

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE COMPLEX
1511 PONTIAC AVENUE
CRANSTON, RI 02920**

IN THE MATTER OF:

████████████████████
RESPONDENT.

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DBR No. 19MM001

CONSENT AGREEMENT

The Department of Business Regulation (the “Department”) through its Office of Cannabis Regulation (“OCR”) and ██████████ (the “Respondent”) hereby agree to resolve the above-captioned matter pursuant to R.I. Gen. Laws § 42-35-9(d).

It is hereby agreed between the Department and the Respondent that:

1. On January 29, 2019, the Cranston Police Department discovered a total of one-hundred and fifty-six (156) mature marijuana plants, one hundred and fifty-seven marijuana (157) seedling plants and thirty-three thousand, four-hundred and twenty (33,420) grams of usable marijuana on the first floor of ██████████ (the “Property”), a space in Respondent’s possession. No marijuana plants had medical marijuana plant tags.
2. On January 31, 2019, the Respondent was arrested by the Cranston Police Department as a result of its January 29, 2019 discovery and charged with Possession with Intent to Deliver Marijuana in an Amount Greater Than Five (5) Kilograms, Manufacture of Marijuana and Driving on a Suspended License.¹
3. At the time of Respondent’s arrest, he possessed Rhode Island Medical Marijuana Program patient card No. ██████████
4. On February 28, 2020, the Respondent pled nolo contendere to one count of Possession with Intent to Deliver Marijuana and received a three (3) year suspended sentence with probation in case P2-2019-5875A.
5. Respondent now requests that his plea in the criminal matter of P2-2019-5875A and his forthright discussion of any cultivation at the Property be considered as mitigating circumstances in the resolution of this administrative matter.

¹ These charges were outlined in the Criminal Information for P2-2019-5875A.

Applicable Law

6. Pursuant to R.I. Gen. Laws § 21-28.6-4, “A qualifying patient cardholder who has in his or her possession a registry identification card shall not be subject to arrest, prosecution or penalty in any manner, or denied any right of privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marijuana; provided, that the qualifying patient cardholder possesses an amount of marijuana that does not exceed twelve (12) mature marijuana plants that are accompanied by valid medical marijuana tags, two and one-half (2.5) ounces of usable marijuana, or its equivalent amount, and an amount of wet marijuana to be set by regulations promulgated by the department of health and business regulation. Said plants shall be stored at an indoor facility.”²
7. Pursuant to R.I. Gen. Laws § 21-28.6-15(a), “Effective January 1, 2017, the department of business regulation shall make medical marijuana tag sets available for purchase. Effective April 1, 2017, every marijuana plant, either mature or seedling, grown by a registered patient or a primary caregiver, must be accompanied by a physical medical marijuana tag purchased through the department of business regulation and issued by the department of health to qualifying patients and primary caregivers or by the department of business regulation to licensed caregivers.”³
8. Pursuant to R.I. Gen. Laws § 21-28.6-15(b)(3), “If a patient cardholder...is found to have mature marijuana plants without valid medical marijuana tags the department of [f] health or department of business regulation shall impose an administrative penalty on the patient cardholder, primary caregiver cardholder, licensed cooperative cultivation, or licensed cultivator for each untagged mature marijuana plant not in excess of the limits set forth in § 21-28.6-4, § 21-28.6-14 and § 21-28.6-16 of no more than the total fee that would be paid by a cardholder or licensee who purchased medical marijuana tags for such plants in compliance with this chapter.”⁴
9. Pursuant to R.I. Gen. Laws § 21-28.6-15(b)(4), “If a patient cardholder...is found to have mature marijuana plants exceeding the limits set forth in § 21-28.6-4, § 21-28.6-14 and § 21-28.6-16, in addition to any penalties that may be imposed pursuant to § 21-28.6-9, the department of health or the department of business regulation may imposed an administrative penalty on that cardholder or license holder for each mature marijuana plant in excess of the applicable statutory limit of no less than the total fee that would be paid by a cardholder who purchased medical marijuana tags for such plants in compliance with this chapter.”⁵
10. Pursuant to 230-RICR-80-5-1, *Rules and Regulations Related to the Medical Marijuana Program Administered by the Department of Business Regulation*⁶ (“MMP Rules”) § 1.9(C)(5), “Qualified patient cardholders who register with DOH after April 1, 2017 and who choose to grow for themselves must obtain at least one (1) medical marijuana plant tag set within ten (10) business

2 This statutory provision was amended pursuant to 2019 P.L. ch.088, Article XV, effective July 5, 2019.

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5 This statutory provision was amended pursuant to 2019 P.L. ch.088, Article XV, effective July 5, 2019

6 All references to the MMP Rules within this Consent Agreement reflect the MMP Rules in effect from January 1, 2017 to March 25, 2020 and which can be located at: <https://rules.sos.ri.gov/regulations/part/230-80-05-1/8717>.

days of receiving their registry identification card from DOH. Such patients are further responsible for obtaining any additional medical marijuana plant tag sets necessary and may not legally possess medical marijuana plants until such time as the plant tags are obtained.”

11. Pursuant to MMP Rules, § 1.9(D)(2), “A qualified patient cardholder may purchase no more than twelve (12) medical marijuana plant tag sets (comprised of twelve (12) mature plant tags and twelve (12) seedling tags for a total of twenty-four (24) medical marijuana plant tags), which corresponds to the possession limits of twelve (12) mature plants and twelve (12) seedlings set by R.I. Gen. Laws § 21-28.6-4(a) and § 21-28.6-4(f), respectively.”
12. Pursuant to MMP Rules, § 1.9(N)(2), the administrative penalty assessed for possession of twenty-five (25) or more mature marijuana plants over the limits specified in R.I. Gen. Laws § 21-28.6-4 will range from a minimum of twenty-five dollars (\$25) per plant up to a maximum of five-thousand dollars (\$5,000.00) per plant.

Conditions

13. The Department and the Respondent have agreed to an amicable resolution of this matter without an administrative hearing and its attendant time and costs. As such, the Department and the Respondent agree to the following:
 - a. Contemporaneously with the execution of this Consent Agreement, the Respondent will pay an administrative penalty by check in the amount of five-thousand dollars (\$5,000) made payable to the “RI General Treasurer” for his possession as a patient cardholder of marijuana plants in excess of the statutory plant limits;
 - b. By his signature below, Respondent hereby irrevocably waives, relinquishes and forfeits any right or protection he has to cultivate marijuana for himself or others pursuant to R.I. Gen. Laws § 21-28.6-4(a) and any other provisions of the Act. Respondent acknowledges and agrees that any rights formerly associated with his status as a medical marijuana patient and/or his patient registration card shall now and hereafter expressly exclude any right or protection for the cultivation of medical marijuana, provided, however, that Respondent shall retain the right to purchase medical marijuana from a licensed compassion center in accordance with the provisions of the Act and the MMP Rules. Record of this waiver, relinquishment and forfeiture shall be maintained in the state’s medical marijuana tracking system and verified to law enforcement in accordance with R.I. Gen. Laws § 21-28.6-6(1), the Act and the MMP Rules.
14. The parties agree that this Consent Agreement and its terms represent the final determination of this matter.

Legal Effects of Consent Agreement

15. *Waiver of Hearing and Appeal.* By agreeing to resolve this matter through the execution of this Consent Agreement, Respondent knowingly and voluntarily waives any right to an administrative hearing and waives any right to pursue an appeal to the Superior Court under the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-2 *et seq.*
16. *Enforcement.* If the Respondent fails to comply with any term or condition of this Consent Agreement within any applicable time period set forth herein, the Respondent will be in violation

hereunder and the Department shall be entitled to immediately take enforcement or other action in accordance with applicable law.

17. *Compliance; Laws.* Compliance with the terms of this Consent Agreement does not relieve the Respondent of any obligation to comply with other applicable laws or regulations administered by or through the Department or any other governmental agency.

For the Department:



Signature

Ms. Erica Ferrelli
Senior Economic and Policy Analyst
Office of Cannabis Regulation

Date: 6.26.2020

Respondent:

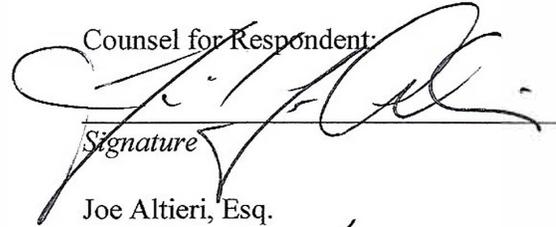


Signature /



Date: 6/16/20

Counsel for Respondent:



Signature

Joe Altieri, Esq.

Date: 6/25/2020

