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**COMMENTS ON PROPOSED DEPARTMENT OF HUMAN SERVICES
REGULATIONS RELATING TO THE R.I. VETERANS' HOME
December 2018**

This testimony is submitted on behalf of the American Civil Liberties Union of Rhode Island, the R.I. Patient Advocacy Coalition, Protect Families First, Americans for Safe Access, Veterans Alternative Health Inc, and the Marijuana Policy Project. We write to express our strong opposition to a new provision in these proposed regulations that would ban the use by residents of any “narcotics prohibited by federal law.” Section 3.12(D). Our organizations request that this provision be eliminated, and that the regulations otherwise be clarified to ensure that residents at the Veterans’ Home are able to possess and use medical marijuana in accordance with state law.¹

STATEMENT OF INTEREST

The American Civil Liberties Union of Rhode Island is a non-profit organization promoting civil liberties, and has long opposed the criminalization of marijuana use on the grounds that it is an undue invasion of privacy, wastes enormous criminal justice resources, and is enforced in an arbitrary and racially discriminatory manner. For those reasons and others, the ACLU has actively supported legislation authorizing the use of marijuana for medical purposes, as well as the broader decriminalization of marijuana.²

¹ We note that Section 3.14(B) bans not only “unauthorized medications,” but also, without exception, all “narcotics,” which could also be interpreted to ban medical marijuana even if authorized. We believe that this provision should be clarified as well to avoid any such interpretation.

² The ACLU of Rhode Island is also separately submitting testimony on other aspects of these proposed regulations.

The Rhode Island Patient Advocacy Coalition (RIPAC) is a nonprofit organization comprised of local medical marijuana patients, caregivers, doctors, advocacy groups, and others who are interested in medical marijuana. RIPAC was formed to advocate for patients and the caregivers of those patients who experience therapeutic relief from the use of marijuana. RIPAC also works to protect the medical use of marijuana under state law by facilitating dialogue among patients, medical professionals, law enforcement, and policymakers.

Protect Families First is a Providence-based nonprofit organization that works to promote drug policies and practices that promote community health and safety, keep families intact, support youth, and keep people out of the criminal justice system. It is an alliance of parents, young people, and community leaders who recognize the failure of current drug policies and seek to educate policy makers about the dangers of those policies and to galvanize broad support for reform.

Americans for Safe Access (ASA) is the largest national member-based organization of patients, medical professionals, scientists and concerned citizens promoting safe and legal access to cannabis for therapeutic use and research. ASA seeks to improve access to medical cannabis through legislation, education, litigation, research, grassroots empowerment, advocacy and services for patients, governments, medical professionals, and medical cannabis providers.

Veterans Alternative Health Inc. provides education, services, support, advocacy and opportunities for and to veterans interested in utilizing alternative healing approaches in treating ailments or conditions which affect them mentally, physically, emotionally, or psychologically, thereby reducing the use of opiates and other pharmacological drugs without stigma.

Marijuana Policy Project (MPP), founded in January 1995, is the largest organization in the U.S. that is focused solely on ending marijuana prohibition. MPP's mission is to change federal law to allow states to determine their own marijuana policies without federal interference, as well as to regulate marijuana like alcohol in all 50 states, D.C., and the five territories.

TESTIMONY

Our organizations request deletion of a provision in these proposed rules banning the use by residents of any “narcotics prohibited by federal law,” Section 3.12(D), and the clarification of another provision barring the use of all narcotics by residents, Section 3.14(B).

For more than a decade, Rhode Island has, by law, authorized the use of medical marijuana for a variety of medical conditions. Even more pertinent, two years ago the General Assembly approved important legislation specifically allowing individuals suffering from post-traumatic stress disorder (PTSD) to use medical marijuana to ease their symptoms. R.I.G.L. §21-28.6-3(5)(i). Legislators heard testimony about how many individuals suffering from PTSD – and particularly returned veterans – reported significant relief from their symptoms thanks to their use of marijuana. However, this proposal would ban any suffering resident at the Veterans’ Home from taking advantage of the state’s medical marijuana law.

A few months ago the *Providence Journal* published two articles – one national and one local – describing the legalization of medical marijuana as an important weapon against an increasing suicide epidemic among veterans. The articles are attached to this testimony.³ One article touts Rhode Island as being ahead of the curve in allowing this form of medical relief for PTSD, yet this proposal would actually amount to a step backward in addressing this literal life-or-death issue for a number of our state’s veterans.⁴

Because the Veterans’ Home is a creation of state law, no provision in federal law bars the allowance of medical marijuana use at the Home. Locally, a spokesperson for the VA Medical

³ The articles can be found online at: <http://www.providencejournal.com/news/20180811/ri-ahead-of-curve-in-oking-pot-for-ptsd>; and <http://www.providencejournal.com/news/20180811/pot-seen-as-weapon-in-war-on-suicide>

⁴ A lengthy investigative piece by the *Sarasota Herald-Tribune* into the use of medical marijuana by veterans with PTSD and other illnesses as a result of their combat duty, and the veterans’ fight with the federal government about its use, indirectly provides devastating and compelling arguments in support of Rhode Island’s actions in first adopting and then expanding the scope of the state’s medical marijuana law. The newspaper series on this subject is available online at <https://www.rxforveterans.com/>

Center in Providence has acknowledged that “veterans who participate in the state’s medical marijuana program are not denied access to other VA medical care because of the federal government’s stance” on the issue.⁵ U.S. Department of Veterans Affairs policy makes this explicit by stating, “Veterans must not be denied [Veterans Health Administration] services solely because they are participating in State-approved marijuana programs.”⁶

Yet, ironically, under these proposed regulations, the *State* would deny services to veterans solely because they are participating in a State-approved marijuana program, even though state law has directly recognized the utility and importance of medical marijuana in addressing the plight of veterans. Put another way, the federal government – which, unlike Rhode Island, still refuses to recognize the well-known positive effects of medical marijuana for diseases and illnesses like PTSD – protects veterans using medical marijuana against discrimination better than the State of Rhode Island would do by passing this regulation. This is nothing short of cruel.

It is ironic to consider that the Veterans’ Home has been established to “provide[] quality nursing and residential care to Rhode Island war veterans,”⁷ yet seeks to forbid the medically efficacious use of medical marijuana by its residents. It simply should not. After all, some veterans who reside at the Home are, almost by definition, potentially most in need of medication like this.

Finally, we submit that this proposed regulation is not only poor policy, it contravenes the state’s medical marijuana law itself. In guaranteeing legal protections to medical marijuana users, the law provides that a medical marijuana patient “shall not be ...denied any right or privilege” R.I.G.L. §21-28.6-4(a). Relatedly, the statute also bars landlords from refusing to lease to or otherwise discriminate against medical marijuana cardholders. R.I.G.L. §21-28.6-4(d). This proposal, we submit, is in direct tension with, and in violation of, these statutory protections.

⁵ Fn. 3, *supra*.

⁶ VHA Directive 1315, December 8, 2017. https://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=571.

⁷ <http://www.vets.ri.gov/includes/benefits/counseling/rivh.php>

For all these reasons, our organizations therefore respectfully, but strongly, request that this proposed ban be deleted. Its inclusion can only unnecessarily promote pain and suffering in those at the Home who have already sacrificed themselves for their country.⁸

We appreciate your attention to our views, and trust that you will give them your careful consideration. If the suggestions we have made are not adopted, we request that, pursuant to R.I.G.L. §42-35-2.6, you provide us with a statement of the reasons for not accepting these arguments. Thank you.

Submitted by:

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⁸ For the reasons expressed in fn. 1, *supra*, Section 3.14(B) should also be clarified.

EXHIBITS

PROVIDENCE JOURNAL ARTICLES

AUGUST 12, 2018

“Pot Seen as Weapon in War on Suicide”

“R.I. Ahead of Curve in OK’ing Pot for PTSD

Pot seen as weapon in war on suicide

By Billy Cox / Sarasota Herald-Tribune

Posted Aug 11, 2018 at 11:16 PM

Updated Aug 11, 2018 at 11:19 PM

WASHINGTON, D.C. — If, as the Centers for Disease Control and Prevention suggested in June, America's suicide epidemic has become a national public health crisis, what label would apply to the same phenomenon unfolding within the ranks of our active-duty and military veterans?

Since the launch of the "Global War on Terror" following the 9/11 attacks, U.S. warriors have been killing themselves at twice the rate of civilians. And the numbers are startling.

From 2005-2015, more than 75,000 Americans with military backgrounds took their lives, according to a recent U.S. Department of Veterans Affairs study, at a rate of 20.6 every day. Of those daily rates, 3.8 were still in uniform. In other words, during a 10-year stretch, the Pentagon lost 13,870 troops to self-inflicted actions — roughly twice the totals claimed by hostile action.

The numbers are piling up, even as near-miraculous advances in battlefield medicine are saving lives that would have been lost a generation ago. But more often than not, suicidal impulses are triggered by wounds that can't be seen — chiefly, posttraumatic stress disorder (PTSD) and traumatic brain injury (TBI). According to many veterans in the system, federally imposed solutions for pain management of this magnitude are not only ineffective, but lethal.

In response, a loosely coordinated movement of veterans, mostly from the Iraq/Afghanistan theaters, is pushing hard for legal access to medicinal marijuana. However, through their actions or inaction, every president and Congress for nearly 50 years has regarded cannabis as more dangerous than cocaine, and every bit as addictive as heroin. But this inertia is now opposed by 68 percent of Americans who, according to the latest Gallup poll, favor full legalization of cannabis.

In June, Oklahoma became the 30th state to ratify medical marijuana, and July ushered in Vermont as the ninth state to normalize personal use. By all appearances, the U.S. is entering the final stages of prohibition. But for those in the armed forces, every state in the union could legalize marijuana, and it would make no difference for troops seeking alternative modes of relief from PTSD and TBI.

Unless cannabis is removed from the stigma of Schedule 1, a Controlled Substances Act designation that quarantines marijuana as a drug with no medicinal merit, active-duty members who risk sampling its benefits will be guilty of breaking federal law and/or the Uniform Code of Military Justice — the bedrock of military law.

They may hobble along on artificial limbs and carry chunks of shrapnel with every step, but a dirty urinalysis could destroy their military careers, smear their permanent records, activate the forfeiture of cash signing bonuses, and cost them their G.I. Bill and pensions, not to mention a lifetime ban from veteran service organizations.

The Sarasota Herald-Tribune spent eight months looking into the veterans' war on Schedule 1. The movement is energized partially by fear of accidental overdoses in a nation swimming in highly addictive painkillers. Often prescribed by the VA, these combinations, say many veterans, are stupor-inducing "combat cocktails" that leave them foggy and disengaged, with side effects such as suicidal ideation, severe constipation and sexual dysfunction.

But the movement is also driven by scientific research, now drilling deep into marijuana's chemistry. And the veterans' campaign against Schedule 1 draws from personal experience, with abundant testimonials vouching for marijuana's ability to alleviate their anxieties in ways that pharmaceuticals have not.

What the movement is up against is a 20th-century artifact with deep xenophobic roots buttressed by law-and-order overtones set by the Federal Bureau of Narcotics.

Established in 1930, the Bureau was led by a commissioner who once declared "Reefer makes darkies think they're as good as white men." Superficial attitudes may have changed, but a Nixon-era law that was shaped by divisive politics —

not science — has remained intractable. And the cost to America's veterans is so troubling that the 14th Chairman of the Joint Chiefs of Staff says procedures for withholding medical marijuana from veterans are probably obsolete.

“Let's change the system. There's nothing magic about it, it wasn't written in blood,” says Gen. Hugh Shelton — the first Special Forces-qualified officer to wear four stars and the former commander of U.S. Special Operations Command. “I think it's something our nation needs to be dealing with, and I think it might even be higher in the chain than the VA on the federal level in Washington. We ought to even consider having the National Security Council take a look at it.”

On Memorial Day, a handful of veterans convened in Washington, D.C., to lobby the national conscience for access to medical marijuana. They unfolded a portable, 100-foot long wall of portraits — all military suicides — at the front door of the VA before marching it to the gates of the White House.

The Herald-Tribune examines the statistics, the anguish, the science and the politics that forced them to go to war with their own government. To view the full report, go to rxforveterans.com.

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PROVIDENCE Journal

R.I. ahead of curve in OK'ing pot for PTSD

By Tom Mooney
Journal Staff Writer

Posted Aug 11, 2018 at 11:16 PM

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PROVIDENCE — In 2015, 15 veterans in Rhode Island committed suicide, four more than the previous year, according to the latest federal data.

It was the plight of veterans that helped persuade the General Assembly, in 2016, to approve posttraumatic stress disorder (PTSD) as a qualifying condition for medical marijuana use, says Joanne Leppanen, director of the Rhode Island Patient Advocacy Coalition, which for a decade now has promoted the medicinal value of pot.

“One of the things that really motivated everyone to get PTSD as a qualifier were the veterans,” she says. But it took awhile.

For three or four years, Leppanen says, the coalition asked veterans to testify before legislative committees at the State House, to tell how the drug eased their trauma-induced anxiety and nightmares. But there was so much skepticism, Leppanen said, “we couldn’t get them [the veterans] to come up anymore.”

“We had one vet who, after talking, was followed by a psychiatrist from the medical society who was so disrespectful, saying, ‘We don’t have any studies that show this works.’ He was denying these guys’ experiences to their faces.”

According to an eight-month investigation by The Sarasota Herald-Tribune, veterans have been killing themselves at twice the rate of civilians since the 9/11 terror attacks of 2001.

In response, some veterans groups around the country are pushing more states to do what Rhode Island did — allow PTSD to be a qualifying condition for medical marijuana use.

Proponents say marijuana is more effective than more traditional modes of relief.

But because the federal government also still considers marijuana a Schedule 1 controlled substance — in the same category as heroin and LSD and equally addictive, with no medical value — active duty and veterans risk breaking federal law if they use marijuana.

Veterans are also pushing to have the drug's Schedule 1 classification changed to make marijuana more available for medicinal purposes. In August 2016, the U.S. Drug Enforcement Administration denied a petition to lower marijuana's classification.

This summer, Oklahoma became the 30th state to approve medical marijuana use. Rhode Island legalized medical marijuana in 2006 for patients who are diagnosed by a doctor as having a "debilitating medical condition" such as chronic pain, severe nausea or diseases such as cancer, glaucoma, HIV and AIDS. Prior to PTSD's approval as a qualifying condition in 2016, many veterans were able to enter the medical marijuana program because of other qualifying conditions.

The Centers for Disease Control and Prevention describes PTSD as an intense physical and emotional response to a traumatic event.

In Rhode Island, 18,551 people are registered medical marijuana users, says the state Department of Health. The department can't say specifically how many are veterans. But of the total number of patients, 4,417 receive discounts for being a veteran, or because they are on Social Security or disability.

Winfield Danielson, spokesman for the Veterans Administration Medical Center, in Providence, says veterans who participate in the state's medical marijuana program are not denied access to other VA medical care because of the federal government's stance on pot.

VA doctors, however, can't prescribe marijuana to their patients, Danielson said. They must seek a recommendation for pot use from another doctor.

B&B Medical Marijuana Evaluation Center, with offices in Warwick and Pawtucket, has made about 4,500 doctor referrals for medical marijuana since 2012, says owner Jessica Cotton. About 15 percent of its patients (roughly 675) are veterans.

According to a report from the Department of Veterans Affairs, nearly 30 percent of veterans who served in the Iraq and Afghanistan wars suffer from PTSD.

Leppanen, with the advocacy coalition, says marijuana has made a difference for many veterans in just the last two years since the General Assembly allowed PTSD as a qualifying condition.

“Oh yes, for so many,” she says. “Right after [the law] passed, people still hadn’t heard about it, and I was getting an onslaught of calls from vets, many of whom were using [marijuana] anyway but they wanted to do it legally. It was the most gratifying thing to tell them you are in luck, PTSD is a qualifying condition.”

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