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ACLU OF RI POSITION: SUPPORT

TESTIMONY IN SUPPORT OF 21-H 5021, AN ACT RELATING TO MEDICAL MARIJUANA April 12, 2021

The ACLU of Rhode Island strongly supports this bill, which would clarify the protections for medical marijuana patients against discrimination by employers based on the patients' status as marijuana users.

The current statute explicitly bars discrimination against medical marijuana cardholders in a variety of contexts, including employment. Despite the law's seemingly clear language, some employers have taken the position that denying employment to a medical marijuana user for failing a drug test because they have marijuana in their system does not discriminate against them on the basis of their status as a participant in the program.

In a case handled by the ACLU, *Callaghan v. Darlington Plastics*, a Superior Court judge rejected that strained interpretation of the law which, if accepted, would have undermined the whole point of the statute's anti-discrimination protections. This bill would codify that clarification of the law so that there is no confusion about the protections for patients who are lawfully using marijuana for medical purposes and who are not taking it on the job or working in an impaired capacity.

This is no different than if an employee were taking prescription drugs for a medical condition that did not impair their work, and yet got fired for that medical treatment. An employer simply should not be able to fire, or decide not to hire, or discriminate against someone in other meaningful ways merely because of their underlying medical condition or the medication they are taking for it. Whether it's marijuana, a prescribed medication or over the counter drug designed to treat a person illness or disability, a person has a right not to be discriminated against absent some evidence of disruption or interference with job performance.

To avoid any further litigation, the ACLU urges passage of this clarifying bill.