

STATE OF RHODE ISLAND
CANNABIS CONTROL COMMISSION
560 JEFFERSON BOULEVARD
WARWICK, R.I. 02886

In the Matter of:

Green Wave CC, Inc.,

Respondent.

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DBR No. 24OCR033

FINAL ORDER RE: MOTION FOR RECONSIDERATION

I. Introduction

This matter arose from an Order to Show Cause Why Denial of Extension Request Should not be Affirmed, Notice of Hearing, and Appointment of Hearing Officer (“Order to Show Cause”) issued by the Department of Business Regulation (“Department”) on September 5, 2024 to Green Wave CC, Inc. (“Respondent”). At the time the Order to Show Cause was issued, the Department had authority over the regulation and licensing of cannabis. Pursuant to R.I. Gen. Laws § 21-28.11-10.1 as of May 1, 2025, the Cannabis Control Commission (“Commission”) assumed all authority in the regulation and licensing of cannabis included all licensing and enforcement matters previously handled by the Department.¹

On October 23, 2024, the Rhode Island Compassion Center moved to intervene to which the Respondent objected. By order dated November 26, 2024 (“2024 Order”), the undersigned denied said motion to intervene. On June 18, 2025, Rhode Island Compassion Center and David

¹ This transition includes this matter which originated with the Department. The undersigned continued to serve as the appointed hearing officer pursuant to the statutory transition. R.I. Gen. Laws § 21-28.11-4(g)(3) (P.L. 2025, ch. 278, § 3) and § 1.3(17) of 560-RICR-10-05-1 *Administration, Procedures and Enforcement* allow for the delegation of hearings to a hearing officer (Presiding Officer).

P. DiSanto and David J. DiSanto filed a motion objecting to the entry of a consent agreement.² The Commission and the Respondent resolved this matter by consent agreement, and the undersigned signed the Consent Agreement and Order on June 23, 2025 (“2025 Consent Agreement”). On June 27, 2025, the Respondent filed an objection to said motion. On July 11, 2025, Rhode Island Compassion Center (“RICC”)³ filed a motion for reconsideration (“Reconsideration Motion”) requesting a reconsideration of the 2025 Consent Agreement and of the 2024 Order denying RICC’s motion to intervene. As the 2025 Consent Agreement is now final, RICC’s motion objecting to the entry of that consent agreement is now moot. The Respondent and the Cannabis Office from the Commission both filed timely objections to RICC’s Reconsideration Motion. The Respondent also included in its objection, a motion to strike RICC’s Reconsideration Motion to which RICC objected.

II. Jurisdiction

The administrative process was held pursuant to R.I. Gen. Laws § 21-28.6-1 *et seq.*, R.I. Gen. Laws § 21-28.11-1 *et seq.*, R.I. Gen. Laws § 42-35-1 *et seq.*, and 560-RICR-10-05-01, *Administration, Procedures and Enforcement* (“Regulation”).

III. Travel of the Case

This matter involves the licensing of six (6) new compassion centers in six (6) geographic locations within Rhode Island as provided for by R.I. Gen. Laws § 21-28.6-12(c). These six (6) new locations were to be chosen by lottery from those applicants conditionally qualified for licensure in each geographic zone by the Department. The Respondent submitted a medical marijuana compassion center application for Zone 3 on December 14, 2020. On April 30, 2021,

² David P. DiSanto and David J. DiSanto’s interests in this matter were unclear but the undersigned assumed they were the owners or part owners of RICC.

³ David P. DiSanto and David J. DiSanto were not included in this motion.

the Department conditionally qualified the Respondent for inclusion in the Zone 3 lottery. On October 29, 2021, the Respondent was selected by lottery for licensure in Zone 3. By letter dated August 5, 2022, the Department notified the Respondent that its conditional approval was rescinded and its request for extra time denied. By letter dated August 12, 2022, the Respondent requested a hearing. As a result of the request for hearing, an order to show cause was issued and the matter was then settled by a consent order dated February 23, 2024 (“2024 Consent Order”). This Order to Show Cause arose from the Department’s allegations the Respondent was in breach of the 2024 Consent Order.⁴ The parties have now resolved that matter by the 2025 Consent Agreement which RICC seeks to set aside.

IV. Arguments

RICC argued the terms of the 2025 Consent Agreement violate the statutory and regulatory requirements for the licensing of compassion centers and violate the rule making procedures of the R.I. Gen. Laws § 42-35-1 *et seq.*, the Administrative Procedures Act (“APA”), so that the 2025 Consent Agreement should be rescinded. RICC argued as the only other qualified applicant, it should be allowed to intervene to protect its interests as the Commission has now in another matter selected the next qualified candidate in the lottery when the initial applicant was unable to complete licensing requirements.

The Respondent argued the Department regularly entered into consent agreements to resolve cannabis related proceedings, and the Commission has full authority to resolve this issue by consent agreement. The Respondent argued that RICC has already been denied permission to intervene and are time barred from appealing the 2024 Order and have no standing to challenge the 2025 Consent Agreement.

⁴ The facts are taken from the 2024 Consent Order.

The Cannabis Office argued that RICC lacks standing to challenge the 2025 Consent Agreement, and the 2025 Consent Agreement is not in violation of the law. It also argued that RICC is time barred from requesting reconsideration of the 2024 Order.

V. Discussion

a. Standing

It is well settled that a necessary predicate for a court's exercise of jurisdiction is an actual, justiciable controversy. As part of that exercise of jurisdiction, the plaintiff must have standing and some legal hypothesis that entitles the plaintiff to real and articulable relief. *H.V. Collins Company v. Williams*, 90 A.2d 845, 847 (R.I. 2010). For RICC to bring an action to enjoin the 2025 Consent Agreement, it must have standing.

"A party acquires standing either by suffering an injury in fact or as the beneficiary of express statutory authority granting standing." *Tanner v. East Greenwich*, 880 A.2d 784, 792 (R.I. 2005). RICC is not a party to this matter. Its motion to intervene was denied. There is no express statutory authority granting RICC standing in this matter.

Since RICC does not have a statutory standing, there is the issue of whether RICC suffered an injury in fact. When determining whether a plaintiff has standing, the court must focus on the party who is advancing the claim rather than the issue sought to be adjudicated. The challenged action must have caused the injury, economic or otherwise. An injury in fact is economic or otherwise and is defined as an invasion of a legally protected interest which is concrete and particularized and actual or imminent, not conjectural or hypothetical. *Warfel v. Town of New Shoreham*, 178 A.3d 988 (R.I. 2018).

RICC is seeking to intervene again by requesting reconsideration of the 2024 Order denying its motion to intervene. While RICC indicated it was the only other applicant that was

conditionally qualified to be eligible for inclusion in Zone 3 lottery, it is unclear whether it would still be considered a qualified applicant if the Respondent was no longer qualified to be licensed.⁵ RICC now argues that it would be qualified based on an applicant in another proceeding. However, there is no evidence that it would be so qualified and again, it still has no actual interest in the Respondent's application. RICC has not alleged a particularized injury economic or otherwise. Instead, RICC speculates and hypothesizes that if the Respondent was not licensed, it may be able to become licensed which is not a concrete or particularized injury.

b. RICC is Time Barred from Seeking Reconsideration of the 2024 Order

The 2024 Order was issued on November 26, 2024. That order notified the parties that it was considered an interlocutory order so may be appealed to Superior Court pursuant to R.I. Gen. Laws § 42-35-15. Pursuant to R.I. Gen. Laws § 42-35-15(a), “[a]ny preliminary, procedural, or intermediate agency act or ruling is immediately reviewable in any case in which review of the final agency order would not provide an adequate remedy.” See *Banki v. Fine*, 224 A.3d 88 (R.I. 2020). The Respondent did not file an appeal of the 2024 Order with Superior Court.

⁵ The current regulation, *Cannabis Establishment Applications, Licensing and Renewals* 560-RICR-10-10-1, provides as follows:

1.4 Cannabis Retail Sales Application, Licensing and Renewals ***

H. Application Selection Process ***

6. If at the conclusion of the selection process there are any available zones which have not been awarded to, or selected by, a qualified applicant, and if there are no more qualified applicants for those zones to select from, the Commission may reopen the application period and accept applications for any unawarded or unchosen zones and repeat the application, review, and selection processes in accordance with § 1.8 of this Part.

This provision replaces the similar provision in § 1.2(E)(6) of 230-RICR-80-05-1 *Rules and Regulations Related to the Medical Marijuana Program Administered by the Office of Cannabis Regulation at the Department of Business Regulation* which provided as follows:

If at the conclusion of the selection process there are any available zones which have not been awarded to, or selected by, a qualified applicant, and if there are no more qualified applicants for those zones to select from, DBR may reopen the application period and accept applications for any unawarded or unchosen zones and repeat the application, review, and selection processes in accordance with § 1.2 of this Part, and may do so without repeating or revising the analysis which was previously conducted under § 1.2(C)(1) of this Part.

RICC argued *Banki* found the fact that an interlocutory order is not reviewed by the Superior Court does not preclude it from being reviewed on appeal by the Superior Court after a final order. *Id.* at 97. As *Banki* found, “[i]n the context of interlocutory orders in the Superior Court, as a general rule those orders can be reviewed as part of a party’s appeal of the final judgment.” *Id.* *Banki* is not relevant as this is not a Superior Court appeal of a final decision by a party nor a request for reconsideration of a final decision by a party.

The applicable regulation at this time is § 1.21 of the Regulation⁶ which provides for motions for reconsideration and requires that they be filed within 20 days of the decision unless good cause is shown. At the time the 2024 Order was issued, the Department had the same provision about motions for reconsideration in its regulations.⁷ It is now over seven (7) months from the date the 2024 Order was issued. The Respondent has not shown any good cause for the delay in filing the Reconsideration Motion. Indeed, the Respondent is a commercial rival of the Respondent, and the Rhode Island Supreme Court has commented that allowing commercial rivals to intervene in certain matters so that an entity is put in a position of defending itself against its rival is of questionable wisdom and appropriateness. *In Re Island Hi-Speed Ferry, LLC*, 746 A.2d 1240 (R.I. 2000). The 2024 Order is reincorporated into this order.

⁶ That section provides as follows:

1.21 Reconsideration

A. At any time after the issuance of a final order of the Chair or Commission, any party may, for good cause shown, by motion, petition the Commission to reconsider the final order. The petitioner shall file their motion within twenty (20) days of the issuance of the final order and shall set forth the grounds upon which they rely.

B. The Chair may grant the motion for reconsideration within their discretion and shall order such relief as they deem appropriate under the circumstances. If the request for reconsideration is denied, an appeal for judicial review may be taken in accordance with § 1.22 of this Part.

C. The Commission shall not entertain a motion for reconsideration filed more than twenty (20) days after entry of the final decision, unless the Presiding Officer finds good cause to entertain said motion.

⁷ Section 2.19 in the Department regulation, 230-RICR-10-00-2, *Rules of Procedure for Administrative Hearings*.

c. **The 2025 Consent Agreement**

R.I. Gen. Laws § 42-35-9 provides in part as follows:

Contested cases — Notice — Hearing — Records.

(d) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

Section 1.17 of the Regulation provides in part as follows:

1.17 Conduct of Hearings

I. Dispositions. Unless otherwise precluded by law, disposition may be made of any contested case at any time by stipulation, consent agreement, default or dismissal by the Presiding Officer. A joint request for a stay of the hearing or dismissal of proceedings based on a resolution shall be forwarded to the Presiding Officer and may be granted within the sound discretion of the Presiding Officer.

J. Consent Agreements. The Commission has discretion to enter into a consent agreement with a party(ies) to resolve a matter without an administrative hearing. A consent agreement is valid if signed by an authorized Commission representative. A consent agreement may be approved by the Presiding Officer and/or Chairperson, but Presiding Officer and/or Chairperson approval as signatory is not required. If a consent agreement is entered into by the parties a copy shall be forwarded to the Presiding Officer. Consent agreements are public records pursuant to the Access to Public Records Act, R.I. Gen. Laws Chapter 38-2.⁸

A government entity and its representatives do not have any authority to modify, waive, or ignore applicable state law. *Romano v. Retirement Board of the Employees' Retirement System of the State of Rhode Island*, 767 A.2d 35, 39 (R.I. 2001). However, RICC is not the agency charged with

⁸ The same provision can be found in § 2.15 of the Department's *Rules of Procedure for Administrative Hearings*, 230-RICR-10-00-2, which provides in part as follows:

2.15 Conduct of Hearings ***

I. Dispositions. Unless otherwise precluded by law, disposition may be made of any Contested Case at any time by stipulation, consent agreement, default or dismissal by the Presiding Officer. A joint request for a stay of the hearing or dismissal of proceedings based on a resolution shall be forwarded to the Presiding Officer and may be granted within the sound discretion of the Presiding Officer.

J. Consent Agreements. The Department has discretion to enter into a consent agreement with a Party(ies) to resolve a matter without an administrative hearing. A consent agreement is valid if signed by an authorized Department representative. A consent agreement may be approved by the Presiding Officer and/or Director, but Presiding Officer and/or Director approval as signatory is not required. If a consent agreement is entered into by the Parties a copy shall be forwarded to the Presiding Officer. Consent agreements are public records pursuant to the Access to Public Records Act, R.I. Gen. Laws § 38-2-1 *et seq.*

enforcing cannabis licensing requirements and has no standing to challenge the 2025 Consent Agreement. The Commission – the entity legally charged to license and enforce cannabis regulatory requirements - and the Respondent entered into a settlement as provided for by the APA and pertinent Department and Commission regulations.

While RICC lacks standing to bring an action to attack the 2025 Consent Agreement and no good grounds were given to allow for an untimely filing of a motion to reconsider the denial of RICC's motion to intervene, it is noted that RICC's legal arguments are misplaced.

First, RICC argued the Respondent made material changes to request for ownership, management, and funding without obtaining prior approval. RICC relied on the current regulation 560-RICR-10-10-1.3.3(A)(4) and (8), *Cannabis Establishment Applications, Licensing and Renewals* ("Licensing Regulation"),⁹ to argue that such changes make the license automatically void. The Cannabis Office disputed RICC's conclusion the Respondent made material changes without a timely request, but argued that even if it had, the prior regulation allowed for a waiver by the Department,¹⁰ and it was that regulation that was in effect at the time of the submission of the application and the issuance of the Order to Show Cause.

⁹ That section of the Licensing Regulation provides as follows:

4. An applicant, provisional licensee or licensee shall submit to the Commission a request for a variance for any proposed change described below at least sixty (60) calendar days prior to the proposed effective date of the change:

8. Unless the applicant, provisional licensee or licensee provides timely notice of the above changes and receives a variance issued by the Commission, the application or license shall be void and returned to the Commission.

¹⁰ Section 1.2(I)(7) of the *Rules and Regulations Related to the Medical Marijuana Program Administered by the Office of Cannabis Regulation at the Department of Business Regulation* ("Department Licensing Regulation"), 230-RICR-80-05-1 provided as follows:

Unless the compassion center provides timely notice of the above changes and receives a variance issued by DBR or a DBR waiver of the requirement of prior notice and issued variance, the license shall be void and returned to DBR.

Second, RICC argued the 2025 Consent Agreement allowed for funding changes that are barred in the first year of licensed activities. RICC relied on the current regulation;¹¹ though, the Cannabis Office argued the Department regulation applied.¹² As the Cannabis Office pointed out, the Respondent has not opened so that it has not engaged in a first year of licensed activities because it has not been licensed so that any bar (which can be waived) is not applicable. Both regulations bar new funding in the first year of licensed activities, but both allow for variances. Here, the Respondent has not opened so has not engaged in a first year of licensing activity, and even if it had, there was scope for the Commission to allow a variance.

Thirdly, RICC argued the Respondent failed to substantially complete licensing requirements within nine (9) months as it is now almost four (4) years from conditional approval. The Cannabis Office argued the applicable Department regulation allows an extension of time for completion for good cause as demonstrated by reasonable and documented efforts as determined by the Cannabis Office. Thus, the Cannabis Office argued it had the discretion to allow an

¹¹ The Licensing Regulation provides in part as follows:

1.3.3 Variance Requests for Changes in Approved Applications, Licensed Premises, Activities, Ownership and Control

A. Requirements and Limitations

4. An applicant, provisional licensee or licensee shall submit to the Commission a request for a variance for any proposed change described below at least sixty (60) calendar days prior to the proposed effective date of the change:

a. Proposed change in ownership of the proposed or licensed cannabis establishment, provided however that no variance which affects a majority change in ownership, control, financial interest and/or compensation/remuneration of a cannabis establishment will be approved in the first year of licensed activities, except upon the Commission's determination that public health, safety, welfare or other grounds requires such variance[.]

¹² Section 1.2(I)(5) of the Department Licensing Regulation provided as follows

Variance Requests - Changes in Licensed Premises, Activities, Ownership and Control

5. All variances must be approved by DBR, provided however that no variance which affects a majority change in ownership, control, financial interest and/or compensation/remuneration will be approved in the first year of licensed activities, except upon DBR's determination that public health, safety or welfare requires such variance.

extension of time past the nine (9) months. Both the Department and Commission regulations allow for an extension of time in certain circumstances.¹³

Finally, RICC argued that the Commission was engaging in rule making in violation of the APA by making changes to the pertinent statutes by entering into the 2025 Consent Agreement. While RICC disagreed with the Commission's decision to settle this matter with the Respondent, such a disagreement does not turn the settlement into APA rule making. RICC argued the settlement violated the relevant regulations, but the regulations cited to by RICC actually allow for extensions of time and funding changes and a waiver for prior approval.

d. Champlin's

RICC also relied on *Champlin's Realty Associates v. Coastal Resources Management Council*, 283 A.3d 451 (R.I. 2022) to argue the 2025 Consent Agreement was a backroom deal to circumvent rulemaking and to change licensing rules for one applicant (Respondent).

In *Champlin's*, an administrative decision of the Coastal Resources Management Council ("CRMC") was affirmed by the Superior Court and a *petition for writ of certiorari* was granted by

¹³ The Department Licensing Regulation provided in part as follows:

1.2 Compassion Center Application, Licensing and Renewals

F. Prerequisites to Issuance of Compassion Center License and Commencement of Operations

1. Upon notification by DBR, the approved applicant must take reasonable and documented efforts to complete the prerequisites for issuance of the license. If satisfaction of all requirements for licensure takes longer than nine (9) months, the approved applicant must show good cause to DBR why additional time should be granted and the application approval should not be rescinded.

The current regulation, the Licensing Regulation, provides in part as follows:

Section 1.8(I)(1)

I. Prerequisites to Issuance of Compassion Center License and Commencement of Operations

1. Upon notification by the Commission, the provisionally approved applicant must take reasonable and documented efforts to complete the prerequisites for issuance of the license. If satisfaction of all requirements for licensure takes longer than nine (9) months, the provisionally approved applicant must show substantial completion of licensing requirements and good cause to the Commission in the form of circumstances beyond the control of the applicant as to why additional time should be granted and the provisional approval should not be rescinded.

the Rhode Island Supreme Court. After the granting of the petition, Champlin's, a marina operator, and CRMC but not the intervenors (Town of New Shoreham and others) engaged in private mediation and requested the matter be remanded to Superior Court for an entry of the memorandum of understanding. The intervenors objected as they were not parties to the settlement. The matter was remanded to the Superior Court for it to review the "propriety and conclusiveness" of the purported settlement. *Id.* at 454. The Superior Court upheld the settlement but on appeal the Supreme Court rejected the settlement. The Court based its decision to reject the settlement not on R.I. Gen. Laws § 42-35-9(d) of the APA but on the specific CRMC statute, R.I. Gen. Laws § 46-23-20, and CRMC's regulations finding that the CRMC could not agree to modify one of its final decisions that had initially been a denial.

This matter is very different from *Champlin's*. The Commission does not operate under CRMC's statutes or regulations. The intervenors in *Champlin's* challenged a post appeal settlement that did not include some of the parties. RICC is not an intervenor and is not a party. The Commission and Respondent resolved an administrative action by a consent agreement as allowed by law.


VI. Conclusion

Based on the foregoing, RICC lacks standing to challenge the 2025 Consent Agreement and RICC is time barred from moving to reconsider the 2024 Order and provided no good reason for an untimely filing of a motion to reconsider said order denying its motion to intervene.

Based on the foregoing, the undersigned recommends that RICC's motion to vacate the 2025 Consent Agreement and to reconsider the 2024 Order be denied.¹⁴

¹⁴ The Respondent's objection to the Reconsideration Motion requested the Reconsideration Motion be denied and/or stricken from the record. There are no reasons to strike said motion since the Reconsideration Motion was denied.

Dated: August 1, 2025

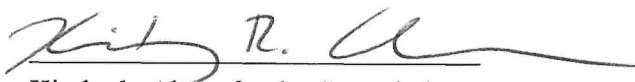

Catherine R. Warren
Presiding Officer

FINAL ORDER

I have read the Hearing Officer's Recommended Order in this matter, and I hereby take the following action with regard to the Recommendation:

X ADOPT
 REJECT
 MODIFY

Dated: 8/7/25


Kimberly Ahern for the Commission
Chairperson

NOTICE OF APPELLATE RIGHTS

THIS DECISION CONSTITUTES A FINAL ORDER OF THE CANNABIS CONTROL COMMISSION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

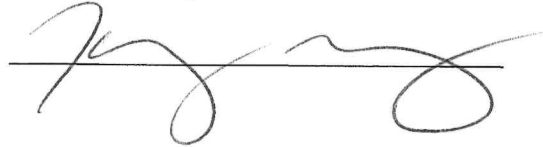
CERTIFICATION

I hereby certify on this 7th day of August, 2025 that a copy of the within Final Order and Notice of Appellate Rights was sent by first class mail, postage prepaid and by electronic delivery to the following:

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and by electronic delivery to Suzannah Skolnik, Esquire and Sara Tindall-Woodman, Esquire, Cannabis Control Commission, 560 Jefferson Boulevard, Warwick, R.I. 02886 at suzannah.f.skolnik@ccc.ri.gov and sara.k.tindallwoodman@dbr.ri.gov.

A handwritten signature in black ink, appearing to be "J. Tindall", is written over a horizontal line.