to be at risk for such care under
15 applicable federal state plan or waiver authorities and the rules and regulations promulgated
16 by
17 the ~~department. Any medical assistance recipients~~ executive office. Any Medicaid
18 beneficiaries
19 who have third-party medical coverage or insurance may be provided such services through an
20 entity certified by or in a contractual arrangement with the ~~department~~ executive
21 office or, as
22 deemed appropriate, exempt from mandatory managed care in accordance with rules and
23 regulations promulgated by the ~~department of human services~~ executive office of
24 health and
25 human services.
26 (c) In accordance with § 42-12.4-7, the ~~department~~ executive office is
27 authorized to
28 obtain any approval through waiver(s), category II or III changes, and/or state plan amendments,
29 from the secretary of the United States department of health and human services, that are
30 necessary to implement mandatory managed health care delivery systems for all ~~medical~~
31 ~~assistance recipients, including the primary case management model in which ancillary services~~
32 ~~are provided under the direction of a physician in a practice that meets standards established by~~
33 ~~the department of human services~~ medicaid beneficiaries. The waiver(s), category II or
34 III
35 changes, and/or state plan amendments shall include the authorization to extend managed care to
36 cover long-term care services and supports. Such authorization shall also include, as deemed
37 appropriate, exempting certain beneficiaries with third-party medical coverage or insurance from
38 mandatory managed care in accordance with rules and regulations promulgated by the
39 ~~department~~
40 ~~of human services~~ executive office.

(d) To ensure the delivery of timely and appropriate services to persons who become
eligible for Medicaid by virtue of their eligibility for a U.S. social security administration
program, the ~~department of human services~~ executive office is authorized to seek
any and all data
sharing agreements or other agreements with the social security administration as may be
necessary to receive timely and accurate diagnostic data and clinical assessments. Such
information shall be used exclusively for the purpose of service planning, and shall be held and

1 exchanged in accordance with all applicable state and federal medical record confidentiality laws
2 and regulations.

3 SECTION 7. Sections 40-8.9-3, 40-8.9-4, 40-8.9-6, 40-8.9-7, 40-8.9-8 and 40-8.9-9 of
4 the General Laws in Chapter 40-8.9 entitled "Medical Assistance - Long-Term Care Service and
5 Finance Reform " are hereby amended to read as follows:

6 **§ 40-8.9-3. Least restrictive setting requirement.-** ~~Beginning on July 1, 2007, the~~
7 ~~department of human services~~ ~~<delete>~~ ~~{add}~~ The executive office of health and human services (executive
8 office) ~~<add>~~ is directed to recommend the allocation of existing Medicaid resources as needed to
9 ensure that those in need of long-term care and support services receive them in the least
10 restrictive setting appropriate to their needs and preferences. The ~~<delete>~~ ~~department~~ ~~<delete>~~ ~~{add}~~ executive
11 office ~~<add>~~ is

11 hereby authorized to utilize screening criteria, to avoid unnecessary institutionalization of persons
12 during the full eligibility determination process for Medicaid community based care.

13 **§ 40-8.9-4. Unified long-term care budget.-** Beginning on July 1, 2007, a unified long-
14 term care budget shall combine in a single line-item appropriation within the ~~<delete>~~ ~~department of~~
15 ~~human services budget~~ ~~<delete>~~ ~~{add}~~ executive office of health and human services (executive office)
16 ~~<add>~~, annual

16 ~~<delete>~~ ~~department of human services~~ ~~<delete>~~ ~~{add}~~ executive office ~~<add>~~ Medicaid appropriations for
17 nursing facility and

17 community-based long-term care services for elderly sixty-five (65) years and older and younger
18 persons at risk of nursing home admissions (including adult day care, home health, pace, and
19 personal care in assisted living settings). Beginning on July 1, 2007, the total system savings
20 attributable to the value of the reduction in nursing home days including hospice nursing home
21 days paid for by Medicaid shall be allocated in the budget enacted by the general assembly for the
22 ensuing fiscal year for the express purpose of promoting and strengthening community-based
23 alternatives; provided, further, beginning July 1, 2009, said savings shall be allocated within the
24 budgets of the ~~<add>~~ executive office and, as appropriate, the ~~<add>~~ department of human services,
25 ~~<delete>~~ ~~and the~~

25 ~~Department~~ ~~<delete>~~ ~~{add}~~ division ~~<add>~~ of elderly affairs. The allocation shall include, but not be limited
26 to, funds to

26 support an on-going statewide community education and outreach program to provide the public
27 with information on home and community services and the establishment of presumptive
28 eligibility criteria for the purposes of accessing home and community care. The home and
29 community care service presumptive eligibility criteria shall be developed through rule or
30 regulation on or before September 30, 2007. The allocation may also be used to fund home and
31 community services provided by the ~~<delete>~~ ~~department~~ ~~<delete>~~ ~~{add}~~ division ~~<add>~~ of elderly affairs for
32 persons eligible for

32 Medicaid long-term care, and the co-pay program administered pursuant to section 42-66.3. Any
33 monies in the allocation that remain unexpended in a fiscal year shall be carried forward to the
34 next fiscal year for the express purpose of strengthening community-based alternatives.

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1 The caseload estimating conference pursuant to § 35-17-1 shall determine the amount of
2 general revenues to be added to the current service estimate of community based long-term care
3 services for elderly sixty-five (65) and older and younger persons at risk of nursing home
4 admissions for the ensuing budget year by multiplying the combined cost per day of nursing
5 home and hospice nursing home days estimated at the caseload conference for that year by the
6 reduction in nursing home and hospice nursing home days from those in the second fiscal year
7 prior to the current fiscal year to those in the first fiscal year prior to the current fiscal year.

8 **§ 40-8.9-6. Reporting.-** Annual reports showing progress in long-term care system
9 reform and rebalancing shall be submitted by April 1st of each year by the ~~<delete>~~ ~~department~~ ~~<delete>~~

{add>executive

10 office of health and human services<add> to the Joint Legislative Committee on Health Care Oversight
11 as well as the finance committees of both the senate and the house of representatives and shall
12 include: the number of persons aged sixty-five (65) years and over and adults with disabilities
13 served in nursing facilities, the number of persons transitioned from nursing homes to Medicaid
14 supported home and community based care, the number of persons aged sixty-five (65) years and
15 over and adults with disabilities served in home and community care to include home care, adult
16 day services, assisted living and shared living, the dollar amounts and percent of expenditures
17 spent on nursing facility care and home and community-based care, and estimates of the
18 continued investments necessary to provide stability to the existing system and establish the
19 infrastructure and programs required to achieve system-wide reform and the targeted goal of
20 spending fifty percent (50%) of Medicaid long-term care dollars on nursing facility care and fifty
21 percent (50%) on home and community-based services.

22 **§ 40-8.9-7. Rate reform.** <delete>By January 2008 the department of human services<delete> {add>The
23 executive office of health and human services<add> shall design and require to be submitted by all
24 service providers cost reports for all community-based long-term services.

25 **§ 40-8.9-8. System screening.** <delete>By January 2008 the department of human
26 services<delete> {add>The

27 executive office of health and human services<add> shall develop and implement a screening strategy
28 for the purpose of identifying entrants to the publicly financed long-term care system prior to
29 application for eligibility as well as defining their potential service needs.

30 **§ 40-8.9-9. Long-term care re-balancing system reform goal.**- (a) Notwithstanding
31 any other provision of state law, the executive office of health and human services is authorized
32 and directed to apply for and obtain any necessary waiver(s), waiver amendment(s) and/or state
33 plan amendments from the secretary of the United States department of health and human
34 services, and to promulgate rules necessary to adopt an affirmative plan of program design and
implementation that addresses the goal of allocating a minimum of fifty percent (50%) of

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1 Medicaid long-term care funding for persons aged sixty-five (65) and over and adults with
2 disabilities, in addition to services for persons with developmental disabilities , to home and
3 community-based care ; provided, further, the executive office shall report annually as part of its
4 budget submission, the percentage distribution between institutional care and home and
5 community-based care by population and shall report current and projected waiting lists for long-
6 term care and home and community-based care services. The executive office is further
7 authorized and directed to prioritize investments in home and community- based care and to
8 maintain the integrity and financial viability of all current long-term care services while pursuing
9 this goal.

10 (b) The reformed long-term care system re-balancing goal is person-centered and
11 encourages individual self-determination, family involvement, interagency collaboration, and
12 individual choice through the provision of highly specialized and individually tailored home-
13 based services. Additionally, individuals with severe behavioral, physical, or developmental
14 disabilities must have the opportunity to live safe and healthful lives through access to a wide
15 range of supportive services in an array of community-based settings, regardless of the
16 complexity of their medical condition, the severity of their disability, or the challenges of their
17 behavior. Delivery of services and supports in less costly and less restrictive community settings,
18 will enable children, adolescents and adults to be able to curtail, delay or avoid lengthy stays in
19 long-term care institutions, such as behavioral health residential treatment facilities, long- term
20 care hospitals, intermediate care facilities and/or skilled nursing facilities.

21 (c) Pursuant to federal authority procured under § 42-7.2-16 of the general laws, the
22 executive office of health and human services is directed and authorized to adopt a tiered set of

23 criteria to be used to determine eligibility for services. Such criteria shall be developed in
24 collaboration with the state's health and human services departments and, to the extent feasible,
25 any consumer group, advisory board, or other entity designated for such purposes, and shall
26 encompass eligibility determinations for long-term care services in nursing facilities, hospitals,
27 and intermediate care facilities for persons with intellectual disabilities as well as home and
28 community-based alternatives, and shall provide a common standard of income eligibility for
29 both institutional and home and community- based care. The executive office is authorized to
30 adopt clinical and/or functional criteria for admission to a nursing facility, hospital, or
31 intermediate care facility for persons with intellectual disabilities that are more stringent than
32 those employed for access to home and community-based services. The executive office is also
33 authorized to promulgate rules that define the frequency of re- assessments for services provided
34 for under this section. Levels of care may be applied in accordance with the following:

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1 (1) The executive office shall continue to apply the level of care criteria in effect on June
2 30, 2015 for any recipient determined eligible for and receiving Medicaid-funded long-term
3 services in supports in a nursing facility, hospital, or intermediate care facility for persons with
4 intellectual disabilities on or before that date, unless:

5 (a) the recipient transitions to home and community based services because he or she
6 would no longer meet the level of care criteria in effect on June 30, 2015; or

7 (b) the recipient chooses home and community based services over the nursing facility,
8 hospital, or intermediate care facility for persons with intellectual disabilities. For the purposes of
9 this section, a failed community placement, as defined in regulations promulgated by the
10 executive office, shall be considered a condition of clinical eligibility for the highest level of care.
11 The executive office shall confer with the long-term care ombudsperson with respect to the
12 determination of a failed placement under the ombudsperson's jurisdiction. Should any Medicaid
13 recipient eligible for a nursing facility, hospital, or intermediate care facility for persons with
14 intellectual disabilities as of June 30, 2015 receive a determination of a failed community
15 placement, the recipient shall have access to the highest level of care; furthermore, a recipient
16 who has experienced a failed community placement shall be transitioned back into his or her
17 former nursing home, hospital, or intermediate care facility for persons with intellectual
18 disabilities whenever possible. Additionally, residents shall only be moved from a nursing home,
19 hospital, or intermediate care facility for persons with intellectual disabilities in a manner
20 consistent with applicable state and federal laws.

21 (2) Any Medicaid recipient eligible for the highest level of care who voluntarily leaves a
22 nursing home, hospital, or intermediate care facility for persons with intellectual disabilities shall
23 not be subject to any wait list for home and community based services.

24 (3) No nursing home, hospital, or intermediate care facility for persons with intellectual
25 disabilities shall be denied payment for services rendered to a Medicaid recipient on the grounds
26 that the recipient does not meet level of care criteria unless and until the executive office has:

27 (i) performed an individual assessment of the recipient at issue and provided written
28 notice to the nursing home, hospital, or intermediate care facility for persons with intellectual
29 disabilities that the recipient does not meet level of care criteria; and

30 (ii) the recipient has either appealed that level of care determination and been
31 unsuccessful, or any appeal period available to the recipient regarding that level of care
32 determination has expired.

33 (d) The executive office is further authorized to consolidate all home and community-
34 based services currently provided pursuant to § 1915(c) of title XIX of the United States Code

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1 into a single system of home and community- based services that include options for consumer

2 direction and shared living. The resulting single home and community-based services system
3 shall replace and supersede all §1915(c) programs when fully implemented. Notwithstanding the
4 foregoing, the resulting single program home and community-based services system shall include
5 the continued funding of assisted living services at any assisted living facility financed by the
6 Rhode Island housing and mortgage finance corporation prior to January 1, 2006, and shall be in
7 accordance with chapter 66.8 of title 42 of the general laws as long as assisted living services are
8 a covered Medicaid benefit.

9 (e) The executive office is authorized to promulgate rules that permit certain optional
10 services including, but not limited to, homemaker services, home modifications, respite, and
11 physical therapy evaluations to be offered to persons at risk for Medicaid-funded long-term care
12 subject to availability of state-appropriated funding for these purposes.

13 (f) To promote the expansion of home and community-based service capacity, the
14 executive office is authorized to pursue payment methodology reforms that increase access to
15 homemaker, personal care (home health aide), assisted living, adult supportive care homes, and
16 adult day services, as follows:

17 (1) Development, of revised or new Medicaid certification standards that increase access
18 to service specialization and scheduling accommodations by using payment strategies designed to
19 achieve specific quality and health outcomes.

20 (2) Development of Medicaid certification standards for state authorized providers of
21 adult day services, excluding such providers of services authorized under § 40.1-24-1(3), assisted
22 living, and adult supportive care (as defined under § 23-17.24) that establish for each, an acuity-
23 based, tiered service and payment methodology tied to: licensure authority, level of beneficiary
24 needs; the scope of services and supports provided; and specific quality and outcome measures.

25 The standards for adult day services for persons eligible for Medicaid-funded long-term
26 services may differ from those who do not meet the clinical/functional criteria set forth in § 40-
27 8.10-3.

28 ^{{add>} (3) By October 1, 2016, institute an increase in the base payment rates for home care
29 service providers, in an amount to be determined through the appropriations process, for the
30 purpose of implementing a wage pass-through program for personal care attendants and home
31 health aides assisting long-term care beneficiaries. On or before September 1, 2016, Medicaid-
32 funded home health providers seeking to participate in the program shall submit to the secretary
33 for his or her approval a written plan describing and attesting to the manner in which the
34 increased payment rates shall be passed fully through to personal care attendants and home health

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1 aides. Any such providers contracting with a Medicaid managed care organization shall develop
2 the plan for the wage pass-through program in conjunction with the managed care entity and shall
3 include assurances by both parties that the base-rate increase is implemented in accordance with
4 the goal of raising the wages of the health workers targeted in this subsection. Participating
5 providers who do not comply with the terms of their wage pass-through plan shall be subject to a
6 clawback, paid by the provider to the state, for any portion of the rate increase administered under
7 this section that the secretary deems appropriate. ^{<add>}

8 (g) The executive office shall implement a long-term care options counseling program to
9 provide individuals or their representatives, or both, with long-term care consultations that shall
10 include, at a minimum, information about: long-term care options, sources and methods of both
11 public and private payment for long-term care services and an assessment of an individual's
12 functional capabilities and opportunities for maximizing independence. Each individual admitted
13 to or seeking admission to a long-term care facility regardless of the payment source shall be
14 informed by the facility of the availability of the long-term care options counseling program and
15 shall be provided with long-term care options consultation if they so request. Each individual who
16 applies for Medicaid long-term care services shall be provided with a long-term care consultation.

17 (h) The executive office is also authorized, subject to availability of appropriation of
18 funding, and federal Medicaid-matching funds, to pay for certain services and supports necessary
19 to transition or divert beneficiaries from institutional or restrictive settings and optimize their
20 health and safety when receiving care in a home or the community . The secretary is authorized to
21 obtain any state plan or waiver authorities required to maximize the federal funds available to
22 support expanded access to such home and community transition and stabilization services;
23 provided, however, payments shall not exceed an annual or per person amount.

24 (i) To ensure persons with long-term care needs who remain living at home have
25 adequate resources to deal with housing maintenance and unanticipated housing related costs,
26 secretary is authorized to develop higher resource eligibility limits for persons or obtain any state
27 plan or waiver authorities necessary to change the financial eligibility criteria for long-term
28 services and supports to enable beneficiaries receiving home and community waiver services to
29 have the resources to continue living in their own homes or rental units or other home-based
30 settings.

31 (j) The executive office shall implement, no later than January 1, 2016, the following
32 home and community-based service and payment reforms:

- 33 (1) Community-based supportive living program established in § 40-8.13-2.1;
34 (2) Adult day services level of need criteria and acuity-based, tiered payment

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1 methodology; and

2 (3) Payment reforms that encourage home and community-based providers to provide the
3 specialized services and accommodations beneficiaries need to avoid or delay institutional care.

4 (k) The secretary is authorized to seek any Medicaid section 1115 waiver or state plan
5 amendments and take any administrative actions necessary to ensure timely adoption of any new
6 or amended rules, regulations, policies, or procedures and any system enhancements or changes,
7 for which appropriations have been authorized, that are necessary to facilitate implementation of
8 the requirements of this section by the dates established. The secretary shall reserve the discretion
9 to exercise the authority established under §§ 42-7.2-5(6)(v) and 42-7.2-6.1, in consultation with
10 the governor, to meet the legislative directives established herein.

11 SECTION 8. Section 40-8.13-2 of the General Laws in Chapter 40-8.13 entitled “Long-
12 Term Managed Care Arrangements” is hereby amended to read as follows:

13 **§ 40-8.13-2. Beneficiary choice options and informed choice .-** ^{add} The executive office of
14 health and human services must assure that any beneficiaries enrolling in a ^{add} ~~Any~~ managed
15 long-

16 term care arrangement ^{delete} ~~shall offer beneficiaries the option to decline participation and remain in~~
17 ~~traditional Medicaid and, if a duals demonstration project, traditional Medicare. Beneficiaries~~

18 ~~must be~~ ^{add} are provided with ^{add} options counseling, as required under §40-8.9-9, in the
19 person-centered

20 care planning process that includes ^{add} sufficient information to ^{delete} ~~make~~ ^{add} assist them in
21 making ^{add} an

22 informed choice ^{delete} ~~regarding enrollment, including~~ ^{add} about the delivery of their care.

23 ^{delete} ~~(1) Any changes in the beneficiary's payment or other financial obligations with respect~~
24 ~~to long-term care services and supports as a result of enrollment;~~

25 ~~(2) Any changes in the nature of the long-term care services and supports available to the~~
26 ~~beneficiary as a result of enrollment, including specific descriptions of new services that will be~~
27 ~~available or existing services that will be curtailed or terminated;~~

28 ~~(3) A contact person who can assist the beneficiary in making decisions about~~
enrollment;

~~(4) Individualized information regarding whether the managed care organization's~~
network includes the health care providers with whom beneficiaries have established provider

29 ~~relationships. Directing beneficiaries to a website identifying the plan's provider network shall not~~
30 ~~be sufficient to satisfy this requirement; and~~
31 ~~(5) The deadline by which the beneficiary must make a choice regarding enrollment, and~~
32 ~~the length of time a beneficiary must remain enrolled in a managed care organization before~~
33 ~~being permitted to change plans or opt out of the arrangement.~~^{<delete>}

34 SECTION 9. Section 42-7.2-5 of the General Laws in Chapter 42-7.2 entitled "Office of
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1 Health and Human Services" is hereby amended to read as follows:

2 **§ 42-7.2-5 Duties of the secretary.** – The secretary shall be subject to the direction and
3 supervision of the governor for the oversight, coordination and cohesive direction of state
4 administered health and human services and in ensuring the laws are faithfully executed,
5 notwithstanding any law to the contrary. In this capacity, the Secretary of Health and Human
6 Services shall be authorized to:

7 (1) Coordinate the administration and financing of health care benefits, human services
8 and programs including those authorized by the state's Medicaid section 1115 demonstration
9 waiver and, as applicable, the Medicaid State Plan under Title XIX of the US Social Security Act.
10 However, nothing in this section shall be construed as transferring to the secretary the powers,
11 duties or functions conferred upon the departments by Rhode Island public and general laws for
12 the administration of federal/state programs financed in whole or in part with Medicaid funds or
13 the administrative responsibility for the preparation and submission of any state plans, state plan
14 amendments, or authorized federal waiver applications, once approved by the secretary.

15 (2) Serve as the governor's chief advisor and liaison to federal policymakers on Medicaid
16 reform issues as well as the principal point of contact in the state on any such related matters.

17 (3)(a) Review and ensure the coordination of the state's Medicaid section 1115
18 demonstration waiver requests and renewals as well as any initiatives and proposals requiring
19 amendments to the Medicaid state plan or category two (II) or three (III) changes, as described in
20 the special terms and conditions of the state's Medicaid section 1115 demonstration waiver with
21 the potential to affect the scope, amount or duration of publicly-funded health care services,
22 provider payments or reimbursements, or access to or the availability of benefits and services as
23 provided by Rhode Island general and public laws. The secretary shall consider whether any such
24 changes are legally and fiscally sound and consistent with the state's policy and budget priorities.
25 The secretary shall also assess whether a proposed change is capable of obtaining the necessary
26 approvals from federal officials and achieving the expected positive consumer outcomes.

27 Department directors shall, within the timelines specified, provide any information and resources
28 the secretary deems necessary in order to perform the reviews authorized in this section;

29 (b) Direct the development and implementation of any Medicaid policies, procedures, or
30 systems that may be required to assure successful operation of the state's health and human
31 services integrated eligibility system and coordination with HealthSource RI, the state's health
32 insurance marketplace.

33 (c) Beginning in 2015, conduct on a biennial basis a comprehensive review of the
34 Medicaid eligibility criteria for one or more of the populations covered under the state plan or a

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1 waiver to ensure consistency with federal and state laws and policies, coordinate and align
2 systems, and identify areas for improving quality assurance, fair and equitable access to services,
3 and opportunities for additional financial participation.

4 (d) Implement service organization and delivery reforms that facilitate service
5 integration, increase value, and improve quality and health outcomes.

6 (4) Beginning in 2006, prepare and submit to the governor, the chairpersons of the house
7 and senate finance committees, the caseload estimating conference, and to the joint legislative

8 committee for health care oversight, by no later than March 15 of each year, a comprehensive
9 overview of all Medicaid expenditures outcomes, and utilization rates. The overview shall
10 include, but not be limited to, the following information:

- 11 (i) Expenditures under Titles XIX and XXI of the Social Security Act, as amended;
- 12 (ii) Expenditures, outcomes and utilization rates by population and sub-population served
13 (e.g. families with children, persons with disabilities, children in foster care, children receiving
14 adoption assistance, adults ages nineteen (19) to sixty-four (64), and elders);
- 15 (iii) Expenditures, outcomes and utilization rates by each state department or other
16 municipal or public entity receiving federal reimbursement under Titles XIX and XXI of the
17 Social Security Act, as amended; and
- 18 (iv) Expenditures, outcomes and utilization rates by type of service and/or service
19 provider.

20 The directors of the departments, as well as local governments and school departments,
21 shall assist and cooperate with the secretary in fulfilling this responsibility by providing whatever
22 resources, information and support shall be necessary.

23 (5) Resolve administrative, jurisdictional, operational, program, or policy conflicts
24 among departments and their executive staffs and make necessary recommendations to the
25 governor.

26 (6) Assure continued progress toward improving the quality, the economy, the
27 accountability and the efficiency of state-administered health and human services. In this
28 capacity, the secretary shall:

- 29 (i) Direct implementation of reforms in the human resources practices of the executive
30 office and the departments that streamline and upgrade services, achieve greater economies of
31 scale and establish the coordinated system of the staff education, cross-training, and career
32 development services necessary to recruit and retain a highly-skilled, responsive, and engaged
33 health and human services workforce;
- 34 (ii) Encourage EOHHS-wide consumer-centered approaches to service design and

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1 delivery that expand their capacity to respond efficiently and responsibly to the diverse and
2 changing needs of the people and communities they serve;

3 (iii) Develop all opportunities to maximize resources by leveraging the state's purchasing
4 power, centralizing fiscal service functions related to budget, finance, and procurement,
5 centralizing communication, policy analysis and planning, and information systems and data
6 management, pursuing alternative funding sources through grants, awards and partnerships and
7 securing all available federal financial participation for programs and services provided EOHHS-
8 wide;

9 (iv) Improve the coordination and efficiency of health and human services legal functions
10 by centralizing adjudicative and legal services and overseeing their timely and judicious
11 administration;

12 (v) Facilitate the rebalancing of the long term system by creating an assessment and
13 coordination organization or unit for the expressed purpose of developing and implementing
14 procedures EOHHS-wide that ensure that the appropriate publicly-funded health services are
15 provided at the right time and in the most appropriate and least restrictive setting;

16 (vi) Strengthen health and human services program integrity, quality control and
17 collections, and recovery activities by consolidating functions within the office in a single unit
18 that ensures all affected parties pay their fair share of the cost of services and are aware of
19 alternative financing.

20 (vii) Assure protective services are available to vulnerable elders and adults with
21 developmental and other disabilities by reorganizing existing services, establishing new services
22 where gaps exist and centralizing administrative responsibility for oversight of all related

23 initiatives and programs.

24 (7) Prepare and integrate comprehensive budgets for the health and human services
25 departments and any other functions and duties assigned to the office. The budgets shall be
26 submitted to the state budget office by the secretary, for consideration by the governor, on behalf
27 of the state's health and human services agencies in accordance with the provisions set forth in §
28 35-3-4 of the Rhode Island general laws.

29 (8) Utilize objective data to evaluate health and human services policy goals, resource use
30 and outcome evaluation and to perform short and long-term policy planning and development.

31 (9) Establishment of an integrated approach to interdepartmental information and data
32 management that complements and furthers the goals of the unified health infrastructure project
33 initiative and that will facilitate the transition to consumer-centered integrated system of state
34 administered health and human services.

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1 (10) At the direction of the governor or the general assembly, conduct independent
2 reviews of state-administered health and human services programs, policies and related agency
3 actions and activities and assist the department directors in identifying strategies to address any
4 issues or areas of concern that may emerge thereof. The department directors shall provide any
5 information and assistance deemed necessary by the secretary when undertaking such
6 independent reviews.

7 (11) Provide regular and timely reports to the governor and make recommendations with
8 respect to the state's health and human services agenda.

9 (12) Employ such personnel and contract for such consulting services as may be required
10 to perform the powers and duties lawfully conferred upon the secretary.

11 (13) Assume responsibility for complying with the provisions of any general or public
12 law or regulation related to the disclosure, confidentiality and privacy of any information or
13 records, in the possession or under the control of the executive office or the departments assigned
14 to the executive office, that may be developed or acquired or transferred at the direction of the
15 governor or the secretary for purposes directly connected with the secretary's duties set forth
16 herein.

17 (14) Hold the director of each health and human services department accountable for
18 their administrative, fiscal and program actions in the conduct of the respective powers and duties
19 of their agencies.

20 ^{add}[\(15\) Identify and implement fiscal controls within the overall budget of the office of](#)
21 [health and human services, as needed, to achieve the full savings enacted in the FY 2016](#)
22 [appropriations act under the Reinventing Medicaid Initiative.](#)_{<add>}

23 SECTION 10. Section 42-12-29 of the General Laws in Chapter 42-12 entitled

24 "Department of Human Services" is hereby amended to read as follows:

25 **§ 42-12-29. Children's health account.** – (a) There is created within the general fund a
26 restricted receipt account to be known as the "children's health account." All money in the
27 account shall be utilized by the ^{delete}~~department of human services~~_{<delete>}^{add}[executive office of](#)
28 [health and](#)
29 [human services \(executive office\)](#)_{<add>} to effectuate coverage for the following service categories: (1)
30 home health services, which include pediatric private duty nursing and certified nursing assistant
31 (CEDARR) services, which include CEDARR family center services, home based therapeutic
32 services, personal assistance services and supports (PASS) and kids connect services and (3) child
33 and adolescent treatment services (CAITS). All money received pursuant to this section shall be
34 deposited in the children's health account. The general treasurer is authorized and directed to

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1 draw his or her orders on the account upon receipt of properly authenticated vouchers from the
2 ~~{department of human services}~~ executive office.
3 (b) Beginning ~~January 1, 2016~~ July 1, 2016, a portion of the amount collected
4 pursuant to
5 § 42-7.4-3, up to the actual amount expended or projected to be expended by the state for the
6 services described in § 42-12-29(a), less any amount collected in excess of the prior year's
7 funding requirement as indicated in § 42-12-29(c), but in no event more than the limit set forth in
8 § 42-12-29(d) (the "child health services funding requirement"), shall be deposited in the
9 "children's health account." The funds shall be used solely for the purposes of the "children's
10 health account", and no other.

11 (c) The ~~department of human services~~ executive office shall submit to the
12 general
13 assembly an annual report on the program and costs related to the program, on or before February
14 1 of each year. The ~~department~~ executive office shall make available to each
15 insurer required to
16 make a contribution pursuant to § 42-7.4-3, upon its request, detailed information regarding the
17 children's health programs described in subsection (a) and the costs related to those programs.
18 Any funds collected in excess of funds needed to carry out the programs shall be deducted from
19 the subsequent year's funding requirements.

20 (d) The total amount required to be deposited into the children's health account shall be
21 equivalent to the amount paid by the ~~department of human services~~ executive
22 office for all
23 services, as listed in subsection (a), but not to exceed ~~seven thousand five hundred dollars~~
24 ~~(\$7,500)~~ twelve thousand five hundred dollars (\$12,500) per child per service per year.

25 (e) The children's health account shall be exempt from the indirect cost recovery
26 provisions of § 35-4-27 of the general laws.

27 SECTION 11. Section 15 of Article 5 of Chapter 141 of the Public Laws of 2015 is
28 hereby repealed.

29 ~~{A pool is hereby established of up to \$2.5 million to support Medicaid Graduate~~
30 ~~Education funding for Academic Medical Centers with level I Trauma Centers who provide care~~
31 ~~to the state's critically ill and indigent populations. The office of Health and Human Services shall~~
32 ~~utilize this pool to provide up to \$5 million per year in additional Medicaid payments to support~~
33 ~~Graduate Medical Education programs to hospitals meeting all of the following criteria:~~

34 ~~(a) Hospital must have a minimum of 25,000 inpatient discharges per year for all patients~~
35 ~~regardless of coverage.~~

36 ~~(b) Hospital must be designated as Level I Trauma Center.~~

37 ~~(c) Hospital must provide graduate medical education training for at least 250 interns and~~
38 ~~residents per year.~~

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39 ~~The Secretary of the Executive Office of Health and Human Services shall determine the~~
40 ~~appropriate Medicaid payment mechanism to implement this program and amend any state plan~~
41 ~~documents required to implement the payments.~~

42 ~~Payments for Graduate Medical Education programs shall be effective July 1, 2015.~~

43 SECTION 12. This article shall take effect upon passage, except as otherwise provided
44 herein.

16 H 7454 Article 11 Relating To Strengthening Neighborhood Schools (Extraordinary Special Education Costs)
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This article amends several sections of law relating to school district accounting and the
--

education funding formula, including review of the formula on a regular interval, change to the weight for high-cost special education and adjusting per pupil funding for charter school students. Also, new accounting standards for greater transparency at the local level are proposed.

ARTICLE 11

RELATING TO STRENGTHENING NEIGHBORHOOD SCHOOLS

SECTION 1. Section 16-2-9.4 of the General Laws in Chapter 16-2 entitled "School Committees and Superintendents" is hereby amended to read as follows:

SECTION 2. Section 16-7-22 of the General Laws in Chapter 16-7 entitled "Foundation Level School Support" is hereby amended to read as follows:

SECTION 3. Section 16-7-23 of the General Laws in Chapter 16-7 entitled "Foundation Level School Support" are hereby amended to read as follows:

SECTION 4. Sections 16-7.2.1, 16-7.2-3, 16-7.2-4, 16-7.2-5, and 16-7.2-6 of the General Laws in Chapter 16-7.2 entitled "The Education Equity and Property Tax Relief Act" are hereby amended to read as follows:

§ 16-7.2-1. Legislative findings. – (a) The general assembly recognizes the need for an equitable distribution of resources among the state's school districts, property tax relief and a predicable method of distributing education aid. The general assembly finds that there is a need to reform the way public education is financed because:

(1) All children should have access to an adequate and meaningful education regardless of their residence or economic means;

(2) A school funding system should treat property taxpayers equably, limit the portion of school budgets financed by property taxes, and establish sufficient cost controls on school spending;

(3) The state should ensure that its school funding structure adequately reflects the different needs of students, and closes the educational inequities among the state's school districts; and

(4) The state education funding system should provide a predicable amount and source of funding to ensure stability in the funding of schools.

(b) The intent of this chapter is to promote a school finance system in Rhode Island that is predicated on student need and taxpayer ability to pay. A new school funding system in the state should promote educational equity for all students and reduce the reliance on the property tax to fund public education. This legislation is intended to ensure educational opportunity to each pupil in each city or town on substantially equal terms. Adequate per pupil support will be provided through a combination of state school aid and local education property tax levies.

(c) ^[add] In order to ensure the predictability, equity, and accuracy of the distribution of state education aid pursuant to this chapter, the department of elementary and secondary education shall review the overall functioning of the formula and systems set forth herein in intervals of no less than every five fiscal years and make appropriate recommendations to the General Assembly. ^{<add]}

§ 16-7.2-3. Permanent foundation education aid established. – (a) Beginning in the 2012 fiscal year, the following foundation education aid formula shall take effect. The foundation education aid for each district shall be the sum of the core instruction amount in (a)(1) and the amount to support high need students in (a)(2), which shall be multiplied by the district state share ratio calculated pursuant to § 16-7.2-4 to determine the foundation aid.

(1) The core instruction amount shall be an amount equal to a statewide per pupil core

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instruction amount as established by the department of elementary and secondary education, derived from the average of northeast regional expenditure data for the states of Rhode Island, Massachusetts, Connecticut, and New Hampshire from the National Center for Education

18 school screening and intervention, and career and technical education tuition. In order to ensure
19 accuracy, this overall adjustment shall be reviewed and recalculated every three years in a manner
20 to be determined by the commissioner of elementary and secondary education. ^[add]

21 ~~The department shall also provide the general assembly a performance dashboard~~
22 ~~indicating the per-pupil expenditures of each school district and charter school broken down by~~
23 ~~revenue sources and expenditure categories. The department shall provide, within the same~~
24 ~~dashboard, student performance indicators for each school district or charter school. (c) The local~~
25 share of education funding, as defined by the department of elementary and secondary education
26 and approved by the General Assembly^[delete], shall be paid to the charter public school, Davies, and the
27 Met Center by the district of residence of the student and shall be the local per-pupil cost, ^[add] which
28 consists of ^[add] ~~calculated by dividing~~^[delete] the local appropriation to education from property taxes,
net of
29 debt service,^[delete] and^[delete] capital projects, ^[add] and the local share of education funding paid to the
charter
30 public schools, Davies, and the Met Center in reference year 2014^[add], as defined in the uniform chart
31 of accounts, divided by the average daily membership for each city and town, pursuant to § 16-7-
32 22, for the reference year.

33 ~~(b)(d)~~ Local district payments to charter public schools, Davies, and the Met Center for
34 each district's students enrolled in these schools shall be made on a quarterly basis in July,

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1 October, January and April; however, the first local district payment shall be made by August 15
2 instead of July. Failure of the community to make the local district payment for its student(s)
3 enrolled in a charter public school, Davies, and/or the Met Center may result in the withholding
4 of state education aid pursuant to § 16-7-31.

5 (e) ^[add] Beginning in FY 2017, school districts with charter public school, Davies, and the
6 Met Center enrollments that, combined, comprise five percent (5%) or more of the average daily
7 membership as defined in § 16-17-22 shall receive additional aid equal to the number of charter
8 public school, open enrollment schools, Davies, or the Met Center students as of the reference
9 year as defined in 16-7-16(11) times a per pupil amount of three hundred dollars (\$300). The
10 additional aid shall be to offset the adjusted fixed costs retained by the district of residence and
11 shall be recalculated every three years in a manner to be determined by the commissioner of
12 elementary and secondary education. ^[add]

13 **§ 16-7.2-6. Categorical programs, state funded expenses.** – In addition to the
14 foundation education aid provided pursuant to § 16-7.2-3 the permanent foundation education aid
15 program shall provide direct state funding for:

16 (a) ~~Excess~~^[delete] ~~costs~~^[delete] § ^[add] Extraordinary^[add] ~~costs~~^[delete] associated with special education students.^[delete]
~~Excess costs~~
17 ~~are defined when an individual special education student's cost shall be deemed to be~~
18 ~~"extraordinary." Extraordinary costs~~^[delete] are those educational costs that exceed the state approved
19 threshold based on an amount greater than ~~above~~ five times the core foundation amount (total of
20 core instruction amount plus student success amount). ^[add] Effective fiscal year 2018, the approved
21 threshold shall be based on an amount greater than four times the core foundation amount. ^[add] The
22 department of elementary and secondary education shall prorate the funds available for
23 distribution among those eligible school districts if the total approved costs for which school
24 districts are seeking reimbursement exceed the amount of funding appropriated in any fiscal year;

25 (b) Career and technical education costs to help meet initial investment requirements
26 needed to transform existing or create new comprehensive career and technical education
27 programs and career pathways in critical and emerging industries and to help offset the higher
28 than average costs associated with facilities, equipment maintenance and repair, and supplies
29 necessary for maintaining the quality of highly specialized programs that are a priority for the

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state. The department shall ^[add]develop^{[add] [delete]} ~~recommend~~^[delete] criteria for the purpose of allocating any and all career and technical education funds as may be determined by the general assembly on an annual basis. The department of elementary and secondary education shall prorate the funds available for distribution among those eligible school districts if the total approved costs for which school districts are seeking reimbursement exceed the amount of funding available in any fiscal year;

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(c) Programs to increase access to voluntary, free, high-quality pre-kindergarten programs. The department shall recommend criteria for the purpose of allocating any and all early childhood program funds as may be determined by the general assembly;

(d) Central Falls, ^[add]Davies, and the Met Center Stabilization^[add] Fund is established to assure that appropriate funding is available to support ^[add]their^{[add] [delete]} ~~the community, including~~^[delete] students.

^[add]Additional support for Central Falls is needed^{>add] [delete]} ~~from the community that attend the charter schools;~~

~~Davies, and the Met Center pursuant to § 16-7.2-5, due to concerns regarding the city's capacity to meet the local share of education costs. This fund requires that education aid calculated pursuant to § 16-7.2-3 and funding for costs outside the permanent foundation education aid formula, including but not limited to transportation, facility maintenance, and retiree health benefits shall be shared between the state and the city of Central Falls. The fund shall be annually reviewed to determine the amount of the state and city appropriation. The state's share of this fund may be supported through a reallocation of current state appropriations to the Central Falls school district. At the end of the transition period defined in § 16-7.2-7, the municipality will continue its contribution pursuant to § 16-7-24.~~

^{<delete] [add]} Additional support for the Davies and the Met Center is needed due to the costs associated with running a stand-alone high school offering both academic and career and technical coursework. The department shall recommend criteria for the purpose of allocating any and all stabilization funds as may be determined by the general assembly; ^{<add]} and

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(e) Excess costs associated with transporting students to out of district non-public schools and within regional school districts. (1) This fund will provide state funding for the costs associated with transporting students to out of district non-public schools, pursuant to title 16, Chapter 21.1. The state will assume the costs of non-public out-of-district transportation for those districts participating in the statewide system; and (2) This fund will provide direct state funding for the excess costs associated with transporting students within regional school districts, established pursuant to title 16, chapter 3. This fund requires that the state and regional school district share equally the student transportation costs net any federal sources of revenue for these expenditures. The department of elementary and secondary education shall prorate the funds available for distribution among those eligible school districts if the total approved costs for which school districts are seeking reimbursement exceed the amount of funding available in any fiscal year.

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(f) Public school districts that are regionalized shall be eligible for a regionalization bonus as set forth below.

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(1) As used herein, the term "regionalized" shall be deemed to refer to a regional school

Page 10

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district established under the provisions of chapter 16-3 including the Chariho Regional School district.

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(2) For those districts that are regionalized as of July 1, 2010, the regionalization bonus shall commence in FY 2012. For those districts that regionalize after July 1, 2010, the regionalization bonus shall commence in the first fiscal year following the establishment of a

6 regionalized school district as set forth section 16-3, including the Chariho Regional School
7 District.

8 (3) The regionalization bonus in the first fiscal year shall be two percent (2.0%) of the
9 state's share of the foundation education aid for the regionalized district as calculated pursuant to
10 §§ 16-7.2-3 and 16-7.2-4 in that fiscal year.

11 (4) The regionalization bonus in the second fiscal year shall be one percent (1.0%) of the
12 state's share of the foundation education aid for the regionalized district as calculated pursuant to
13 §§ 16-7.2-3 and 16-7.2-4 in that fiscal year.

14 (5) The regionalization bonus shall cease in the third fiscal year.

15 (6) The regionalization bonus for the Chariho regional school district shall be applied to
16 the state share of the permanent foundation education aid for the member towns.

17 (7) The department of elementary and secondary education shall prorate the funds
18 available for distribution among those eligible regionalized school districts if the total approve
19 costs for which regionalized school districts are seeking a regionalization bonus exceed the
20 amount of funding appropriated in any fiscal year.

21 (g)^{[add>} Costs associated with English learners (EL). The amount to support EL students shall
22 be determined by multiplying an EL factor of ten percent (10%) by the core instruction per pupil
23 amount defined in § 16-7.2-3(a)(1) and applying that amount to EL students identified using
24 widely adopted, independent standards and assessments identified by the Commissioner. All
25 categorical funds distributed pursuant to this subsection must be used to provide high-quality,
26 research-based services to EL students and managed in accordance with requirements set forth by
27 the commissioner of elementary and secondary education. The department of elementary and
28 secondary education shall prorate the funds available for distribution among eligible recipients if
29 the total calculated costs exceed the amount of funding available in any fiscal year. ^{<add]}

30 ~~(g)~~(h) Categorical programs defined in (a) through (f) shall be funded pursuant to the
31 transition plan in § 16-7.2-7.

32 SECTION 5. Section 16-7.2-7 of the General Laws in Chapter 16-7.2 entitled "The
33 Education Equity and Property Tax Relief Act" is hereby amended to read as follows:

20 SECTION 6. Section 16-77.2-5 of the General Laws in Chapter 16-77.2 entitled "District
21 Charter School" is hereby amended to read as follows:

22 **§ 16-77.2-5. Budgets and funding.** – (a) It is the intent of the general assembly that
23 funding pursuant to this chapter shall be neither a financial incentive nor a financial disincentive
24 to the establishment of a district charter school. Funding for each district charter school shall
25 consist of state revenue and municipal or district revenue in the same proportions that funding is
26 provided for other schools within the sending school district(s).

27 ~~(b) The amount of funding which shall be allocated to the district charter school by the~~
28 ~~sending school district(s) shall be equal to a percentage of the total budgeted expenses of the~~
29 ~~sending school district(s) which is determined by dividing the number of students enrolled in the~~
30 ~~district charter school by the total resident average daily number of students in the sending school~~
31 ~~district(s).~~ ^{<delete]}

32 ~~(c)~~(b) Funding additional to that authorized from the sending school district(s) ^{[delete>} ~~by~~
33 ~~subsection~~ ^{<delete]} ~~(b)~~ may be allocated to the district charter school from the sending school district(s) to
34 the extent that the combined percentage of students eligible for free or reduced cost lunch,

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1 students with limited English proficiency, and students requiring special education exceed the
2 combined percentage of those students in the sending school district(s) as a whole. The
3 commissioner shall promulgate rules and regulations consistent with this section regarding the
4 allocation of funds from sending school districts to district charter schools.

5 ~~(d)~~(c) All services centrally or otherwise provided by the school district in which the
6 district charter school is located which the district charter school decides to utilize including, but

7 not limited to, transportation, food services, custodial services, maintenance, curriculum, media
8 services, libraries, nursing, and warehousing, shall be subject to negotiation between a district
9 charter school and the school district in which the district charter school is located and paid for
10 out of the revenues of the district charter school. Disputes with regard to cost of services
11 requested from the school district in which the district charter school is located will be
12 adjudicated by the commissioner.

13 ~~(e)~~(d) A district charter school shall be eligible to receive other aids, grants, Medicaid
14 revenue, and other revenue according to Rhode Island law, as though it were a school district.
15 Federal aid received by the state shall be used to benefit students in the charter public school, if
16 the school qualifies for the aid, as though it were a school district.

17 ~~(f)~~(e) A district charter school may negotiate and contract directly with third parties for
18 the purchase of books, instructional materials, and any other goods and services which are not
19 being provided by the sending school district(s) pursuant to the charter.

20 ~~(g) Any career technical charter public school enrolling special education students from
21 outside school districts with verifiable individual education program (IEP) designations shall
22 receive from the sending school district(s) the average per pupil special education cost of the
23 sending district, in accordance with standards established by the Rhode Island department of
24 secondary and elementary education.~~^{<delete>}

25 SECTION 7. Section of 16-77.3-5 of the General Laws in Chapter 16-77.3 entitled
26 "Independent Charter Schools" is hereby amended to read as follows:

22 SECTION 8. Section 16-77.4-5 of the General Laws in Chapter 16-77.4 entitled
23 "Mayoral Academies" is hereby amended to read as follows:

19 SECTION 9. This article shall take effect upon passage.

16 H 7454 Article 14 Relating To Caregivers/Compassion Centers

This article restructures and expands regulation of Rhode Island's medical marijuana system. The Department of Business Regulation (DBR) will regulate primary caregivers, compassion centers, cooperative cultivations, and a new class of cultivator licenses for people and businesses who wish to operate as wholesale suppliers of marijuana to compassion centers. The Department of Health will continue to regulate patients and a new group called authorized purchasers. This article implements a system requiring every medical marijuana plant in the state to be tagged, and tag holders will be charged an annual fee for each tag. This article also lowers the number of plants a qualifying patient or primary caregiver can grow, and decreases the surcharge on compassion centers from 4% to 3%.

ARTICLE 14

RELATING TO CAREGIVERS/COMPASSION CENTERS

3 SECTION 1. Sections 21-28.6-3, 21-28.6-4, 21-28.6-5, 21-28.6-6, 21-28.6-9, 21-28.6-12,
4 and 21-28.6-14 of the General Laws in Chapter 21-28.6 entitled "The Edward O. Hawkins and
5 Thomas C. Slater Medical Marijuana Act" are hereby amended to read as follows:

6 **§ 21-28.6-3. Definitions.** – For the purposes of this chapter:

7 ^{[add>} (1) "Authorized purchaser" means a natural person, who is at least twenty-one (21) years
8 old, and who is registered with the department of health for the purposes of assisting a qualifying
9 patient in purchasing marijuana from a compassion center. An authorized purchaser may assist no
10 more than one (1) patient, and is prohibited from consuming marijuana obtained for the use of the
11 qualifying patient. An authorized purchaser shall be registered with the department of health and
12 shall possess a valid registry identification card. ^{<add]}

13 ~~(1)~~(2) "Cardholder" means a ^{[delete>} qualifying patient or a primary caregiver ^{<delete]} person who
has

14 been registered ^{[add>} or licensed ^{<add]} with the department ^{[add>} of health or the department of business

regulation

15 pursuant to this chapter, ^{<add>} ~~and has been issued~~ ^{<delete>} and possesses a valid registry
16 identification card or
17 license.

18 ^{[add>} (3) “Caregiver cardholder” means a primary caregiver who has registered with the
19 department of business regulation and has been issued and possesses a valid registry
20 identification card.

21 (4) “Commercial unit” means a building, office, suite, or room within a commercial or
22 industrial building for use by one business or person and rented or owned by that business or
23 person. ^{<add>}

24 ~~(2)~~ ^{[add>} (5) “Compassion center” means:

25 (i) a not-for-profit corporation, subject to the provisions of chapter 6 of title 7, and
26 registered under § 21-28.6-12, that acquires, possesses, cultivates, manufactures, delivers,
27 transfers, transports, supplies or dispenses marijuana, and/or related supplies and educational
28 materials, to patient cardholders and/or their registered caregiver cardholder ^{[add>} or authorized
29 purchaser, ^{<add>} ~~who have designated it as one of their primary caregivers.~~ ^{<delete>}

30 (ii) (6) “Compassion center cardholder” means a principal officer, board member,
employee, volunteer, or agent of a compassion center who has registered with the department of or

Page 1

1 ^{[add>} business regulation ^{<add>} and has been issued and possesses a valid registry identification card.

2 ~~(3)~~ (7) “Debilitating medical condition” means:

3 (i) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired
4 immune deficiency syndrome, Hepatitis C, or the treatment of these conditions;

5 (ii) A chronic or debilitating disease or medical condition, or its treatment, that produces
6 one or more of the following: cachexia or wasting syndrome; severe, debilitating, chronic pain;
7 severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe
8 and persistent muscle spasms, including but not limited to, those characteristic of multiple
9 sclerosis or Crohn's disease; or agitation of Alzheimer's Disease; or

10 (iii) Any other medical condition or its treatment approved by the department of health,
11 as provided for in § 21-28.6-5.

12 (8) ^{[add>} “Department of business regulation” means the Rhode Island department of business
13 regulation or its successor agency.

14 ~~(4)~~ (9) “Department of health” ^{<add>} means the Rhode Island department of health or its
15 successor agency.

16 ^{[add>} (10) “Dwelling unit” means the room or group of rooms within a dwelling used or
17 intended for use by one family or household, or by no more than three (3) unrelated individuals,
18 for living, sleeping, cooking and eating.

19 (11) “Flammable chemical extraction” means the creation of marijuana concentrates
20 through flammable solvents including but not limited to butane, hexane, and propane.

21 (12) “Licensed cultivator” means a means a person as defined in § 43-3-6, who has been
22 licensed by the department of business regulation to cultivate marijuana pursuant to § 21-28.6-17.
^{<add>}

23 ~~(5)~~ (13) “Marijuana” has the meaning given that term in § 21-28-1.02(26).

24 ~~(6)~~ (14) “Mature marijuana plant” means a marijuana plant that has flowers or buds that
25 are readily observable by an unaided visual examination.

26 ~~(7)~~ (15) “Medical use” means the acquisition, possession, cultivation, manufacture, use,
27 delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of
28 marijuana to alleviate a patient cardholder's debilitating medical condition or symptoms
29 associated with the medical condition.

30 ^{[add>} (16) “Patient cardholder” means a qualifying patient who has registered with the

31 department of health and has been issued and possesses a valid registry identification card. ^{<add>}
32 (8)(17) "Practitioner" means a person who is licensed with authority to prescribe drugs
33 pursuant to chapter 37 of title 5 ^{[delete>} ~~or a physician licensed with authority to prescribe drugs in~~
34 ~~Massachusetts or Connecticut.~~ ^{<delete]}

Page 2

1 (9)(18) "Primary caregiver" means ^{[delete>} ~~either~~ ^{<delete]} a natural person, who is at least twenty-one
(21)
2 years old, ^{[delete>} ~~or a compassion center~~ ^{<delete]} ^{[add>} and who is registered with the department of
3 business
4 regulation for the purpose of assisting not ^{<add]} ^{[delete>} ~~A natural person primary caregiver may assist~~
5 ~~no~~ ^{<delete]}
6 more than five (5) qualifying patients with their medical use of marijuana. ^{[add>} If a primary
7 caregiver
8 is simultaneously registered as a patient cardholder, that caregiver shall count themselves in
9 regards to this patient limit and shall not assist more than four (4) other qualifying patients. ^{<add]}

7 (10)(19) "Qualifying patient" means a person who has been diagnosed by a practitioner as
8 having a debilitating medical condition and is a resident of Rhode Island.

9 (11)(20) "Registry identification card" means a document issued by the department of
10 health that identifies a person as a registered qualifying patient ^{[add>} or authorized purchaser, or a
11 document issued by the department of business regulation that identifies a person as ^{>add]}, a
12 registered
13 primary caregiver, ^{[add>} a licensed cultivator, a licensed cooperative cultivation, ^{<add]} or a
14 ^{[delete>} ~~registered~~

13 ~~principal officer, board member, employee, volunteer, or agent of a compassion center~~ ^{<delete]}
14 ^{[add>} compassion center cardholder. ^{<add]}

15 ^{[delete>} ~~(12)~~ ^{<delete]} (21) "Seedling" means a marijuana plant with no observable flowers or buds.

16 ^{[delete>} ~~(13)~~ ^{<delete]} (22) "Unusable marijuana" means marijuana seeds, stalks, seedlings, and
17 ^{[delete>} ~~unusable~~ ^{<delete]}

17 roots.

18 (14)(23) "Usable marijuana" means the dried leaves and flowers of the marijuana plant,
19 and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the
20 plant.

21 (15)(24) "Written certification" means the qualifying patient's medical records, and a
22 statement signed by a practitioner, stating that in the practitioner's professional opinion, the
23 potential benefits of the medical use of marijuana would likely outweigh the health risks for the
24 qualifying patient. A written certification shall be made only in the course of a bona fide,
25 practitioner-patient relationship after the practitioner has completed a full assessment of the
26 qualifying patient's medical history. The written certification shall specify the qualifying patient's
27 debilitating medical condition or conditions.

28 **§ 21-28.6-4. Protections for the medical use of marijuana.** – (a) A patient cardholder
29 who has in his or her possession a registry identification card shall not be subject to arrest,
30 prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited
31 to, civil penalty or disciplinary action by a business or occupational or professional licensing
32 board or bureau, for the medical use of marijuana; provided, that the patient cardholder possesses
33 an amount of marijuana that does not exceed ^{[delete>} ~~twelve (12) mature~~ ^{<delete]} ^{[add>} six (6) ^{<add]}
34 marijuana plants ^{[add>} which
are accompanied by valid medical marijuana tags issued by the department of business regulation. ^{<add]}

Page 3

1 and two and one-half (2.5) ounces of usable marijuana. Said plants shall be stored in an indoor
2 facility. ^[add]A patient cardholder may not process marijuana through flammable chemical
extraction.

3 (b) An authorized purchaser who has in his or her possession a registry identification card
4 shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or
5 privilege, including, but not limited to, civil penalty or disciplinary action by a business or
6 occupational or professional licensing board or bureau, for the possession of marijuana; provided
7 that the authorized purchaser possesses an amount of marijuana that does not exceed two and
8 one-half (2.5) ounces of usable marijuana and this marijuana was purchased legally from a
9 compassion center for the use of their designated qualifying patient. ^{<add]}

10 ~~(b)(c)~~ A patient cardholder, who has in his or her possession a registry identification card,
11 shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or
12 privilege, including, but not limited to, civil penalty or disciplinary action by a business or
13 occupational or professional licensing board or bureau, for selling, giving, or distributing to a
14 compassion center cardholder marijuana of the type, and in an amount not to exceed, that set forth
15 in subsection (a) above, that he or she has cultivated or manufactured pursuant to this chapter,

~~to~~
16 ~~a compassion center cardholder.~~ ^{<delete]}

17 ~~(e)(d)~~ No school, employer, or landlord may refuse to enroll, employ, or lease to, or
18 otherwise penalize, a person solely for his or her status as a cardholder. Provided, however, due to
19 the safety and welfare concern for other tenants, the property, and the public, as a whole, a
20 landlord may have the discretion not to lease, or continue to lease, to a cardholder who cultivates
21 marijuana in the leased premises.

22 ~~(d)(e)~~ A primary caregiver cardholder, who has in his or her possession, a registry
23 identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied
24 any right or privilege, including, but not limited to, civil penalty or disciplinary action by a
25 business or occupational or professional licensing board or bureau, for assisting a patient
26 cardholder, to whom he or she is connected through the ^[delete]~~department's~~ ^{<delete]}^[add]department of
health's ^{<add]}

27 registration process, with the medical use of marijuana; provided, that the primary caregiver
28 cardholder possesses an amount of marijuana that does not exceed ^[delete]~~twelve (12) mature~~ ^{<delete]}
^[add]six (6) ^{>add]}

29 marijuana plants ^[add]which are accompanied by valid medical marijuana tags issued by the
30 department of business regulation ^{<add]} and two and one-half (2.5) ounces of usable marijuana for
each

31 patient cardholder to whom he or she is connected through the ^[add]department of
32 health's ^{<add]} registration process. ^[add]A primary caregiver cardholder may not process marijuana
through
33 flammable chemical extraction. ^{<add]}

34 ^[delete]~~(e) A cardholder shall be allowed to possess a reasonable amount of unusable marijuana,~~

Page 4

1 ~~including up to twelve (12) seedlings, that shall not be counted toward the limits in this section.~~
^{<delete]}

2 (f) There shall exist a presumption that a cardholder is engaged in the medical use of
3 marijuana if the cardholder:

4 (1) Is in possession of a registry identification card; and

5 (2) Is in possession of an amount of marijuana that does not exceed the amount permitted
6 under this chapter. Such presumption may be rebutted by evidence that conduct related to
7 marijuana was not for the purpose of alleviating the qualifying patient's debilitating medical
8 condition or symptoms associated with the medical condition.

9 (g) A primary caregiver cardholder ^{[add]>}or authorized purchaser^{<add]} may receive reimbursement
10 for costs associated with assisting a patient cardholder's medical use of marijuana. Compensation
11 shall not constitute sale of controlled substances.

12 (h) A-^{[delete]>}natural person^{<delete]} primary caregiver cardholder, who has in his or her possession a
13 registry identification card, shall not be subject to arrest, prosecution, or penalty in any manner,
14 or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action
15 by a business or occupational or professional licensing board or bureau, for selling, giving, or
16 distributing marijuana ^{[add]>}to a compassion center cardholder,^{<add]} of the type, and in an amount not
17 exceed that, set forth in subsection ~~(d)~~(e) above, ^{[delete]>}to a compassion center cardholder^{<delete]} if:

18 (1) The-^{[delete]>}natural person^{<delete]} primary caregiver cardholder cultivated the marijuana
19 pursuant to

19 this chapter, not to exceed the limits of paragraph ~~(d)~~ above; and

20 (2) Each patient cardholder the caregiver cardholder is connected with through the
21 ^{[delete]>}department's^{<delete]} ^{[add]>}department of health's^{<add]} registration process has been provided an
22 adequate amount of

22 the marijuana to meet his or her medical needs, not to exceed the limits of subsection (a) above.

23 (i) ^{[add]>}A licensed cultivator, who has in his or her possession a license, shall not be subject to
24 arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not
25 limited to, civil penalty or disciplinary action by a business or occupational or professional
26 licensing board or bureau, for selling, giving, or distributing marijuana to a compassion center
27 cardholder, of the type, and in an amount not to exceed the limit set forth in department of
28 business regulation regulations, if:

29 (1) The licensed cultivator cultivated the marijuana pursuant to this chapter, not to exceed
30 the limits established by the department of business regulation pursuant to § 21-28.6-17(c);

31 (2) All marijuana plants grown by the licensed cultivator are accompanied by valid
32 medical marijuana tags issued by the department of business regulation;

33 (3) The licensed cultivator has not engaged in the sale of marijuana to anyone but a
34 compassion center cardholder; and

Page 5

1 (4) The licensed cultivator has complied with all applicable regulations promulgated by
2 the department of business regulation.^{<add]}

3 ~~(j)~~(i) A practitioner shall not be subject to arrest, prosecution, or penalty in any manner,
4 or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action
5 by the Rhode Island board of medical licensure and discipline, or by any other business or
6 occupational or professional licensing board or bureau solely for providing written certifications,
7 or for otherwise stating that, in the practitioner's professional opinion, the potential benefits of the
8 medical marijuana would likely outweigh the health risks for a patient.

9 ~~(k)~~(k) Any interest in, or right to, property that is possessed, owned, or used in connection
10 with the medical use of marijuana, or acts incidental to such use, shall not be forfeited.

11 ~~(l)~~(l) No person shall be subject to arrest or prosecution for constructive possession,
12 conspiracy, aiding and abetting, being an accessory, or any other offense, for simply being in the
13 presence or vicinity of the medical use of marijuana as permitted under this chapter, or for
14 assisting a patient cardholder with using or administering marijuana.

15 ~~(m)~~(m) A practitioner, nurse,^{[add]>}physician's assistant^{<add]}, or pharmacist shall not be subject to
16 arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not
17 limited to, civil penalty or disciplinary action by a business or occupational or professional
18 licensing board or bureau solely for discussing the benefits or health risks of medical marijuana
19 or its interaction with other substances with a patient.

20 ~~(n)~~(n) A registry identification card, or its equivalent, issued under the laws of another

21 state, U.S. territory, or the District of Columbia, to permit the medical use of marijuana by a
22 patient with a debilitating medical condition, or to permit a person to assist with the medical use
23 of marijuana by a patient with a debilitating medical condition, shall have the same force and
24 effect as a registry identification card issued by the department_ ^[add] of health or license issued by
the

25 department of business regulation. ^{<add>}

26 ~~(n)(o)~~ Notwithstanding the provisions of ^[delete] ~~§ 21-28.6-4(d)~~ ^[delete], ~~or~~ § 21-28.6-4(e), no
27 primary

28 caregiver cardholder, ^[delete] ~~other than a compassion center~~ ^[delete], shall possess an amount of
29 marijuana in

30 excess of twenty-four (24) marijuana plants and five (5) ounces of usable marijuana for patient
31 cardholders to whom he or she is connected through the ^[delete] ~~department's~~ ^{<delete>} ^[add] department of

32 health's ^{<add>}

33 registration process.

34 ^[delete] ~~(o) A cardholder may give marijuana to another cardholder to whom they are not
connected by the department's registration process, provided that no consideration is paid for the
marijuana, and that the recipient does not exceed the limits specified in § 21-28.6-4.~~ ^{<delete>}

^[add] (p) Except for licensed compassion centers, licensed cooperative cultivations, and

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1 licensed cultivators, no more than twenty-four (24) marijuana plants shall be grown or otherwise
2 located at any one dwelling unit or commercial unit. The number of patients or primary
3 caregivers residing, owning, renting, growing or otherwise operating at a dwelling or commercial
4 unit does not affect this limit. Patient cardholders and primary caregiver cardholders electing to
5 grow marijuana shall only grow at one premises, and this premises shall be registered with the
6 department of business regulation. The department of business regulation shall promulgate
7 regulations to enforce this provision. ^{<add>}

8 ~~(p)(q)~~ For the purposes of medical care, including organ transplants, a patient
9 cardholder's authorized use of marijuana shall be considered the equivalent of the authorized use
10 of any other medication used at the direction of a physician, and shall not constitute the use of an
11 illicit substance.

12 **§ 21-28.6-5. Department of health to issue regulations.** – (a) Not later than ninety (90)
13 days after the effective date of this chapter, the department_ ^[add] of health ^{<add>} shall promulgate
14 regulations

15 governing the manner in which it shall consider petitions from the public to add debilitating
16 medical conditions to those included in this chapter. In considering such petitions, the department
17 of health shall include public notice of, and an opportunity to comment in a public hearing, upon
18 such petitions. The department_ ^[add] of health ^{<add>} shall, after hearing, approve or deny such petitions
19 within one hundred eighty (180) days of submission. The approval or denial of such a petition
20 shall be considered a final department_ ^[add] of health ^{<add>} action, subject to judicial review.

21 Jurisdiction and

22 venue for judicial review are vested in the superior court. The denial of a petition shall not
23 disqualify qualifying patients with that condition, if they have a debilitating medical condition as
24 defined in subdivision 21-28.6-3(3)(7). The denial of a petition shall not prevent a person with the
25 denied condition from raising an affirmative defense.

26 ~~(b)~~ ^[delete] ~~Not later than ninety (90) days after the effective date of this chapter, the department~~
^{<delete>}

27 ^[add] The department of health ^{<add>} shall promulgate regulations governing the manner in which it
28 shall

29 consider applications for and renewals of registry identification cards for qualifying patients and
30 ^[delete] ~~primary caregivers~~ ^{<delete>} ^[add] authorized purchasers. ^{<add>} The department ^[add] health's ^{<add>}

regulations shall establish
28 application and renewal fees that generate revenues sufficient to offset all expenses of
29 implementing and administering this chapter. The department ^{[add>}of health^{<add]} may vary the
application
30 and renewal fees along a sliding scale that accounts for a qualifying patient's or caregiver's
31 income. The department ^{[add>}of health^{<add]} may accept donations from private sources in order to
reduce
32 the application and renewal fees.

33 ^{[add>}(c)The department of health, in conjunction with the department of business regulation,
34 shall promulgate regulations in accordance with the administrative procedures act, chapter 35 of

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1 title 42, governing how all information and data collected pursuant to chapter 21-28.6 will be
2 maintained, utilized, and accessed. ^{<add]}

3 **§ 21-28.6-6. Administration of department of health regulations.** – (a) The department
4 of health shall issue registry identification cards to qualifying patients ^{[add>}age 18 and over^{<add]} who
5 submit the following, in accordance with the ^{[delete>}department's^{<delete]} ^{[add>}department of health's^{<add]}
6 regulations:

6 (1) Written certification as defined in § 21-28.6-3~~(15)~~(24) of this chapter;

7 (2) Application or renewal fee;

8 (3) Name, address, and date of birth of the qualifying patient; provided, however, that if
9 the patient is homeless, no address is required;

10 (4) Name, address, and telephone number of the qualifying patient's practitioner; and

11 ^{[add>}(5) A patient may elect either one (1) primary caregiver or one (1) authorized purchaser,
12 but not both. If a patient elects a primary caregiver or an authorized purchaser, the patient shall
13 provide that person's name ^{<add]} Name, address, and date of birth ^{[delete>}of each primary caregiver of
the
14 qualifying patient or one (1) authorized purchaser for the qualifying patient, if any. ^{<delete]} ^{[add>}If a
15 patient

16 plans to grow marijuana and purchase medical marijuana tags pursuant to § 21-28.6-15, that
17 patient shall not name a primary caregiver or authorized purchaser. ^{<add]}

17 (b) The department of health shall not issue a registry identification card to a qualifying
18 patient under the age of eighteen (18) unless:

19 (1) The qualifying patient's practitioner has explained the potential risks and benefits of
20 the medical use of marijuana to the qualifying patient and to a parent, guardian, or person having
21 legal custody of the qualifying patient; and

22 (2) A parent, guardian, or person having legal custody consents in writing to:

23 (i) Allow the qualifying patient's medical use of marijuana;

24 (ii) Serve as ^{[delete>}one of^{<delete]} the qualifying patient's primary ^{[add>}caregiver or authorized
25 purchaser; ^{<add]} and

26 (iii) Control the acquisition of the marijuana, the dosage, and the frequency of the
27 medical use of marijuana by the qualifying patient.

28 (c) The department ^{[add>}of health^{<add]} shall verify the information contained in an application or
29 renewal submitted pursuant to this section, and shall approve or deny an application ^{[delete>}or
renewal

30 within fifteen (15) days of receiving it ^{[delete>}; ^{[add>}in a time period specified in regulation^{<add]}. The
31 department ^{[add>}of
Health ^{<add]} may deny an application or renewal only if the applicant did not provide the information

32 required pursuant to this section, or if the department ^{[add>}of health^{<add]} determines that the
information

33 provided was falsified. Rejection of an application or renewal is considered a final department

34 ^{[add>of} Health ^{<add]} action, subject to judicial review. Jurisdiction and venue for judicial review are vested in

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1 the superior court.

2 ^{[add>}(d) If the qualifying patient's practitioner notifies the department in a written statement
3 that the qualifying patient is eligible for hospice care, the department shall give priority to these
4 applications when verifying the information in accordance with subsection (c) of this section and
5 issuing a registry identification card to these qualifying patients. ^{<add]}

6 ~~^{[delete>}(d) The department shall issue a registry identification card to each primary caregiver, if~~
7 ~~any, who is named in a qualifying patient's approved application, up to a maximum of two (2)~~
8 ~~primary caregivers per qualifying patient.~~

9 ~~(1) The primary caregiver applicant shall apply to the bureau of criminal identification of~~
10 ~~the department of attorney general, state police, or local police department for a national criminal~~
11 ~~records check that shall include fingerprints submitted to the Federal Bureau of Investigation.~~
12 ~~Upon the discovery of any disqualifying information as defined in § 21-28.6-6(d)(4), and in~~
13 ~~accordance with the rules promulgated by the director, the bureau of criminal identification of the~~
14 ~~department of attorney general, state police, or the local police department shall inform the~~
15 ~~applicant, in writing, of the nature of the disqualifying information; and, without disclosing the~~
16 ~~nature of the disqualifying information, shall notify the department, in writing, that disqualifying~~
17 ~~information has been discovered.~~

18 ~~(2) In those situations in which no disqualifying information has been found, the bureau~~
19 ~~of criminal identification of the department of attorney general, state police, or the local police~~
20 ~~shall inform the applicant and the department, in writing, of this fact.~~

21 ~~(3) The department shall maintain on file evidence that a criminal records check has been~~
22 ~~initiated on all applicants seeking a primary caregiver registry identification card and the results~~
23 ~~of the checks. The primary caregiver cardholder shall not be required to apply for a national~~
24 ~~criminal records check for each patient he or she is connected to through the department's~~
25 ~~registration process, provided that he or she has applied for a national criminal records check~~
26 ~~within the previous two (2) years in accordance with this chapter. The department shall not~~
27 ~~require a primary caregiver cardholder to apply for a national criminal records check more than~~
28 ~~once every two (2) years.~~

29 ~~(4) Information produced by a national criminal records check pertaining to a conviction~~
30 ~~for any felony offense under chapter 28 of title 21 ("Rhode Island Controlled Substances Act");~~
31 ~~murder, manslaughter, rape, first-degree sexual assault, second-degree sexual assault, first-degree~~
32 ~~child molestation, second-degree child molestation, kidnapping, first-degree arson, second-degree~~
33 ~~arson, mayhem, robbery, burglary, breaking and entering, assault with a dangerous weapon,~~
34 ~~assault or battery involving grave bodily injury, and/or assault with intent to commit any offense~~

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1 ~~punishable as a felony or a similar offense from any other jurisdiction shall result in a letter to the~~
2 ~~applicant and the department disqualifying the applicant. If disqualifying information has been~~
3 ~~found, the department may use its discretion to issue a primary caregiver registry identification~~
4 ~~card if the applicant's connected patient is an immediate family member and the card is restricted~~
5 ~~to that patient only.~~

6 ~~(5) The primary caregiver applicant shall be responsible for any expense associated with~~
7 ~~the national criminal records check.~~

8 ~~(6) For purposes of this section "conviction" means, in addition to judgments of~~
9 ~~conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances~~
10 ~~where the defendant has entered a plea of nolo contendere and has received a sentence of~~

11 ~~probation and those instances where a defendant has entered into a deferred sentence agreement~~
12 ~~with the attorney general.~~ ^{<delete>}
13 ~~(e)~~(d) The department of ^{[add>}health^{<add]} shall issue registry identification cards^{[delete>}~~within five~~
14 ~~(5)~~
15 ~~days of approving an application or renewal~~ ^{<delete>} that shall expire two (2) years after the date of
16 issuance. Registry identification cards shall contain:
17 (1) The date of issuance and expiration date of the registry identification card;
18 (2) A random registry identification number;
19 (3) A photograph; and
20 (4) Any additional information as required by regulation or the department ^{[add>}of health. ^{<add]}
21 ~~(f)~~(e) Persons issued registry identification cards ^{[add>}by the department of health ^{<add]} shall be
22 subject to the following:
23 (1) A patient cardholder shall notify the department ^{[add>}of health ^{<add]} of any change in the
24 patient
25 cardholder's name, address, or primary caregiver ^{[add>}or authorized purchaser; ^{<add]} or if he or she
26 ceases to
27 have his or her debilitating medical condition, within ten (10) days of such change.
28 (2) A patient cardholder who fails to notify the department ^{[add>}of health ^{<add]} of any of these
29 changes is responsible for a civil infraction, punishable by a fine of no more than one hundred
30 fifty dollars (\$150). If the patient cardholder has ceased to suffer from a debilitating medical
31 condition, the card shall be deemed null and void and the person shall be liable for any other
32 penalties that may apply to the person's nonmedical use of marijuana.
33 (3) ^{[delete>}~~A primary caregiver cardholder or compassion center~~ ^{<delete>} ^{[add>}An authorized
34 purchaser ^{<add]} shall
35 notify the department of health of any change in his or her name or address within ten (10) days
36 of such change. ^{[delete>}~~A primary caregiver cardholder or compassion center~~ ^{<delete>} ^{[add>}An
37 authorized purchaser ^{<add]}
38 cardholder who fails to notify the department of any of these changes is responsible for a civil
39 infraction, punishable by a fine of no more than one hundred fifty dollars (\$150).

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1 (4) When a patient cardholder ^{[delete>}~~or primary caregiver cardholder~~ ^{<delete>} notifies the
2 department of
3 health of any changes listed in this subsection, the department ^{{add>}of health ^{<add]} shall issue the
4 patient
5 cardholder ^{{delete>}~~and each primary caregiver cardholder~~ ^{<delete>} a new registry identification card
6 ^{{delete>}~~within ten~~
7 ~~(10) days of~~ ^{<delete>} ^{{add>}after ^{<add]} receiving the updated information and a ^{[delete>}~~ten dollar~~
8 ~~(\$10.00)~~ ^{<delete>} fee ^{{add>}specified in
9 regulation ^{<add]} ^{{delete>}~~When a compassion center cardholder notifies the department of any changes~~
10 ~~listed in~~
11 ~~this subsection, the department shall issue the cardholder a new registry identification card within~~
12 ~~ten (10) days of receiving the updated information and a ten dollar (\$10.00) fee.~~ ^{<delete>}
13 (5) When a patient cardholder changes his or her primary caregiver, the department ^[add] of
14 Health ^{<add]} shall notify the ^{{delete>}~~primary caregiver cardholder within ten (10) days.~~ ^{<delete>} ^[add] The primary
15 caregiver ^{<delete>}
16 ^{[add>}department of business regulation, and the department of business regulation shall be entitled
17 to
18 take action pursuant to § 21-28.6-16(b)(1). When a patient cardholder changes his or her
19 authorized purchaser, the authorized purchaser's ^{<add]} protections as provided in this chapter
20 ^{{delete>}~~as to that~~

13 ~~patient~~ shall expire ^{{add}>}within^{<add>} ten (10) days^{{add}>} ~~after notification. If the~~
14 ~~primary caregiver cardholder is~~
15 ~~connected to no other patient cardholders in the program, he or she must return his or her registry~~
16 ~~identification card to the department.~~^{<delete>}

16 (6) If a cardholder ^{{add}>}registered by the department of health^{<add>} loses his or her registry
17 identification card, he or she shall notify the department ^{{add}>}of health^{<add>} and submit a ^{{delete}>}~~ten~~
18 ~~dollar (\$10.00)~~
18 ~~fee.~~^{<delete>} ^{{add}>}fee specified in regulation^[add] within ten (10) days of losing the card. ^{{delete}>}~~Within~~
19 ~~five (5) days, the~~^[delete]
19 The department ^{{add}>}of health^{<add>} shall issue a new registry identification card with ^{{add}>}a^{<add>} new
20 random
20 identification number.

21 (7) If a cardholder ^{{add}>}registered by the department of health^{<add>} willfully violates any
21 provision
22 of this chapter as determined by the department ^{{add}>}of health^{<add>}, his or her registry identification
23 card
23 may be revoked.

24 ^{{delete}>}~~(g) Possession of, or application for, a registry identification card shall not constitute~~
25 ~~probable cause or reasonable suspicion, nor shall it be used to support the search of the person or~~
26 ~~property of the person possessing or applying for the registry identification card, or otherwise~~
27 ~~subject the person or property of the person to inspection by any governmental agency.~~

28 ~~(h)(1) Applications and supporting information submitted by qualifying patients,~~
29 ~~including information regarding their primary caregivers and practitioners, are confidential and~~
30 ~~protected under the federal Health Insurance Portability and Accountability Act of 1996, and shall~~
31 ~~be exempt from the provisions of chapter 2 of title 38 et seq. (Rhode Island access to public~~
32 ~~records act) and not subject to disclosure, except to authorized employees of the department as~~
33 ~~necessary to perform official duties of the department, and pursuant to subsection (i) of this~~
34 ~~section.~~

1 ~~(2) The application for qualifying patient's registry identification card shall include a~~
2 ~~question asking whether the patient would like the department to notify him or her of any clinical~~
3 ~~studies about marijuana's risk or efficacy. The department shall inform those patients who answer~~
4 ~~in the affirmative of any such studies it is notified of, that will be conducted in Rhode Island. The~~
5 ~~department may also notify those patients of medical studies conducted outside of Rhode Island.~~

6 ~~(3) The department shall maintain a confidential list of the persons to whom the~~
7 ~~department has issued registry identification cards. Individual names and other identifying~~
8 ~~information on the list shall be confidential, exempt from the provisions of Rhode Island access to~~
9 ~~public information, chapter 2 of title 38, and not subject to disclosure, except to authorized~~
10 ~~employees of the department as necessary to perform official duties of the department.~~

11 ~~(i) Notwithstanding subsection (h) of this section, the department shall verify to law~~
12 ~~enforcement personnel whether a registry identification card is valid solely by confirming the~~
13 ~~random registry identification number or name.~~

14 ~~(j) It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a one~~
15 ~~thousand dollar (\$1,000) fine, for any person, including an employee or official of the department~~
16 ~~or another state agency or local government, to breach the confidentiality of information obtained~~
17 ~~pursuant to this chapter. Notwithstanding this provision, the department employees may notify~~
18 ~~law enforcement about falsified or fraudulent information submitted to the department.~~

19 ~~(k)~~^{<delete>} ^{{add}>}(f)^{<add>} On or before January 1 of each odd numbered year, the department ^{{add}>}of
20 health^{<add>} shall
20 report to the house committee on health, education and welfare and to the senate committee on

21 health and human services on the use of marijuana for symptom relief. The report shall provide:

22 (1) The number of applications for registry identification cards, the number of qualifying
23 patients ^{delete} ~~and primary caregivers~~ ^{<delete>} approved, the nature of the debilitating medical
conditions of the

24 qualifying patients, the number of registry identification cards revoked, and the number of
25 practitioners providing written certification for qualifying patients;

26 (2) An evaluation of the costs permitting the use of marijuana for symptom relief,
27 including any costs to law enforcement agencies and costs of any litigation;

28 (3) Statistics regarding the number of marijuana-related prosecutions against registered
29 Patients ^{delete} ~~and caregivers~~ ^{<delete>}, and an analysis of the facts underlying those prosecutions;

30 (4) Statistics regarding the number of prosecutions against physicians for violations of
31 this chapter; and

32 (5) Whether the United States Food and Drug Administration has altered its position
33 regarding the use of marijuana for medical purposes or has approved alternative delivery systems
34 for marijuana.

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1 **§ 21-28.6-9. Enforcement.** ^{delete} ~~(a) If the department fails to adopt regulations to implement
2 this chapter within one hundred twenty (120) days of the effective date of this act, a qualifying
3 patient may commence an action in a court of competent jurisdiction to compel the department to
4 perform the actions mandated pursuant to the provisions of this chapter.~~

5 ~~(b) If the department fails to issue a valid registry identification card in response to a
6 valid application submitted pursuant to this chapter within thirty five (35) days of its submission,
7 the registry identification card shall be deemed granted and a copy of the registry identification
8 application shall be deemed a valid registry identification card.~~ ^{<delete>}

9 ^{add} ~~(e)~~ ^(a) The department ^{add} of health and the department of business regulation ^{<add>} shall revoke
10 and shall not reissue the registry identification card or license of any cardholder ^{add} or licensee ^{<add>}
who

11 is convicted of; placed on probation; whose case is filed pursuant to § 12-10-12 where the
12 defendant pleads nolo contendere; or whose case is deferred pursuant to § 12-19-19 where the
13 defendant pleads nolo contendere for any felony offense under chapter 28 of title 21 ("Rhode
14 Island Controlled Substances Act") or a similar offense from any other jurisdiction.

15 ^{delete} ~~(d) If a cardholder exceeds the possession limits set forth in §§ 21-28.6-4 or 21-28.6-14,
16 he or she shall~~ ^{<delete>} ^{add} (b) If a cardholder of licensee fails to comply with the requirements of this
17 chapter 21-28.6 or any regulations promulgated hereunder, such cardholder's registry
18 identification card or license shall be subject to suspension and/or revocation by the department
19 that issued such registry identification card or license and that department shall be entitled to
20 impose upon the cardholder an administrative penalty as prescribed by regulation. If a cardholder
21 exceeds the possession limits set forth in § 21-28.6-4 or fails to comply with the sale restrictions
22 under this chapter or regulations promulgated hereunder, such cardholder shall also be subject to
23 arrest and prosecution under chapter 28 of title 21 ("Rhode Island Controlled Substances Act").

24 (c) Possession of, or application for, a registry identification card or license by a
25 qualifying patient, authorized purchaser, primary caregiver, cultivator, cooperative cultivation, or
26 compassion center shall not constitute probable cause or reasonable suspicion, nor shall it be used
27 to support the search of the person or property of the person possessing or applying for the
28 registry identification card or license, or otherwise subject the person or property of the person to
29 inspection by any governmental agency other than administrative inspection in accordance with
30 this chapter 21-28.6. ^{<add>}

31 **§ 21-28.6-12. Compassion centers.** ^{delete} ~~(a) A compassion center~~ ^{<delete>} ~~registered~~ ^{<delete>}
^{add} licensed ^{<add>} under

32 this section may acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or

33 dispense marijuana, or related supplies and educational materials, to registered qualifying patients
34 and ^{add}either^{<add>} their registered primary ^{delete}~~caregivers who have designated it as one of their~~
~~primary~~

1 ~~caregivers. A compassion center is a primary~~^{delete} caregiver^{delete}; ^{<delete>}~~;~~^{add} or authorized
2 purchaser.^{<add>} Except as
3 specifically provided to the contrary, all provisions of the Edward O. Hawkins and Thomas C.
4 Slater Medical Marijuana Act, §§ 21-28.6-1 – 21-28.6-11, ^{add}and §§ 21-28.6-13 – 21-28.6-20^{<add>}
5 apply

6 to a compassion center unless they conflict with a provision contained in § 21-28.6-12.
7 (b) ^{delete}~~Registration~~^{<delete>} ^{add}Licensing^{<add>} of compassion centers—department ^{add}of
8 business regulation^{<add>}
9 authority:

10 (1) ^{delete}~~Not later than ninety (90) days after the effective date of this chapter,~~^{<delete>} The
11 department
12 ^{add}of business regulation^{<add>} shall promulgate regulations governing the manner in which it shall
13 consider applications for^{delete} ~~registration certificates for~~^{<delete>} ^{add}the licensing of^{<add>} compassion
14 centers,

15 including regulations governing:

- 16 (i) The form and content of ^{delete}~~registration~~^{<delete>} ^{add}licensing^{<add>} and renewal applications;
- 17 (ii) Minimum oversight requirements for compassion centers;
- 18 (iii) Minimum record-keeping requirements for compassion centers;
- 19 (iv) Minimum security requirements for compassion centers; and
- 20 (v) Procedures for suspending, revoking or terminating the ^{delete}~~registration~~^{<delete>} ^{add}license
21 ^{<add>}of

22 compassion centers that violate the provisions of this section or the regulations promulgated
23 pursuant to this subsection.

24 ^{delete}~~(2) Within ninety (90) days of the effective date of this chapter, the department shall
25 begin accepting applications for the operation of a single compassion center.~~

26 ^{delete}~~(3) Within one hundred fifty (150) days of the effective date of this chapter, the
27 department shall provide for at least one public hearing on the granting of an application to a
28 single compassion center.~~

29 ^{delete}~~(4) Within one hundred ninety (190) days of the effective date of this chapter, the
30 department shall grant a single registration certificate to a single compassion center, providing at
31 least one applicant has applied who meets the requirements of this chapter.~~

32 ^{delete}~~(5) If at any time after fifteen (15) months after the effective date of this chapter, there is
33 no operational compassion center in Rhode Island, the department shall accept applications,
34 provide for input from the public, and issue a registration certificate for a compassion center if a
qualified applicant exists.~~

^{delete}~~(6) Within two (2) years of the effective date of this chapter, the department shall begin
accepting applications to provide registration certificates for two (2) additional compassion
centers. The department shall solicit input from the public, and issue registration certificates if
qualified applicants exist.~~

^{delete}~~(7) Any time a compassion center registration certificate is revoked, is relinquished, or~~

^{delete}~~expires, the department shall accept applications for a new compassion center.~~

^{delete}~~(8) If at any time after three (3) years after the effective date of this chapter, fewer than
three (3) compassion centers are holding valid registration certificates in Rhode Island, the
department shall accept applications for a new compassion center. No more than three (3)~~

5 ~~compassion centers may hold valid registration certificates at one time.~~^{<delete>}
6 (9)(2) Any compassion center application selected for approval by the department ^{{add}>}of
7 health^{<add>} prior to ^{{delete}>}January^{<delete>}^{{add}>} July 1, ^{{delete}>}2012^{{delete}>}^{{add}>} 2016, shall remain in full
8 force and effect, notwithstanding
9 any provisions of this chapter to the contrary, and shall be subject to state law adopted herein and
10 rules and regulations adopted by the department ^{{delete}>}subsequent to passage of this legislation
11 ^{<delete>}^{{add}>}of
12 health and the department of business regulation. All compassion center registrations issued
13 before July 1, 2016 shall expire two (2) years after they were initially issued, and compassion
14 centers must apply for a renewal with the department of business regulation.
15 (3) By January 1, 2017, the department of business regulation will produce a report which
16 will analyze the current number of compassion centers, evaluate how those centers are serving
17 overall patient need throughout the state, and make recommendations about any change in the
18 number of compassion centers.^{<add>}
19 (c) Compassion center and agent applications and registration:
20 (1) Each application for a compassion center shall include:
21 (i) A non-refundable application fee paid to the department ^{{add}>}of business regulation^{<add>} in ~~the~~
22 ^{<delete>}^{{add}>}an^{<add>} amount ^{{delete}>}of two hundred fifty dollars (\$250);^{<delete>}^{{add}>} specified in
23 regulation;^{<add>}
24 (ii) The proposed legal name and proposed articles of incorporation of the compassion
25 center;
26 (iii) The proposed physical address of the compassion center, if a precise address has
27 been determined, or, if not, the general location where it would be located. This may include a
28 second location for the cultivation of medical marijuana;
29 (iv) A description of the enclosed, locked facility that would be used in the cultivation of
30 marijuana;
31 (v) The name, address, and date of birth of each principal officer and board member of
32 the compassion center;
33 (vi) Proposed security and safety measures which shall include at least one security alarm
34 system for each location, planned measures to deter and prevent the unauthorized entrance into
areas containing marijuana and the theft of marijuana, as well as a draft employee instruction
manual including security policies, safety and security procedures, personal safety and crime
prevention techniques; and

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1 (vii) Proposed procedures to ensure accurate record keeping;
2 (2) Any time one or more compassion center registration applications are being
3 considered, the department ^{{add}>}of business regulation^{<add>} shall also allow for comment by the
4 public^{{delete}>} ~~and~~
5 ~~shall solicit input from registered qualifying patients, registered primary caregivers; and the~~
6 ~~towns or cities where the applicants would be located;~~
7 (3) ~~Each time a compassion center certificate is granted, the decision shall be based~~
8 ~~Upon~~^{<delete>}^{{add}>} The department of business regulation, in consultation with the department of
9 health and the
10 state police, shall promulgate regulations regarding the evaluation criteria and prioritization to be
11 employed in determining whether a compassion center license will be granted, such evaluation to
12 Include^{<add>} the overall health needs of qualified patients and the safety of the public, including,
13 but
not limited to, the following factors:
(i) Convenience to patients from throughout the state of Rhode Island to the compassion
centers if the applicant were approved;

- 14 (ii) The applicant's ability to provide a steady supply to the registered qualifying patients
 15 in the state;
- 16 (iii) The applicant's experience running a non-profit or business;
- 17 (iv) The interests of qualifying patients regarding ~~which~~ whether applicants
 18 should be
 19 granted a ~~registration certificate~~ license;
- 19 (v) The interests of the city or town where the dispensary would be located;
- 20 (vi) The sufficiency of the applicant's plans for record keeping and security, which
 21 records shall be considered confidential health care information under Rhode Island law and are
 22 intended to be deemed protected health care information for purposes of the Federal Health
 23 Insurance Portability and Accountability Act of 1996, as amended; and
- 24 (vii) The sufficiency of the applicant's plans for safety and security, including proposed
 25 location, security devices employed, and staffing;
- 26 (4) After a compassion center is approved, but before it begins operations, it shall submit
 27 the following to the department of business regulation:
- 28 (i) A fee paid to the department of business regulation in ~~the an~~ amount
 29 ~~of five thousand~~ dollars (\$5,000); specified in regulation;
- 30 (ii) The legal name and articles of incorporation of the compassion center;
- 31 (iii) The physical address of the compassion center; this may include a second address for
 32 the secure cultivation of marijuana;
- 33 (iv) The name, address, and date of birth of each principal officer and board member of
 34 the compassion center; and

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- 1 (v) The name, address, and date of birth of any person who will be an agent of, employee
 2 or volunteer of the compassion center at its inception;
- 3 ~~(5) The department shall track the number of registered qualifying patients who designate~~
 4 ~~each compassion center as a primary caregiver, and issue a written statement to the compassion~~
 5 ~~center of the number of qualifying patients who have designated the compassion center to serve~~
 6 ~~as a primary caregiver for them. This statement shall be updated each time a new registered~~
 7 ~~qualifying patient designates the compassion center or ceases to designate the compassion center~~
 8 ~~and may be transmitted electronically if the department's regulations so provide. The department~~
 9 ~~may provide by regulation that the updated written statements will not be issued more frequently~~
 10 ~~than twice each week;~~
- 11 ~~(6)~~ (5) Except as provided in subdivision (76), the department of business
 12 regulation shall
 13 issue each principal officer, board member, agent, volunteer and employee of a compassion
 14 center a registry identification card or renewal card ~~within ten (10) days of~~ receipt of
 15 the
 16 person's name, address, date of birth; a fee in an amount established by the department of
 17 business regulation; and notification to the department of business regulation by the
 18 state police
 19 that the registry identification card applicant has not been convicted of any felony offense
 20 under
 21 chapter 28 of title 21 ("Rhode Island Controlled Substances Act"), murder, manslaughter, rape,
 22 first-degree sexual assault, second-degree sexual assault, first-degree child molestation, second-
 23 degree child molestation, kidnapping, first-degree arson, second-degree arson, mayhem, robbery,
 24 burglary, breaking and entering, assault with a dangerous weapon, assault or battery involving
 25 grave bodily injury, and/or assault with intent to commit any offense punishable as a felony or a
 26 similar offense from any other jurisdiction. ~~a felony drug offense or has not entered a plea~~

~~of nolo~~

23 ~~contendere for a felony drug offense and received a sentence of probation.~~^{<delete>} Each card shall
specify
24 that the cardholder is a principal officer, board member, agent, volunteer, or employee of a
25 compassion center and shall contain the following:
26 (i) The name, address, and date of birth of the principal officer, board member, agent,
27 volunteer or employee;
28 (ii) The legal name of the compassion center to which the principal officer, board
29 member, agent, volunteer or employee is affiliated;
30 (iii) A random identification number that is unique to the cardholder;
31 (iv) The date of issuance and expiration date of the registry identification card; and
32 (v) A photograph, if the department of business regulation decides to require one;
33 ~~(7)~~(6) Except as provided in this subsection, the department ^{{add>}of business regulation^{<add>} shall
34 not issue a registry identification card to any principal officer, board member, agent, volunteer, or

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1 employee of a compassion center who has been convicted of a felony drug offense or has entered
2 a plea of nolo contendere for a felony drug offense and received a sentence of probation. The
3 department ^{{add>}of business regulation^{<add>} shall notify the compassion center in writing of the
purpose for
4 denying the registry identification card. The department ^{{add>}of business regulation^{<add>} may grant
such
5 person a registry identification card if the department ^{{add>}of business regulation^{<add>} determines
that the
6 offense was for conduct that occurred prior to the enactment of the Edward O. Hawkins and
7 Thomas C. Slater Medical Marijuana Act or that was prosecuted by an authority other than the
8 state of Rhode Island and for which the Edward O. Hawkins and Thomas C. Slater Medical
9 Marijuana Act would otherwise have prevented a conviction;
10 (i) All registry identification card applicants shall apply to the state police for a national
11 criminal identification records check that shall include fingerprints submitted to the federal
12 bureau of investigation. Upon the discovery of a felony drug offense conviction or a plea of nolo
13 contendere for a felony drug offense with a sentence of probation, and in accordance with the
14 rules promulgated by the director ^{{add>}of the department of business regulation^{<add>}, the state police
shall
15 inform the applicant, in writing, of the nature of the felony and the state police shall notify the
16 department ^{{add>}of business regulation,^{<add>} in writing, without disclosing the nature of the felony,
that a
17 felony drug offense conviction or a plea of nolo contendere for a felony drug offense with
18 probation has been found.
19 (ii) In those situations in which no felony drug offense conviction or plea of nolo
20 contendere for a felony drug offense with probation has been found, the state police shall inform
21 the applicant and the department ^{{add>}of business regulation^{<add>}, in writing, of this fact.
22 (iii) All registry identification card applicants shall be responsible for any expense
23 associated with the criminal background check with fingerprints.
24 ~~(8)~~(7) A registry identification card of a principal officer, board member, agent,
25 volunteer, or employee shall expire one year after its issuance, or upon the expiration of the
26 registered organization's registration certificate, or upon the termination of the principal officer,
27 board member, agent, volunteer or employee's relationship with the compassion center,
28 whichever occurs first.
29 ^{{add>}(8) A compassion center cardholder shall notify and request approval from the
30 department of business regulation of any change in his or her name or address within ten (10)

31 days of such change. A compassion center cardholder who fails to notify the department of
32 business regulation of any of these changes is responsible for a civil infraction, punishable by a
33 fine of no more than one hundred fifty dollars (\$150).

34 (9) When a compassion center cardholder notifies the department of business regulation

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1 of any changes listed in this subsection, the department of business regulation shall issue the
2 cardholder a new registry identification card after the department approves the changes and
3 receives from the cardholder payment of a fee specified in regulation.

4 (10) If a compassion center cardholder loses his or her registry identification card, he or
5 she shall notify the department of business regulation and submit a fee specified in regulation
6 within ten (10) days of losing the card. The department of business regulation shall issue a new
7 registry identification card with a new random identification number.

8 (11) A compassion center cardholder shall notify the department of business regulation of
9 any disqualifying criminal convictions as defined in § 21-28.6-16(c)(5). The department of
10 business regulation may choose to suspend and/or revoke his or her registry identification card
11 after such notification.

12 (12) If a compassion center cardholder violates any provision of this chapter or
13 regulations promulgated hereunder as determined by the department of business regulation, his or
14 her registry identification card may be suspended and/or revoked.^{<add>}

15 (d) Expiration or termination of compassion center:

16 (1) A compassion center's license shall expire two (2) years after its
17 ~~registration certificate~~^{<delete>} license^{<add>} is issued. The compassion center may submit a
renewal application
18 ^{<add>} beginning sixty (60) days prior to the expiration of its ~~registration certificate~~^{<delete>} license^{<add>};

19 (2) The department ^{<add>} of business regulation^{<add>} shall grant a compassion center's renewal
20 application ~~within thirty (30) days of its~~^{<delete>} after^{<add>} submission if the following
21 conditions are all
22 satisfied:

23 (i) The compassion center submits the materials required under subdivision (c)~~(4)~~,
including a ~~five thousand dollar (\$5,000)~~^{<delete>} fee ^{<add>} specified in regulation^{<add>};

24 (ii) The compassion center's ~~registration~~^{<delete>} license^{<add>} has never been suspended
^{<add>} or revoked^{<add>} for
25 violations of this chapter or regulations issued pursuant to this chapter;

26 (iii) The legislative oversight committee's report, if issued pursuant to subsection
27 ^{<add>} (j)^{<add>} ~~(4)(j)~~^{<delete>}, indicates that the compassion center is adequately providing patients
with access to

28 medical marijuana at reasonable rates; and
29 (iv) The legislative oversight committee's report, if issued pursuant to subsection ^{<add>} (j)^{<add>}
~~(4)(j)~~^{<delete>},

30 does not raise serious concerns about the continued operation of the compassion center applying
31 for renewal.

32 (3) If the department ^{<add>} of business regulation^{<add>} determines that any of the conditions listed
in

33 paragraphs (d)(2)(i) – (iv) have not been met, the department ~~shall~~^{<delete>} ^{<add>} of business
regulation may
34 deny the renewal and^{<add>} begin an open application process for the operation of a compassion
center.

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1 In granting a new registration certificate, the department ^{<add>}of business regulation^[add] shall
2 consider
3 factors listed in subdivision (c)(3) of this section;
4 (4) The department ^[add]of business regulation^[add] shall issue a compassion center one or more
5 thirty (30) day temporary registration certificates after that compassion center's registration would
6 otherwise expire if the following conditions are all satisfied:
7 (i) The compassion center previously applied for a renewal ^[add]and has submitted the
8 required materials and fee, ^[add] but the department ^[add]of business regulation^{<add>} had not yet come
9 to a
10 decision;
11 (ii) The compassion center requested a temporary registration certificate; and
12 (iii) The compassion center has not had its registration certificate ^[add]suspended or^{<add>} revoked
13 due to violations of this chapter or regulations issued pursuant to this chapter.
14 (5) A compassion center's registry identification card shall be subject to revocation if the
15 compassion center:
16 (i) Possesses an amount of marijuana exceeding the limits established by this chapter;
17 (ii) Is in violation of the provisions of this chapter or any other ~~the~~ laws of this state;
18 (iii) Is in violation of ~~{delete> other departmental <delete>~~ regulations ^[add]of the department of
19 business
20 regulation or the department of health,^{<add>} or
21 (iv) Employs or enters into a business relationship with a medical practitioner who
22 provides written certification of a qualifying patient's medical condition.
23 (e) Inspection. Compassion centers are subject to reasonable inspection by the department
24 of ~~{delete> health, division of facilities <delete>~~ ^[add]business^{<add>} regulation. During an inspection, the
25 department ^[add]of
26 business regulation^{<add>} may review the compassion center's confidential records, including its
27 dispensing records, which shall track transactions according to qualifying patients' registry
28 identification numbers to protect their confidentiality.
29 (f) Compassion center requirements:
30 (1) A compassion center shall be operated on a not-for-profit basis for the mutual benefit
31 of its patients. A compassion center need not be recognized as a tax-exempt organization by the
32 Internal Revenue Services;
33 (2) A compassion center may not be located within one thousand (1,000) feet of the
34 property line of a preexisting public or private school ^[add], nursery school or child daycare center
as
defined in chapter 42-72.1; ^{<add>}

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1 shall be deemed null and void and the person shall be liable for any penalties that may apply to
2 any nonmedical possession or use of marijuana by the person;
3 (4) A compassion center shall notify the department ^[add]of business regulation^{<add>} in writing of
4 the name, address, and date of birth of any new principal officer, board member, agent, volunteer
5 or employee and shall submit a fee in an amount established by the department ^[add]of business
6 regulation^{<add>} for a new registry identification card before that person begins his or her
7 relationship
8 with the compassion center;
9 (5) A compassion center shall implement appropriate security measures to deter and

9 prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and
10 shall ^{{add}<ensure} that each location has an operational security alarm system. Each compassion
11 center shall request that the Rhode Island state police visit the compassion center to inspect the
12 security of the facility and make any recommendations regarding the security of the facility and
13 its personnel within ten (10) days prior to the initial opening of each compassion center. Said
14 recommendations shall not be binding upon any compassion center, nor shall the lack of
15 implementation of said recommendations delay or prevent the opening or operation of any center.
16 If the Rhode Island state police do not inspect the compassion center within the ten (10) day
17 period there shall be no delay in the compassion center's opening.</sup>

18 (6) The operating documents of a compassion center shall include procedures for the
19 oversight of the compassion center and procedures to ensure accurate record keeping;

20 (7) A compassion center is prohibited from acquiring, possessing, cultivating,
21 manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any
22 purpose except to assist registered qualifying patients with the medical use of marijuana directly
23 or through the qualifying patient's ~~other~~ primary caregiver ^{{add}<or authorized purchaser;}</sup>

24 (8) The department of business regulation may promulgate regulations governing the
25 approval and oversight of the delivery of usable marijuana to patient cardholders;^{<add>}

26 ~~(8)~~ ^{{add}<(9)} All principal officers and board members of a compassion center
must be residents</sup>

27 of the state of Rhode Island;

28 ~~(9)~~ ^{{add}<(10)} Each time a new registered qualifying patient visits a compassion
center, it shall</sup>

29 provide the patient with frequently asked questions sheet designed by the department ^{{add}<of health,}
^[add]</sup>

30 which explains the limitations on the right to use medical marijuana under state law;

31 ^{{add}<(11) Each compassion center shall be subject to any regulations promulgated by the}
32 department of health that specify how usable marijuana must be tested for items included but not
33 limited to cannabinoid profile and contaminants;</sup>

34 (12) Each compassion center shall be subject to any product labeling requirements

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1 promulgated by the department of health;^{<add>}

2 ~~(10)~~ ^{{add}<(13)} Each compassion center shall develop, implement, and maintain on
the premises</sup>

3 employee, volunteer and agent policies and procedures to address the following requirements:

4 (i) A job description or employment contract developed for all employees and agents and
5 a volunteer agreement for all volunteers, which includes duties, authority, responsibilities,
6 qualifications, and supervision; and

7 (ii) Training in and adherence to state confidentiality laws.

8 ~~(11)~~ ^{{add}<(14)} Each compassion center shall maintain a personnel record for each
employee,</sup>

9 agent and volunteer that includes an application and a record of any disciplinary action taken;

10 ~~(12)~~ ^{{add}<(15)} Each compassion center shall develop, implement, and maintain on
the premises</sup>

11 an on-site training curriculum, or enter into contractual relationships with outside resources
12 capable of meeting employee training needs, which includes, but is not limited to, the following
13 topics:

14 (i) Professional conduct, ethics, and patient confidentiality; and

15 (ii) Informational developments in the field of medical use of marijuana.

16 ~~(13)~~ ^{{add}<(16)} Each compassion center entity shall provide each employee, agent
and</sup>

17 volunteer, at the time of his or her initial appointment, training in the following:
18 (i) The proper use of security measures and controls that have been adopted; and
19 (ii) Specific procedural instructions on how to respond to an emergency, including
20 robbery or violent ~~accident~~ incident;
21 ~~(14)~~ (17) All compassion centers shall prepare training documentation for
22 each employee
23 and volunteer and have employees and volunteers sign a statement indicating the date, time, and
24 place the employee and volunteer received said training and topics discussed, to include name
25 and title of presenters. The compassion center shall maintain documentation of an employee's and
26 a volunteer's training for a period of at least six (6) months after termination of an employee's
27 employment or the volunteer's volunteering.
28 (g) Maximum amount of usable marijuana to be dispensed:
29 (1) A compassion center or principal officer, board member, agent, volunteer or
30 employee of a compassion center may not dispense more than two and one half ounces (2.5 oz) of
31 usable marijuana to a qualifying patient directly or through a qualifying patient's other primary
32 caregiver or authorized purchaser during a fifteen (15) day period;
33 (2) A compassion center or principal officer, board member, agent, volunteer or
34 employee of a compassion center may not dispense an amount of usable marijuana or marijuana
plants to a qualifying patient or a qualifying patient's ~~other~~ primary caregiver or
authorized

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1 purchaser that the compassion center, principal officer, board member, agent, volunteer, or
2 employee knows would cause the recipient to possess more marijuana than is permitted under the
3 Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act ;
4 (3) Compassion centers shall utilize a database that contains all compassion center
5 transactions statewide according to qualifying patients' registry identification numbers to protect
6 their confidentiality. Compassion centers will not have access to any applications or supporting
7 information submitted by qualifying patients. Before dispensing marijuana to any patient, the
8 compassion center must utilize this database to ensure that the qualifying patient is not being
9 dispensed more than two and one half ounces (2.5 oz.) of usable marijuana directly or through the
10 qualifying patient's primary caregiver or authorized purchaser during a fifteen (15) day period.
11 (h) Immunity:
12 (1) No registered compassion center shall be subject to prosecution; search, except by the
13 department of business regulation pursuant to subsection (e) or by the department of
14 health
15 pursuant to § 23-1-19; seizure; or penalty in any manner or denied any right or privilege,
16 including, but not limited to, civil penalty or disciplinary action by a business, occupational, or
17 professional licensing board or entity, solely for acting in accordance with this section to assist
18 registered qualifying patients ~~to whom it is connected through the department's registration~~
19 ~~process with the medical use of marijuana;~~
20 (2) No registered compassion center shall be subject to prosecution; seizure or penalty in
21 any manner or denied any right or privilege, including, but not limited to, civil penalty or
22 disciplinary action by a business, occupational, or professional licensing board or entity, for
23 selling, giving or distributing marijuana in whatever form and within the limits established by the
24 department of business regulation to another registered compassion center;
25 (3) No principal officers, board members, agents, volunteers, or employees of a registered
26 compassion center shall be subject to arrest, prosecution, search, seizure, or penalty in any
27 manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary
28 action by a business, occupational, or professional licensing board or entity, solely for working
for or with a compassion center to engage in acts permitted by this section:-

29 (4) No state employee shall be subject to arrest, prosecution or penalty in any manner, or
30 denied any right or privilege, including, but not limited to, civil penalty, disciplinary action,
31 termination, or loss of employee or pension benefits, for any and all conduct that occurs within
32 the scope of his or her employment regarding the administration, execution and/or enforcement of
33 this act, and the provisions of Rhode Island general laws, §§ 9-31-8 and 9-31-9 shall be
34 applicable to this section.

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1 (i) Prohibitions:

2 ~~(1) A compassion center must limit its inventory of seedlings, plants, and usable~~
3 ~~marijuana to reflect the projected needs of registered qualifying patients.~~

4 ~~(2)~~ (1) A compassion center may not dispense, deliver, or otherwise transfer
5 marijuana to

6 a person other than a qualifying patient ~~who has designated the compassion center as a~~
7 or to such

8 patient's primary caregiver or ~~to such patient's other primary caregiver~~ authorized
9 purchaser;

10 ~~(3)~~ (2) A person found to have ~~violated paragraph (2) of this~~
11 ~~subsection~~ dispensed,

12 delivered, or otherwise transferred marijuana to a person other than a qualifying patient, a
13 patient's primary caregiver, or a patient's authorized purchaser may not be an employee, agent,
14 volunteer, principal officer, or board member of any compassion center;

15 ~~(4)~~ (3) An employee, agent, volunteer, principal officer or board member of
16 any

17 compassion center found ~~in violation of paragraph (2) above~~ to have dispensed,
18 delivered, or

19 otherwise transferred marijuana to a person other than a qualifying patient, a patient's primary
20 caregiver, or a patient's authorized purchaser shall have his or her registry identification

21 revoked
22 ~~immediately~~ in accordance with the requirements of the administrative procedures

23 act, chapter 35
24 of title 42; and

25 ~~(5)~~ (4) No person who has been convicted of a felony drug offense or has
26 entered a plea of

27 nolo contendere for a felony drug offense with a sentence or probation may be the principal
28 officer, board member, agent, volunteer, or employee of a compassion center unless the
29 department of business regulation has determined that the person's conviction was for the
30 medical

31 use of marijuana or assisting with the medical use of marijuana in accordance with the terms and
32 conditions of this chapter. A person who is employed by or is an agent, volunteer, principal
33 officer, or board member of a compassion center in violation of this section is guilty of a civil
violation punishable by a fine of up to one thousand dollars (\$1,000). A subsequent violation of
this section is a misdemeanor:

(j) Legislative oversight committee:

(1) The general assembly shall appoint a nine (9) member oversight committee comprised
of: one member of the house of representatives; one member of the senate; one physician to be
selected from a list provided by the Rhode Island medical society; one nurse to be selected from a
list provided by the Rhode Island state nurses association; two (2) registered qualifying patients;
one registered primary caregiver; one patient advocate to be selected from a list provided by the
Rhode Island patient advocacy coalition; and the superintendent of the Rhode Island state police
or his/her designee.

34 (2) The oversight committee shall meet at least six (6) times per year for the purpose of
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1 evaluating and making recommendations to the general assembly regarding:

- 2 (i) Patients' access to medical marijuana;
- 3 (ii) Efficacy of compassion ~~center~~ ^{add} centers ^{<add>};
- 4 (iii) Physician participation in the Medical Marijuana Program;
- 5 (iv) The definition of qualifying medical condition;
- 6 (v) Research studies regarding health effects of medical marijuana for patients.

7 (3) On or before January 1 of every even numbered year, the oversight committee shall
8 report to the general assembly on its findings.

9 **§ 21-28.6-14. Cooperative cultivations.** – (a) Two (2) or more ^{add} primary caregiver or
10 qualifying patient ^{<add>} cardholders may cooperatively cultivate marijuana in residential or non-
11 residential locations subject to the following restrictions:

12 ^{add} (1) Cooperative cultivations shall apply to the department of business regulation for a
13 license to operate; ^{<add>}

14 ~~(1)~~(2) A cardholder can only cooperatively cultivate in one location;

15 ~~(2)~~(3) No single location may have more than one cooperative cultivation. For the
16 purposes of this section, location means one structural building, not units within a structural
17 building.;

18 ~~(3)~~(4) The cooperative cultivation shall not be visible from the street or other public
19 areas;

20 ~~(4)~~(5) A written acknowledgement of the limitations of the right to use and possess
21 marijuana for medical purposes in Rhode Island that is signed by each cardholder and is
22 displayed prominently in the premises cooperative cultivation.

23 ~~(5)~~(6) Cooperative cultivations are restricted to the following possession limits:

24 (i) A non-residential, cooperative cultivation may have no more than ten (10) ounces of
25 usable marijuana, ~~forty-eight (48) mature~~ ^{add} and seventy-two (72) ^{<add>} marijuana
26 plants, ~~and twenty-four~~
~~(24) seedlings~~ ^{<delete>}

27 (ii) A residential, cooperative cultivation may have no more than ten (10) ounces of
28 useable marijuana, ~~twenty-four (24) mature~~ ^{add} and thirty-six (36) ^{<add>} marijuana plants,
^[delete] ~~and twelve (12)~~
29 ~~seedlings.~~ ^{<delete>}

30 ^{add} (iii) For primary caregiver or qualifying patient cardholders operating under a
31 cooperative cultivation license, the department of business regulation shall only issue medical
32 marijuana plant tags in accordance with the per patient limits established in § 21-28.6-4(a) and §
33 21-28.6-4(e). ^{<add>}

34 ~~(6)~~ ^{add} (7) ^{<add>} Cooperative cultivations must be inspected as follows:

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1 (i) A non-residential, cooperative cultivation must have displayed prominently on the
2 premises documentation from the municipality where the single location is located that the
3 location and the cultivation has been inspected by the municipal building and/or zoning official
4 and the municipal fire department and is in compliance with any applicable state or municipal
5 housing and zoning codes.

6 (ii) A residential cooperative cultivation must have displayed prominently on the
7 premises an affidavit by a licensed electrician that the cultivation has been inspected and is in
8 compliance with any applicable state or municipal housing and zoning codes for the municipality
9 where the cooperative cultivation is located.

10 ^{add} (iii) A non-residential or residential cooperative cultivation must have displayed

11 prominently on the premises its license issued by the department of business regulation.
12 (iv) Every marijuana plant possessed by a cooperative cultivation must be accompanied
13 by valid medical marijuana tag issued by the department of business regulation pursuant to § 21-
14 28.6-15. Each cooperative cultivation must purchase at least one (1) medical marijuana tag in
15 order to remain a licensed cooperative cultivation.
16 (iv) Cooperative cultivations are subject to reasonable inspection by the department of
17 business regulation for the purposes of enforcing regulations promulgated pursuant to this chapter
18 and all applicable Rhode Island general laws. ^{<add>}
19 ~~(7)~~ ⁽⁸⁾ Cooperative cultivations must report the location of the cooperative
20 cultivation to
21 the division of state police.
22 ~~(8)~~ ⁽⁹⁾ The reports provided to the division of state police in subsection (8)
23 of this section
24 shall be confidential, but locations may be confirmed for law enforcement purposes. The report of
25 the location of the cooperative cultivation alone shall not constitute probable cause for a search of
26 the cooperative cultivation.
27 ~~(9)~~ ⁽¹⁰⁾ The department of business regulation shall promulgate regulations
28 governing the
29 licensing and operation of cooperative cultivations, and may promulgate regulations that set a fee
30 for a cooperative cultivation license. ^{<add>}
31 (b) Any violation of any provision of this section shall result in the immediate revocation
32 of the cardholder's registry identification card. ^{<add>} Any violation of any provision of this chapter or
33 regulations promulgated hereunder as determined by the department of business regulation may
34 result in the revocation/suspension of the cooperative cultivator license. ^{<add>}
SECTION 2. Chapter 21-28.6 of the General Laws entitled "The Edward O. Hawkins and
Thomas C. Slater Medical Marijuana Act" is hereby amended by adding thereto the following
sections:

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1 ^{<add>} **§ 21-28.6-15. Medical Marijuana Plant Tags. – (a) Every marijuana plant, either**
2 **mature or seedling, must be accompanied by a physical medical marijuana tag provided by the**
3 **department of business regulation:**
4 (1) The department of business regulation shall charge an annual fee, established by
5 regulation, for each medical marijuana tag. The department of business regulation may
6 promulgate regulations that make medical marijuana tags available at a reduced price to patients
7 based on a patient's income, or to a primary caregiver based on the income of those patients
8 receiving care from that primary caregiver. If the required fee has not been paid, those medical
9 marijuana tags shall be considered expired and are invalid.
10 (2) The department of business regulation shall verify with the department of health that
11 all medical marijuana tag purchases are made by patient cardholders, primary caregiver
12 cardholders, licensed cultivators, compassion centers, or cooperative cultivations. The department
13 of health shall provide this verification according to qualifying patients' registry identification
14 numbers to protect their confidentiality and without providing access to any applications or
15 supporting information submitted by qualifying patients.
16 (3) The department of business regulation shall maintain information pertaining to
17 medical marijuana tags and may share that information with the department of health.
18 (4) All primary caregivers shall purchase at least one (1) medical marijuana tag for each
19 patient under their care, all licensed cultivators shall purchase at least one (1) medical marijuana
20 tag, and all patients growing for themselves shall purchase at least one (1) medical marijuana tag.
21 (5) The department of business regulation shall promulgate regulations to establish a
22 process by which medical marijuana tags may be returned to the department. The department of

23 business regulation may choose to reimburse a portion or the entire amount of any fees paid for
24 medical marijuana tags that are subsequently returned.

25 (b) Enforcement:

26 (1) If a patient cardholder, primary caregiver cardholder, licensed cultivator, compassion
27 center, or cooperative cultivation violates any provision of this chapter or the regulations
28 promulgated hereunder as determined by the department of business regulation, his or her
29 medical marijuana tags may be revoked. In addition, the department that issued the cardholder's
30 registration or the license may revoke the cardholder's registration or license pursuant to § 21-
31 28.6-9.

32 (2) The department of business regulation shall revoke and shall not reissue medical
33 marijuana tags to any cardholder or licensee who is convicted of; placed on probation; whose
34 case is filed pursuant to § 12-10-12 where the defendant pleads nolo contendere; or whose case is

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1 deferred pursuant to § 12-19-19 where the defendant pleads nolo contendere for any felony
2 offense under chapter 28 of title 21 ("Rhode Island Controlled Substances Act") or a similar
3 offense from any other jurisdiction.

4 (3) Primary caregiver cardholders, licensed cultivators, licensed compassion centers, and
5 licensed cooperative cultivations shall be subject to reasonable inspection by the department of
6 business regulation for the purposes of enforcing regulations promulgated pursuant to this chapter
7 and all applicable Rhode Island general laws. The department of business regulation shall
8 promulgate regulations governing the manner of these inspections, including the role, if any, of
9 law enforcement in these inspections.

10 (4) If a patient cardholder, primary caregiver cardholder, licensed cooperative cultivation,
11 or licensed cultivator is found to have marijuana plants exceeding the limits set forth in § 21-
12 28.6-4, § 21-28.6-14(a)(6), and § 21-28.6-17(c), in addition to any penalties that may be imposed
13 pursuant to § 21-28.6-9, the department of business regulation shall impose an administrative
14 penalty on that cardholder for each of these untagged marijuana plants of no less than the total fee
15 that would be paid by a cardholder who purchased medical marijuana tags for such plants in
16 compliance with this chapter.

17 **§ 21-28.6-16. Caregivers.** – (a) The department of business regulation shall issue a
18 registry identification card to each primary caregiver who satisfies the registration requirements
19 under this chapter and any regulations promulgated hereunder. The department of business
20 regulation shall verify with the department of health that the qualifying patients identified in the
21 primary caregiver's application have in fact elected that person as their primary caregiver. This
22 verification process will be structured so that the department of business regulation will receive
23 only a positive or negative response from the department of health regarding the qualifying
24 patients' registry identification numbers to protect their confidentiality. Primary caregivers must
25 purchase at least one (1) plant medical marijuana tag for each patient under their care in
26 accordance with § 21-28.6-15 in order to become registered with the department of business
27 regulation.

28 (1) The primary caregiver applicant shall apply to the bureau of criminal identification of
29 the department of attorney general, state police, or local police department for a national criminal
30 records check that shall include fingerprints submitted to the Federal Bureau of Investigation.
31 Upon the discovery of any disqualifying information as defined in § 21-28.6-16(a)(4), and in
32 accordance with the regulations promulgated by the director of the department of business
33 regulation, the bureau of criminal identification of the department of attorney general, state
34 police, or the local police department shall inform the applicant, in writing, of the nature of the

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1 disqualifying information; and, without disclosing the nature of the disqualifying information,

2 shall notify the department of business regulation, in writing, that disqualifying information has
3 been discovered.

4 (2) In those situations in which no disqualifying information has been found, the bureau
5 of criminal identification of the department of attorney general, state police, or the local police
6 shall inform the applicant and the department of business regulation, in writing, of this fact.

7 (3) The department of business regulation shall maintain on file evidence that a criminal
8 records check has been initiated on all applicants seeking a primary caregiver registry
9 identification card and the results of the checks. The primary caregiver cardholder shall not be
10 required to apply for a national criminal records check for each patient he or she is connected to
11 through the department of health's registration process, provided that he or she has applied for a
12 national criminal records check within the previous two (2) years in accordance with this chapter.
13 The department of business regulation shall not require a primary caregiver cardholder to apply
14 for a national criminal records check more than once every two (2) years.

15 (4) Information produced by a national criminal records check pertaining to a conviction
16 for any felony offense under chapter 28 of title 21 ("Rhode Island Controlled Substances Act"),
17 murder, manslaughter, rape, first-degree sexual assault, second-degree sexual assault, first-degree
18 child molestation, second-degree child molestation, kidnapping, first-degree arson, second-degree
19 arson, mayhem, robbery, burglary, breaking and entering, assault with a dangerous weapon,
20 assault or battery involving grave bodily injury, and/or assault with intent to commit any offense
21 punishable as a felony or a similar offense from any other jurisdiction shall result in a letter to the
22 applicant and the department of business regulation disqualifying the applicant.

23 (5) The primary caregiver applicant shall be responsible for any expense associated with
24 the national criminal records check.

25 (6) For purposes of this section "conviction" means, in addition to judgments of
26 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances
27 where the defendant has entered a plea of nolo contendere and has received a sentence of
28 probation and those instances where a defendant has entered into a deferred sentence agreement
29 with the attorney general.

30 (b) Persons issued registry identification cards shall be subject to the following:

31 (1) Ten (10) days after notification from the department of health to the department of
32 business regulation and the primary caregiver cardholder that a patient cardholder has changed
33 his or her primary caregiver, the primary caregiver cardholder's protections as provided in this
34 chapter as to that patient shall expire. If the primary caregiver cardholder is connected to no other

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1 patient cardholders in the program, he or she must return his or her registry identification card to
2 the department of business regulation within ten (10) days of the date of such notice. A primary
3 caregiver who fails to comply with this provision is responsible for a civil infraction, punishable
4 by a fine of no more than one hundred fifty dollars (\$150).

5 (2) A primary caregiver cardholder shall notify and request approval from the department
6 of business regulation of any change in his or her name or address within ten (10) days of such
7 change. A primary caregiver who fails to notify the department of business regulation of any of
8 these changes is responsible for a civil infraction, punishable by a fine of no more than one
9 hundred fifty dollars (\$150).

10 (3) When a primary caregiver cardholder notifies the department of business regulation of
11 any changes listed in this subsection, the department of business regulation shall issue the
12 primary caregiver cardholder a new registry identification card after the department approves the
13 changes and receives from the cardholder payment of a fee specified in regulation.

14 (4) If a primary caregiver cardholder loses his or her registry identification card, he or she
15 shall notify the department of business regulation and submit a fee specified in regulation within
16 ten (10) days of losing the card. The department of business regulation shall issue a new registry

17 identification card with a new random identification number.

18 (5) A primary caregiver cardholder shall notify the department of business regulation of
19 any disqualifying criminal convictions as defined in § 21-28.6-16(a)(4). The department of
20 business regulation may choose to suspend and/or revoke his or her registry identification card
21 after such notification.

22 (6) If a primary caregiver cardholder violates any provision of this chapter or regulations
23 promulgated hereunder as determined by the department of business regulation, his or her registry
24 identification card may be suspended and/or revoked.

25 **§ 21-28.6-17. Cultivators.** – (a) A licensed cultivator licensed under this section may
26 acquire, possess, cultivate, deliver, or transfer marijuana to licensed compassion centers. A
27 licensed cultivator shall not be a primary caregiver cardholder and shall not hold a cooperative
28 cultivation license. Except as specifically provided to the contrary, all provisions of the Edward
29 O. Hawkins and Thomas C. Slater Medical Marijuana Act, §§ 21-28.6-1 – 21-28.6-16 and §§ 21-
30 28.6-18 – 21-28.6-20, apply to a licensed cultivator unless they conflict with a provision
31 contained in § 21-28.6-17.

32 (b) Licensing of cultivators—department of business regulation authority. The department
33 of business regulation shall promulgate regulations governing the manner in which it shall
34 consider applications for the licensing of cultivators, including regulations governing:

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1 (1) The form and content of licensing and renewal applications;

2 (2) Minimum oversight requirements for licensed cultivators;

3 (3) Minimum record-keeping requirements for cultivators;

4 (4) Minimum security requirements for cultivators; and

5 (5) Procedures for suspending, revoking or terminating the license of cultivators that
6 violate the provisions of this section or the regulations promulgated pursuant to this subsection.

7 (c) The department of business regulation shall promulgate regulations that govern how
8 many marijuana plants and how much usable marijuana a licensed cultivator may possess. Every
9 marijuana plant possessed by a licensed cultivator must be accompanied by valid medical
10 marijuana tag issued by the department of business regulation pursuant to § 21-28.6-15. Each
11 cultivator must purchase at least one (1) medical marijuana tag in order to remain a licensed
12 cultivator.

13 (d) Cultivators shall only sell usable marijuana to compassion centers. All marijuana
14 possessed by a cultivator in excess of the possession limit established pursuant to subsection (c)
15 above shall be under formal agreement to be purchased by a compassion center. If such excess
16 marijuana is not under formal agreement to be purchased, the cultivator will have a period of
17 time, specified in regulations promulgated by the department of business regulation, to sell or
18 destroy that excess marijuana. The department may suspend and/or revoke the cultivator's license
19 and the license of any officer, director, employee or agent of such cultivator and/or impose an
20 administrative penalty in accordance with such regulations promulgated by the department for
21 any violation of this section or the regulations. In addition, any violation of this section or the
22 regulations promulgated pursuant this subsection and subsection (c) above shall cause a licensed
23 cultivator to lose the protections described in § 21-28.6-4(i) and may subject the licensed
24 cultivator to arrest and prosecution under Chapter 28 of title 21 (the Rhode Island Controlled
25 Substances Act).

26 (e) Cultivators shall only be licensed to grow marijuana at one dwelling unit or
27 commercial unit. The department of business regulation may promulgate regulations governing
28 where cultivators are allowed to grow. Cultivators must abide by all local ordinances, including
29 zoning ordinances.

30 (f) Inspection. Cultivators shall be subject to reasonable inspection by the department of
31 business regulation for the purposes of enforcing regulations promulgated pursuant to this chapter

32 and all applicable Rhode Island general laws.

33 (g) Income received by cultivators must be claimed as corporate income under chapters
34 11, 13, 14, or 17 of title 44 or as personal income under chapter 30 of title 44.

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1 (h) The department of business regulation shall issue a license to each licensed cultivator
2 who satisfies the registration requirements under this chapter and any regulations promulgated
3 hereunder:

4 (1) The cultivator applicant shall apply to the bureau of criminal identification of the
5 department of attorney general, state police, or local police department for a national criminal
6 records check that shall include fingerprints submitted to the Federal Bureau of Investigation.
7 Upon the discovery of any disqualifying information as defined in § 21-28.6-17(h)(3), and in
8 accordance with the rules promulgated by the director of the department of business regulation,
9 the bureau of criminal identification of the department of attorney general, state police, or the
10 local police department shall inform the applicant, in writing, of the nature of the disqualifying
11 information; and, without disclosing the nature of the disqualifying information, shall notify the
12 department of business regulation, in writing, that disqualifying information has been discovered.

13 (2) In those situations in which no disqualifying information has been found, the bureau
14 of criminal identification of the department of attorney general, state police, or the local police
15 shall inform the applicant and the department of business regulation, in writing, of this fact.

16 (3) Information produced by a national criminal records check pertaining to a conviction
17 for any felony offense under chapter 28 of title 21 ("Rhode Island Controlled Substances Act"),
18 murder, manslaughter, rape, first-degree sexual assault, second-degree sexual assault, first-degree
19 child molestation, second-degree child molestation, kidnapping, first-degree arson, second-degree
20 arson, mayhem, robbery, burglary, breaking and entering, assault with a dangerous weapon,
21 assault or battery involving grave bodily injury, and/or assault with intent to commit any offense
22 punishable as a felony or a similar offense from any other jurisdiction shall result in a letter to the
23 applicant and the department of business regulation disqualifying the applicant.

24 (4) The cultivator applicant shall be responsible for any expense associated with the
25 national criminal records check.

26 (5) For purposes of this section "conviction" means, in addition to judgments of
27 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances
28 where the defendant has entered a plea of nolo contendere and has received a sentence of
29 probation and those instances where a defendant has entered into a deferred sentence agreement
30 with the attorney general.

31 (i) Persons issued licenses shall be subject to the following:

32 (1) A licensed cultivator shall notify and request approval from the department of
33 business regulation of any change in his or her name or address within ten (10) days of such
34 change. A cultivator who fails to notify the department of business regulation of any of these

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1 changes is responsible for a civil infraction, punishable by a fine of no more than one hundred
2 fifty dollars (\$150).

3 (2) When a licensed cultivator notifies the department of business regulation of any
4 changes listed in this subsection, the department of business regulation shall issue the cultivator a
5 new license after the department approves the changes and receives from the licensee payment of
6 a fee specified in regulation.

7 (3) If a licensed cultivator loses his or her license, he or she shall notify the department of
8 business regulation and submit a fee specified in regulation within ten (10) days of losing the
9 license. The department of business regulation shall issue a new license with a new random
10 identification number.

11 (4) A licensed cultivator shall notify the department of business regulation of any
12 disqualifying criminal convictions as defined in § 21-28.6-17(h)(3). The department of business
13 regulation may choose to suspend and/or revoke his or her license after such notification.

14 (5) If a licensed cultivator violates any provision of this chapter or regulations
15 promulgated hereunder as determined by the department of business regulation, his or her license
16 may be suspended and/or revoked.

17 **§ 21-28.6-18. Excess plants.** – Subsequent to passage of this section, patient cardholders
18 and primary caregiver cardholders shall have until December 31, 2016 to sell or destroy
19 marijuana plants or usable marijuana which are in violation of § 21-28.6-4.

20 **§ 21-28.6-19. Revenue.** – (a) All fees collected by the department of health from
21 qualifying patients and authorized purchasers shall be placed in a restricted receipt account to
22 support the department of health’s medical marijuana program.

23 (b) All fees collected by the department of business regulation from primary caregivers,
24 cultivators, cooperative cultivations, compassion centers, and compassion center cardholders shall
25 be placed in a restricted receipt account to support the department of business regulation’s
26 medical marijuana licensing program.

27 (c) All fees collected from the sale of marijuana plant medical marijuana tags shall place
28 in the general revenue fund.

29 **§ 21-28.6-20. Patient information.** – (a) Applications and supporting information
30 submitted by qualifying patients, including information regarding their primary caregivers,
31 authorized purchasers, and practitioners, are confidential and protected under the federal Health
32 Insurance Portability and Accountability Act of 1996, and shall be exempt from the provisions of
33 chapter 2 of title 38 et seq. (Rhode Island access to public records act) and not subject to
34 disclosure, except to authorized employees of the department of health and the department of

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1 business regulation as necessary to perform official duties of the department of health and the
2 department of business regulation.

3 (b) The department of health shall maintain a list of the persons to whom the department
4 of health has issued registry identification cards and the department of business regulation shall
5 maintain a list of the persons to whom the department of business regulation has issued registry
6 identification cards and licenses. Individual names and other identifying information of patient
7 cardholders and authorized purchasers on the list shall be confidential, exempt from the
8 provisions of Rhode Island access to public information, chapter 2 of title 38, and not subject to
9 disclosure, except to authorized employees of the department of health as necessary to perform
10 official duties of the department of health. Information collected by the department of business
11 regulation during the registration/licensing process from primary caregivers, cultivators,
12 compassion centers, and compassion center cardholders shall be subject to the provisions of
13 Rhode Island access to public information, chapter 2 of title 38, and shall be subject to redaction
14 for identifying information or any other information exempt under chapter 38-2.

15 (c) Law enforcement shall have access to information maintained by the department of
16 health and the department of business regulation only to the extent necessary to verify
17 information about medical marijuana tags, caregiver cardholders, licensed cultivators, cooperative
18 cultivations, and compassion center cardholders. Law enforcement shall not have direct access to
19 patient information, including any applications or supporting information submitted by qualifying
20 patients. Notwithstanding subsection (a) of this section, if law enforcement personnel need
21 information about a patient cardholder or authorized marijuana purchaser, then the department of
22 health shall verify to law enforcement personnel whether a registry identification card is valid
23 solely by confirming the random registry identification number.

24 (d) It shall be cause for removal and/or a one thousand dollar (\$1,000) fine, for any
25 person, including an employee or official of the department of health, department of business

26 [regulation, or another state agency or local government, to breach the confidentiality of](#)
27 [qualifying patient information obtained pursuant to this chapter. Notwithstanding this provision,](#)
28 [employees of the department of health or the department of business regulation may notify law](#)
29 [enforcement about falsified or fraudulent information, or information that the department](#)
30 [reasonably believes to be falsified or fraudulent, submitted to the department of health or the](#)
31 [department of business regulation.](#)^{<add>}

32 SECTION 3. Sections 42-14-1 and 42-14-2 of the General Laws in Chapter 42-14
33 entitled “Department of Business Regulation” are hereby amended to read as follows:

34 **§ 42-14-1. Establishment – Head of department.** – There shall be a department

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1 of business regulation. The head of the department shall be the director of business regulation
2 who shall carry out, except as otherwise provided by this title, this chapter; chapters 1, 2, and 4 –
3 12, inclusive, of title 3; chapters 3, 20.5, 38, 49, 52, 53 and 58 of title 5; chapter 31 of title 6;
4 chapter 11 of title 7; chapters 1 – 29, inclusive, of title 19, except § 19-24-6; [chapter 28.6 of title](#)
5 [21](#); chapter 26 of title 23; chapters 1 – 36, inclusive, of title 27. The director of business
6 regulation shall also perform the duties required by any and all other provisions of the general
7 laws and public laws insofar as those provisions relate to the director of revenue and regulation,
8 chief of the division of banking and insurance, chief of the division of intoxicating beverages, and
9 each of the divisions, except as otherwise provided by this title.

10 **§ 42-14-2. Functions of department.** – (a) It shall be the function of the department of
11 business regulation:

12 (1) To regulate and control banking and insurance, foreign surety companies, sale
13 of securities, building and loan associations, fraternal benefit and beneficiary societies;

14 (2) To regulate and control the manufacture, transportation, possession, and sale
15 of alcoholic beverages;

16 (3) To license and regulate the manufacture and sale of articles of bedding,
17 upholstered furniture, and filling materials;

18 ^{{add>}[\(4\) To regulate the licensing of compassion centers, cultivators, cooperative](#)
19 [cultivations, and primary caregivers pursuant to Chapter 21-28.6 of the General Laws](#)^{<add>}

20 (b) Whenever any hearing is required or permitted to be held pursuant to law or
21 regulation of the department of business regulation, and whenever no statutory provision exists
22 providing that notice be given to interested parties prior to the hearing, no such hearing shall be
23 held without notice in writing being given at least ten (10) days prior to such hearing to all
24 interested parties. For purposes of this section, an “interested party” shall be deemed to include
25 the party subject to regulation hereunder, the Rhode Island consumers' council, and any party
26 entitled to appear at the hearing. Notice to the party that will be subject to regulation, the Rhode
27 Island consumers' council [Repealed], and any party who has made known his or her intention to
28 appear at the hearing shall be sufficient if it be in writing and mailed, first class mail, to the party
29 at his or her regular business address. Notice to the general public shall be sufficient hereunder if
30 it be by publication in a newspaper of general circulation in the municipality affected by the
31 regulation.

32 SECTION 4. Section 44-67-3 of the General Laws in Chapter 44-67 entitled “The
33 Compassion Center Surcharge Act” is hereby amended to read as follows:

34 **§ 44-67-3. Imposition of surcharge – Compassion centers.** – ^{{add>}[For periods prior to July](#)^{<add>}

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1 [1, 2016, a](#) A surcharge at a rate of four percent (4.0%) shall be imposed upon the net patient
2 revenue received each month by every compassion center. ^{{add>}[For periods after July 1, 2016, a](#)
3 [surcharge at a rate of three percent \(3.0%\) shall be imposed upon the net patient revenue received](#)
4 [each month by every compassion center.](#)^{<add>} Every compassion center shall pay the monthly

5 surcharge to the tax administrator no later than the twentieth (20th) day of the month following
6 the month that the net patient revenue was received. This surcharge shall be in addition to any
7 other authorized fees that have been assessed upon a compassion center.
8 SECTION 5. This article shall take effect as of July 1, 2016.

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<p>16 H 7454 Article 21 Relating To Department Of Behavioral Healthcare, Developmental Disabilities And Hospitals</p> <p>This article co-designates the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals and the Executive Office of Health and Human Services as the single state authority for the purposes of calculating the Maintenance of Effort for the Substance Abuse Block Grant.</p>

1 **ARTICLE 21**
2 **RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL**
3 **DISABILITIES AND**
4 **HOSPITALS**

5 SECTION 1. Section 40.1-1-13 of the General Laws in Chapter 40.1-1 entitled
6 “Department of Behavioral Healthcare, Developmental Disabilities and Hospitals” is hereby
7 amended to read as follows:

8 **§ 40.1-1-13. Powers and duties of the office.**- Notwithstanding any provision of the
9 Rhode Island general laws to the contrary, the department ^{{delete>}~~of mental health, retardation,~~
<delete>
10 ^{[add>}behavioral healthcare, developmental disabilities^{<add>} and hospitals shall have the
11 following powers
12 and duties:

13 (1) To establish and promulgate the overall plans, policies, objectives, and priorities for
14 state substance abuse education, prevention and treatment; provided, however, that the director
15 shall obtain and consider input from all interested state departments and agencies prior to the
16 promulgation of any such plans or policies;

17 (2) Evaluate and monitor all state grants and contracts to local substance abuse service
18 providers;

19 (3) Develop, provide for, and coordinate the implementation of a comprehensive state
20 plan for substance abuse education, prevention and treatment;

21 (4) Ensure the collection, analysis, and dissemination of information for planning and
22 evaluation of substance abuse services;

23 (5) Provide support, guidance, and technical assistance to individuals, local governments,
24 community service providers, public and private organizations in their substance abuse
25 education,
26 prevention and treatment activities;

27 (6) Confer with all interested department directors to coordinate the administration of
28 state programs and policies that directly affect substance abuse treatment and prevention;

29 (7) Seek and receive funds from the federal government and private sources in order to
30 further the purposes of this chapter;

(8) ^{{delete>}~~Aet~~ ^{<delete>}~~{add>~~ To act for all purposes ^{<add>} in the capacity of “state substance abuse
authority” as ^{{delete>}~~that~~
^{<delete>}~~{add>~~ the sole designated agency with the sole responsibility ^{<add>} for
^{{delete>}~~term has meaning~~ ^{<delete>}~~{add>~~ the sole designated agency with the sole responsibility ^{<add>} for
^{{delete>}~~coordination~~ ^{<delete>}
^{[add>} planning, coordinating, managing, implementing and reporting on ^{<add>} of state substance
abuse

31 planning ~~and~~, policy and efforts as it relates to requirements set forth in
pertinent federal

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1 substance abuse laws and regulations;

2 (9) Propose, review and/or approve, as appropriate, proposals, policies or plans involving
3 insurance and managed care systems for substance abuse services in Rhode Island;

4 (10) To enter into, in compliance with the provisions of title 37, chapter 2, contractual
5 relationships and memoranda of agreement as necessary for the purposes of this chapter;

6 (11) To license facilities and programs for the care and treatment of substance abusers,
7 and for the prevention of substance abuse;

8 (12) To promulgate rules and regulations necessary to carry out the requirements of this
9 chapter;

10 (13) Perform other acts and exercise any other powers necessary or convenient to carry
11 out the intent and purposes of this chapter; and

12 (14) To exercise the authority and responsibilities relating to education, prevention and
13 treatment of substance abuse, as contained in, but not limited to, the following chapters:
chapter

14 1.10 of title 23; chapter 10.1 of title 23; chapter 28.2 of title 23; chapter 21.2 of title 16;
chapter

15 21.3 of title 16; chapter 50.1 of title 42; chapter 109 of title 42; chapter 69 of title 5 and § 35-4-
16 18.

17 (15) To establish a Medicare Part D restricted receipt account in the hospitals and
18 community rehabilitation services program to receive and expend Medicare Part D
19 reimbursements from pharmacy benefit providers consistent with the purposes of this chapter.

20 (16) To establish a RICLAS group home operations restricted receipt account in the
21 services for the developmentally disabled program to receive and expend rental income from
22 RICLAS group clients for group home-related expenditures, including food, utilities,
community

23 activities, and the maintenance of group homes.

24 (17) To establish a non-Medicaid third-party payor restricted receipt account in the
25 hospitals and community rehabilitation services program to receive and expend reimbursement
26 from non-Medicaid third-party payors to fund hospital patient services that are not Medicaid
27 eligible.

28 (18) To act in conjunction with the executive office of health and human services as the
29 states co-designated agency for administering federal aid and for the purpose of the calculation
30 of
31 expenditures relative to the substance abuse block grant and federal funding maintenance of
32 effort
33 requirements.

34 SECTION 2. Section 42-7.2-2 of the General Laws in Chapter 42-7.2 entitled "Executive
Office of Health and Human Services" is hereby amended to read as follows:

§ 42-7.2-2. Executive office of health and human services.- There is hereby established

Page 2

1 within the executive branch of state government an executive office of health and human
services

2 to serve as the principal agency of the executive branch of state government for managing the
3 departments of children, youth and families, health, human services, and behavioral
healthcare,

4 developmental disabilities and hospitals. In this capacity, the office shall:

5 (a) Lead the state's four (4) health and human services departments in order to:
6 (1) Improve the economy, efficiency, coordination, and quality of health and human
7 services policy and planning, budgeting and financing.
8 (2) Design strategies and implement best practices that foster service access, consumer
9 safety and positive outcomes.
10 (3) Maximize and leverage funds from all available public and private sources, including
11 federal financial participation, grants and awards.
12 (4) Increase public confidence by conducting independent reviews of health and human
13 services issues in order to promote accountability and coordination across departments.
14 (5) Ensure that state health and human services policies and programs are responsive to
15 changing consumer needs and to the network of community providers that deliver assistive
16 services and supports on their behalf.
17 (6) Administer Rhode Island Medicaid in the capacity of the single state agency
18 authorized under title XIX of the U.S. Social Security act, 42 U.S.C. § 1396a et seq., and
19 exercise
20 such single state agency authority for such other federal and state programs as may be
21 designated
22 by the governor. Except as provided for herein, nothing in this chapter shall be construed as
23 transferring to the secretary the powers, duties or functions conferred upon the departments by
24 Rhode Island general laws for the management and operations of programs or services
25 approved
26 for federal financial participation under the authority of the Medicaid state agency.
27 ^{add}(7) [To act in conjunction with the department of behavioral healthcare, developmental
28 disabilities and hospitals as the states co-designated agency for administering federal aid and
for
the purpose of the calculation of expenditures relative to the substance abuse block grant and
federal funding maintenance of effort requirements.](#) _{<add}}

SECTION 3. This article shall take effect upon passage.

	<i>Take No Position</i> 16 H 7454 Article 21 Relating To Department Of Behavioral Healthcare, Developmental Disabilities And Hospitals
	<p>16 H 7454 Article 23 Relating To Safe Harbor For Sexually Exploited Children</p> <p>This article would create the Rhode Island Safe Harbor Act to insure protection of the public and a safe environment for those sexually exploited minors, who are charged with prostitution or who are alleged to be victims of human trafficking; and provide these minors with the access to appropriate services.</p> <p>16 H 7454 Art. 04 An Article Relating To Government Organization</p> <p>This article will formalize and streamline several important areas of state government, which is intended to improve government efficiency, protect against fraud, waste and abuse, and to better serve the citizens of Rhode Island. Included within this article is the establishment of the Office of Diversity, Equity and Opportunity, the Office of Internal Audit, an Independent Office of Veterans Affairs, the Division of Enterprise Technology Strategy and Service, and the Division of Capital Asset Management and Maintenance. In addition, the Women, Infants, and Children program is transferred to the Department of Health from the Department of Human Services. This article would create the Rhode Island Safe Harbor Act to insure protection of the public and a safe environment for those sexually exploited minors, who are charged with prostitution or who are alleged to be victims of human trafficking; and provide these minors with the access to appropriate services.</p> <p>16 H 7454 Art. 04 An Article Relating To Government Organization</p>

This article will formalize and streamline several important areas of state government, which is intended to improve government efficiency, protect against fraud, waste and abuse, and to better serve the citizens of Rhode Island. Included within this article is the establishment of the Office of Diversity, Equity and Opportunity, the Office of Internal Audit, an Independent Office of Veterans Affairs, the Division of Enterprise Technology Strategy and Service, and the Division of Capital Asset Management and Maintenance. In addition, the Women, Infants, and Children program is transferred to the Department of Health from the Department of Human Services.

ARTICLE 23

RELATING TO SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN

SECTION 1. Section 12-25-20 of the General Laws in Chapter 12-25 entitled "Criminal Injuries Compensation" is hereby amended to read as follows:

§ 12-25-20. Offenses to which chapter applies. – The office may award compensation in accordance with the provisions of this chapter for personal injury or death which resulted from

offenses in the following categories:

- (1) Assault with intent to commit murder, robbery, or rape;
- (2) Assault with a dangerous weapon;
- (3) Assault and battery;
- (4) Mayhem;
- (5) Indecent assault and battery on a child under thirteen (13) years of age;
- (6) Arson or statutory burning;
- (7) Kidnapping;
- (8) Robbery or larceny from that person;
- (9) Murder;
- (10) Manslaughter;
- (11) First or second degree sexual assault;
- (12) Child molestation, first or second degree;
- (13) The abominable and detestable crime against nature or assault with intent to commit the abominable and detestable crime against nature;
- (14) Driving under the influence of alcohol or drugs;
- (15) Refusal by a driver to submit to a chemical test for alcohol or drugs in the immediate aftermath of a collision;
- (16) Driving so as to endanger, resulting in death, pursuant to § 31-27-1;
- (17) Driving so as to endanger, resulting in personal injury, pursuant to § 31-27-1.1;
- (18) Any other crime excluding motor vehicle offenses other than those enumerated in this section which results in personal injury or death; ~~and~~
- (19) Failure to stop by a driver in circumstances which result in the death of any person, pursuant to § 31-26-1-; and

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^{add}[\(20\) Sex trafficking of a minor pursuant to § 11-67-6.](#)_{<add>}

SECTION 2. TITLE 14 of the General Laws entitled "Delinquent and Dependent Children" is hereby amended by adding thereto the following chapter:

^{add}[CHAPTER 14-1.1](#)

[THE RHODE ISLAND SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN ACT](#)

[§ 14-1.1-1. Short Title.](#) - This act shall be known and may be designated as "The Rhode Island Safe Harbor for Sexually Exploited Children Act".

[§ 14-1.1-2. Purposes.](#) - This act shall be construed so as to effectuate the following purposes:

11 (a) To ensure that minors who are victims of sex trafficking are treated as victims and not
12 criminals by providing for immunity to the child victim from prosecution for prostitution and
13 redirecting the child victim of sexual exploitation and sex trafficking away from the criminal
14 or

14 juvenile justice systems and to refer the child victim to supportive services and programs;

15 (b) To preserve the unity of the family whenever possible and to provide for the care,
16 protection, and treatment of minors coming within the provisions of this act; and

17 (c) To provide child victims of sex trafficking and sexual exploitation access to the
18 criminal injuries compensation fund;

19 **§ 14-1.1-2. Definitions.** – The following words and phrases when used in this chapter
20 shall, unless the context otherwise requires, be construed as follows:

21 (a) “Commercial sex act” means any sex act or sexually explicit performance on account
22 of which anything of value is given, promised to, or received, directly or indirectly, by any
23 person.

24 (b) "Child or minor" means a person under the age of eighteen (18):

25 (c) “Child or minor victim of sex trafficking or sexual exploitation” means a minor as
26 defined in this chapter who has been recruited, employed, enticed, solicited, isolated, harbored,
27 transported, provided, persuaded, obtained or maintained for the purposes of performing
28 commercial sex acts;

29 (d) “Child or minor victim of severe forms of trafficking” means a minor as defined in
30 this chapter who is induced by force, fraud or coercion to perform a commercial sex act;

31 (e) “Criminal injuries compensation fund” means the financial compensation fund for
32 victims of violent crime enumerated in Chapter 25 of Title 12 of the Rhode Island General
33 laws

33 and administered by the Department of the General Treasurer;

34 (f) "Sex act" means sexual intercourse, cunnilingus, fellatio, anal intercourse, and digital

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1 intrusion or intrusion by any object into the genital opening or anal opening of another
2 person's

3 body or the stimulation by hand of another's genitals for the purposes of arousing or gratifying
4 the
5 sexual desire of either person.

6 (g) "Sexually-explicit performance" means an act or show, intended to arouse, satisfy the
7 sexual desires of, or appeal to the prurient interests of patrons or viewers, whether public or
8 private, live, photographed, recorded, or videotaped.

9 **§ 14-1.1-3. Immunity from Prosecution for Prostitution.** – The following provisions
10 shall apply to minors determined to be victims of sex trafficking or sexual exploitation:

11 (a) Child victims of sexual trafficking or sexual exploitation who are under the age of
12 sixteen (16) years shall not be charged with nor adjudicated for the crime of prostitution as
13 enumerated in §11-34.1-2 or for the crime of loitering for prostitution as enumerated in §11-
14 34.1-
15 3;

16 (b) A person sixteen (16) years of age or older may be charged and adjudicated for the
17 crime of prostitution as enumerated in §11-34.1-2 or for the crime of loitering for prostitution
18 as

19 enumerated in §11-34.1-3 when such a person directly engages or agrees to engage in sexual
20 conduct with another person for a fee and no third party benefits from that fee. However, in
21 any

22 prosecution for an offense under this section:

23 (1) it shall be an affirmative defense that the person was coerced into committing such

19 offense by another person; and

20 (2) a minor child who is sixteen (16) or seventeen (17) years of age, there shall be a
21 presumption that the minor was coerced into committing such offense by another person.

22 **§ 14-1.1-4. Risk assessment and uniform response protocols.** – When a child is alleged
23 to be a victim of sex trafficking or sexual exploitation, the department of children youth and
24 families or the law enforcement agency initially responding shall conduct a screening and risk
25 assessment to determine if the child should be considered to be a victim of sex trafficking or
26 sexual exploitation. Additionally, the responding agency(ies) shall use a uniform set of
27 protocols
for responding to alleged incidents of child sex trafficking or sexual exploitation.

28 (a) The department of children, youth and families, in collaboration with the office of the
29 attorney general, and the department of public safety shall identify a screening/risk assessment
30 tool(s) to be used for this purpose;

31 (b) The department of children, youth and families, in collaboration with the office of the
32 attorney general and the department of public safety shall develop uniform response protocols
33 for
34 addressing sex trafficking and sexual exploitation of minors to be used by the department of
children, youth and families and other agency(ies) when responding to such incidents.^[add]

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1 **§ 14-1.1-5. Reporting child victims of sex trafficking and sexual exploitation as**
2 **‘victims of child abuse.** – Any child who is believed to be a victim of sex trafficking or sexual
3 exploitation shall be reported to the department of children, youth and families as an alleged
4 victim of child abuse or neglect in accordance with the provisions of Chapter 11 of Title 40.

5 (a) The department has the affirmative duty to report all such allegations to the
6 appropriate law enforcement agency(ies) who shall investigate such allegations jointly with the
7 department.

8 (b) A victim of sex trafficking or severe forms of trafficking as defined in §40-11-2 shall
9 be considered as a victim of child abuse and neglect and sexual abuse regardless of whether or
10 not the individual alleged to have perpetrated the sexual trafficking or severe forms of
11 trafficking
is a parent of the child or other person responsible for the child’s welfare.

12 (c) Should the department determine that the allegations of child abuse or neglect are
13 supported in accordance with evidentiary standards, the department shall indicate the child as a
14 victim of child abuse or neglect and provide appropriate services to the child and/or his or her
15 family in accordance with normal child welfare practices;

16 **§ 14-1.1-6. Access to crime injuries compensation fund.** – Any minor, or a person age
17 18 but under the age of twenty-one who is in the care and custody of the department of
18 children,
youth and families, and who is identified as a victim of sex trafficking or sexual exploitation
19 shall
be eligible to apply to the criminal injuries compensation fund in accordance with the
20 provisions
of Chapter 25 of Title 12 of the Rhode Island General laws and the rules and regulations
21 promulgated by the office of the general treasurer.^{<add>}

22 SECTION 3. Section 40-11-2 of the General Laws in Chapter 40-11 entitled "Abused and
23 Neglected Children" is hereby amended to read as follows:

24 **§ 40-11-2. Definitions.** – When used in this chapter and unless the specific context
25 indicates otherwise:

26 (a) "Abused and/or neglected child" means a child whose physical or mental health or
27 welfare is harmed or threatened with harm when his or her parent or other person responsible

for

28 his or her welfare:

29 (1) Inflicts or allows to be inflicted upon the child physical or mental injury, including
30 excessive corporal punishment; or

31 (2) Creates or allows to be created a substantial risk of physical or mental injury to the
32 child, including excessive corporal punishment; or

33 (3) Commits or allows to be committed, against the child, an act of sexual abuse; or

34 (4) Fails to supply the child with adequate food, clothing, shelter, or medical care, though

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1 financially able to do so or offered financial or other reasonable means to do so; or

2 (5) Fails to provide the child with a minimum degree of care or proper supervision or
3 guardianship because of his or her unwillingness or inability to do so by situations or
4 conditions

4 such as, but not limited to, social problems, mental incompetency, or the use of a drug, drugs,
5 or

5 alcohol to the extent that the parent or other person responsible for the child's welfare loses his
6 or

6 her ability or is unwilling to properly care for the child; or

7 (6) Abandons or deserts the child; or

8 (7) Sexually exploits the child in that the person allows, permits or encourages the child
9 to engage in prostitution as defined by the provisions in § 11-34.1-1 et seq., entitled
10 "Commercial

10 Sexual Activity"; or

11 (8) Sexually exploits the child in that the person allows, permits, encourages or engages
12 in the obscene or pornographic photographing, filming or depiction of the child in a setting
13 which

13 taken as a whole suggests to the average person that the child is about to engage in or has
14 engaged in, any sexual act, or which depicts any such child under eighteen (18) years of age,
15 performing sodomy, oral copulation, sexual intercourse, masturbation, or bestiality; or

16 (9) Commits or allows to be committed any sexual offense against the child as such
17 sexual offenses are defined by the provisions of chapter 37 of title 11, entitled "Sexual
18 Assault",

18 as amended; or

19 (10) Commits or allows to be committed against any child an act involving sexual
20 penetration or sexual contact if the child is under fifteen (15) years of age; or if the child is
21 fifteen

21 (15) years or older, and (1) force or coercion is used by the perpetrator, or (2) the perpetrator
22 knows or has reason to know that the victim is a severely impaired person as defined by the
23 provisions of § 11-5-11, or physically helpless as defined by the provisions of § 11-37-6.

24 (b) "Child" means a person under the age of eighteen (18).

25 (c) "Child protective investigator" means an employee of the department charged with
26 responsibility for investigating complaints and/or referrals of child abuse and/or neglect and
27 institutional child abuse and/or neglect.

28 ^{{add>} (d) "Commercial sex act" means any sex act or sexually explicit performance on

29 account
30 of which anything of value is given, promised to, or received, directly or indirectly, by any
31 person. ^{<add>}

31 (e) "Department" means department of children, youth, and families.

32 (f) "Institution" means any private or public hospital or other facility providing medical
33 and/or psychiatric diagnosis, treatment, and care.

1 abuse or neglect where the person allegedly responsible for the abuse or neglect is a foster
2 parent
3 or the employee of a public or private residential child care institution or agency; or any staff
4 person providing out-of-home care or situations where the suspected abuse or neglect occurs
5 as a
6 result of the institution's practices, policies, or conditions.

7 (h) "Law enforcement agency" means the police department in any city or town and/or
8 the state police.

9 (i) "Mental injury" includes a state of substantially diminished psychological or
10 intellectual functioning in relation to, but not limited to, such factors as: failure to thrive;
11 ability
12 to think or reason; control of aggressive or self-destructive impulses; acting-out or
13 misbehavior,
14 including incorrigibility, ungovernability, or habitual truancy; provided, however, that the
15 injury

16 must be clearly attributable to the unwillingness or inability of the parent or other person
17 responsible for the child's welfare to exercise a minimum degree of care toward the child.

18 (j) "Person responsible for child's welfare" means the child's parent, guardian, any
19 individual, eighteen (18) years of age or older, who resides in the home of a parent or guardian
20 and has unsupervised access to a child, foster parent, an employee of a public or private
21 residential home or facility, or any staff person providing out-of-home care (out-of-home care
22 means child day care to include family day care, group day care, and center-based day care).
23 Provided further that an individual, eighteen (18) years of age or older, who resides in the
24 home

25 of a parent or guardian and has unsupervised access to the child, shall not have the right to
26 consent to the removal and examination of the child for the purposes of § 40-11-6.

27 (k) "Physician" means any licensed doctor of medicine, licensed osteopathic physician,
28 and any physician, intern, or resident of an institution as defined in subdivision (5).

29 (l) "Probable cause" means facts and circumstances based upon as accurate and reliable
30 information as possible that would justify a reasonable person to suspect that a child is abused
31 or
32 neglected. The facts and circumstances may include evidence of an injury or injuries, and the
33 statements of a person worthy of belief, even if there is no present evidence of injury.

34 ^{{add>}(m) "Sex act" means sexual intercourse, cunnilingus, fellatio, anal intercourse, and
digital
intrusion or intrusion by any object into the genital opening or anal opening of another
person's
body or the stimulation by hand of another's genitals for the purposes of arousing or gratifying
the
sexual desire of either person.

(n) "Sexually-explicit performance" means an act or show, intended to arouse, satisfy the
sexual desires of, or appeal to the prurient interests of patrons or viewers, whether public or
private, live, photographed, recorded, or videotaped.^{<add>}

(o) "Shaken baby syndrome" means a form of abusive head trauma, characterized by a

1 constellation of symptoms caused by other than accidental traumatic injury resulting from the
2 violent shaking of and/or impact upon an infant or young child's head.

3 {add>(p) A “victim of sex trafficking” is a minor as defined in this chapter who has been
 4 recruited, employed, enticed, solicited, isolated, harbored, transported, provided, persuaded,
 5 obtained or maintained for the purposes of performing commercial sex acts;
 6 (q) A “victim of severe forms of trafficking” is a minor as defined in this chapter who is
 7 induced by force, fraud or coercion to perform a commercial sex act;<add>
 8 SECTION 4. This article shall take effect upon passage.

	<p>MOTION: To</p> <ol style="list-style-type: none"> 1) <i>Oppose if the resolution eliminates the General Assembly’s role in approving all Categories II & III changes. 16 H 7454 Article 07 Relating To Medicaid Reform Act Of 2008 Resolution</i> 2) <i>Supports if amended SECTION 6 community health teams include BH, IDD & ORS providers &</i> 3) <i>SECTION ? status of state funded PCA - 16 H 7454 Article 09 Relating To Medical Assistance And Hospital Uncompensated Care</i> 4) <i>To Opposes don’t tax other prescription drugs 16 H 7454 Article 14 Relating To Caregivers/Compassion Centers</i> 5) <i>Supports/ if amended to cover all individuals with Intellectual and Developmentally Disabilities, regardless of age. 16 H 7454 Article 23 Relating To Safe Harbor For Sexually Exploited Children</i> <p>Motion moved by CG, seconded by JR, passed unanimously</p>
	<p>4:55 Agenda for the Next Meeting: Tim Flynn, Chair</p> <p>Purpose/Goal: To set the agenda for the next meeting.</p> <p>Discussion: The next Executive Committee meeting will be on: March 28, 2016 @ 4:30 pm. Summer and Fall Fellowship applicants interviews and selection. The next Legislation Committee meeting will be on Monday April 4, 2016 3 - 4:30 PM</p>
	<p>5:00 Adjournment: Tim Flynn, Chairperson</p> <p>MOTION: To adjourn at: 4:53 PM.</p> <p>Motion moved by JR, seconded by BI, passed unanimously</p>