

State of Rhode Island and Providence Plantations

Rhode Island Department of Revenue
Division of Taxation

Public Notice of Proposed Rule-Making

Pursuant to the provisions of Rhode Island General Law §42-35-3(a)(1) and in accordance with the Administrative Procedures Act (Chapter 42-35 of the General Laws), the Division of Taxation hereby gives notice of its intent to promulgate regulation CCS 11-01, "Compassion Center Surcharge."

The purpose of this rule making process is to implement Chapter 44-67 of the Rhode Island General Laws, which imposes a surcharge on compassion centers. This regulation shall take effect October 1, 2011.

The proposed rule and concise summary of non-technical requirements and proposed new rules are available for public inspection at www.tax.ri.gov in person at the Rhode Island Division of Taxation, or can be requested by e-mail at mcanole@tax.ri.gov or by calling Michael Canole at (401) 574-8729.

In the development of the proposed regulation, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap, or significant economic impact on small business was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by Friday, August 26, 2011 to Michael Canole, Rhode Island Division of Taxation, One Capitol Hill, Providence, RI – telephone number (401) 574-8729 or via e-mail: mcanole@tax.ri.gov. A public hearing to consider the proposed regulation will be held on Friday, August 26, 2011, at 1 p.m., at the Rhode Island Division of Taxation, One Capitol Hill, Providence, RI, at which time and place all persons interested therein will be heard. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing to Michael Canole at Rhode Island Division of Taxation, One Capitol Hill, Providence, RI 02908 or by calling (401) 574-8729.

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Concise Summary of ALL Non-technical requirements pursuant to RIGL Section 42-35-3(a)(1) regarding rules and regulations on compassion center surcharge.

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State of Rhode Island - Division of Taxation

Emergency Regulation CCS 11-01

Compassion Center Surcharge

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RULE 1. PURPOSE

This regulation implements Chapter 44-67 of the Rhode Island General Laws. This Chapter provide for a surcharge on the net patient revenue of compassion centers.

RULE 2. AUTHORITY

This regulation is promulgated pursuant to RIGL Chapter 44-67-12. These rules have been prepared in accordance with the requirements of RIGL 42-35-3(b), 44-1-1 et. seq.

RULE 3. APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department of Revenue to effectuate the purposes of RIGL Chapter 44-67 and other applicable state laws and regulations.

RULE 4. SEVERABILITY

If any provision of these rules and regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be affected thereby.

RULE 5. DEFINITIONS

"Administrator" means the tax administrator within the department of revenue.

"Compassion center" means a not-for-profit entity registered under § 21-28.6-12 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or dispenses marijuana, or related supplies and educational materials, to registered qualifying patients and their registered primary caregivers who have designated it as one of their primary caregivers.

"Marijuana" means all parts of the plant cannabis sativa L., whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, but shall not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, (except the resin extracted from it), fiber, oil or cake, or the sterilized seed from the plant which is incapable of germination.

"Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of marijuana to alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the medical condition.

"Net patient revenue" means the gross amount received on a cash basis by a compassion center net of returns and allowances.

"Practitioner" means a person who is licensed with authority to prescribe drugs pursuant to chapter 37 of title 5 or a physician licensed with authority to prescribe drugs in Massachusetts or Connecticut.

"Primary caregiver" means either a natural person who is at least twenty-one (21) years old or a compassion center. Unless the primary caregiver is a compassion center, a natural primary caregiver may assist no more than five (5) qualifying patients with their medical use of marijuana.

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

"Surcharge" means the assessment that is imposed upon net patient revenue pursuant to this chapter.

Any term not defined in this chapter shall have the same meaning as used in chapter 28.6 of title 21.

RULE 6. COMPASSIN CENTER SURGHARGE

A surcharge at a rate of four percent (4.0%) shall be imposed upon the net patient revenue received each month by every compassion center. Every compassion center shall pay the monthly surcharge to the tax administrator no later than the twentieth (20th) day of the month following the month that the net patient revenue was received. This surcharge shall be in addition to any other authorized fees that have been assessed upon a compassion center.

Rule 7 Returns.

(a) Every compassion center shall, on or before the twentieth (20th) day of the month following the month that the net patient revenue is received, make a return to the tax administrator.

(b) Compassion centers shall file their returns on a form as prescribed by the tax administrator containing data for the correct computation of net patient revenue and the surcharge. If a return shows an overpayment of the surcharge due, the tax administrator shall refund or credit the overpayment to the compassion center.

(c) The tax administrator, for good cause shown, may extend the time within which a compassion center is required to file a return. If the return is filed during the period of extension, no penalty or late filing charge may be imposed for failure to file the return at the time required by this chapter, but the compassion center shall be liable for any interest as prescribed in this chapter. Failure to file the return during the period for the extension shall make the extension null and void and appropriate penalty or late filing charge may be imposed.

Rule 8 Set-off for delinquent payment of surcharge

If a compassion center shall fail to pay a surcharge, penalty or late filing charge within thirty (30) days of its due date, the tax administrator may request any agency of state government to set off the amount of the delinquency against any payment they might be due the compassion center from the agency and to remit any such payment to the tax administrator. Upon receipt of a request for set-off from the tax administrator, any agency of state government is authorized and empowered to set-off the amount of any delinquency against any payment that is due the compassion center. The amount of set-off shall be credited against the surcharge, penalty or late filing charge due from the compassion center.

RULE 9. EFFECTIVE DATE

This regulation shall take effect on July 1, 2011.

RULE 10. CROSS REFERENCES

SU 11-60 “Drugs, Medicines, Marijuana For Medical Use, Dietary Supplements and Grooming and Hygiene Products

DAVID SULLIVAN
TAX ADMINISTRATOR