
 <p><b>Corrections and Community Supervision</b></p> <p><b>DIRECTIVE</b></p>	<p>TITLE</p> <p><b>Medical Marijuana Use by Parolees</b></p>		<p>NO. 9435</p>
			<p>DATE 11/15/2019</p>
<p>SUPERSEDES</p>	<p>DISTRIBUTION A B</p>	<p>PAGES PAGE 1 OF 3</p>	<p>DATE LAST REVISED</p>
<p>REFERENCES (Include but are not limited to) Compassionate Care Act (CCA) Public Health Law, Section 3369-a; Directives #8341, #9432</p>		<p>APPROVING AUTHORITY</p> 	

- I. **PURPOSE:** To instruct Community Supervision staff on the use of medical marijuana by parolees pursuant to the New York State Compassionate Care Act (CCA).
- II. **POLICY:** It is the policy of the Department of Corrections and Community Supervision (DOCCS) to consider allowing parolees to utilize medical marijuana when medically necessary, while taking steps to promote public safety. The Department may allow such use when it occurs in complete and full compliance with the provisions of the CCA, when the parolee complies with providing the information required as described in this directive, and after DOCCS has reviewed the parolee's substance abuse history and its criminogenic bearing for the individual parolee.
- III. **DEFINITIONS**
  - A. Compassionate Care Act: In New York State, Legislation was enacted in 2014 to provide a comprehensive, safe, and effective medical marijuana program to meet the needs of New Yorkers.  
([https://www.health.ny.gov/regulations/medical\\_marijuana/faq.htm](https://www.health.ny.gov/regulations/medical_marijuana/faq.htm))
  - B. Practitioner: Any person designated by the CCA as authorized to prescribe medical marijuana. This may include a physician, nurse practitioner, and a physician's assistant under the supervision of a physician who is authorized to prescribe medical marijuana.
  - C. Dispensary: Any facility registered with NYS and authorized to dispense medical marijuana.
  - D. Caregiver: Any person authorized to obtain/transport medical marijuana for a registered medical marijuana recipient, who is incapable of obtaining/transporting for themselves (e.g., elderly, incapacitated, minors, etc.).
  - E. Eligible Conditions: Any conditions set forth in the CCA for which medical marijuana is an acceptable course of treatment.
  - F. Medical Marijuana/Approved Forms of Use: Medical marijuana dispensed at a New York State authorized dispensary in any of the following authorized forms: capsule, sublingual drops, vape pens, tablets, oral spray, and tincture.

NOTE: Marijuana cigarettes are not among the approved methods of ingestion of medical marijuana.

#### IV. PROCEDURE

- A. Responsibilities of Bureau Chiefs, Senior Parole Officers, and Parole Officers: Parolees shall be eligible for consideration for the use of medical marijuana, provided it is done in complete compliance and within the parameters of the CCA, and after a review of the parolee's substance abuse history and the criminogenic bearing for the individual parolee.
1. Parolees seeking to obtain medical marijuana must complete and sign [Form #DOH-2557](#), "Authorization for Release of Health Information Form," and provide a copy to the treatment provider and the assigned Parole Officer (PO). [Form #DOH-2557](#) is to be filed in Section 1-A of the parolee's Community Supervision case file. The PO will contact the treatment provider to ensure that the parolee has made a full and complete disclosure regarding their medical history, including substance abuse history, to the treatment provider.
  2. If the practitioner determines the parolee has an eligible condition and certifies the parolee to receive medical marijuana, the parolee will register with the NYS Department of Health (DOH) in order to receive a registration card. The Parolee is responsible for providing a copy of the registration card to the PO before the parolee may obtain the prescribed medical marijuana. A copy of the card will be retained in Section 1-A of the parolee's Community Supervision case file.
  3. Expired registration cards render the authorization invalid and it is the responsibility of the parolee to maintain an updated registration and provide a copy of the same to the PO.
  4. The parolee will fully disclose the course of treatment to the PO, to include: the diagnosis under which he or she is receiving medical marijuana; the dosage of medical marijuana prescribed; anticipated length of treatment; any physical limitations that may impact supervision and/or employability; the dispensary to be used and the approved form of medical marijuana dispensed at that location.
  5. Parolees may be authorized caregivers as described in the CCA, provided a true and accurate assessment takes place to determine that no other viable alternatives exist. If they are authorized to be caregivers, they are subject to the parameters of the CCA. They will be required to provide proof that they are authorized, via a copy of their designated caregiver registry identification card, and they must provide information regarding the specific dispensary from which they are authorized to pick up medical marijuana, form of use, and dosage of medical marijuana they are authorized to pick up. A positive drug test for any controlled substance, including marijuana, will invalidate their authorization to act as a designated caregiver.
- B. Parole Officer Responsibility
1. The Parole Officer will gather all required documentation as noted above. All required information will be accurately documented in the Case Management System (CMS). The PO will review the case and will conduct a case conference with their Senior Parole Officer (SPO). The reasons for the recommendation, whether for or against authorization, should be documented in CMS.

2. The PO will explain to the parolee that the Bureau Chief has the discretion to approve or disapprove the parolee's use of medical marijuana. The PO will advise the parolee that they cannot fill their initial prescription until they receive authorization from DOCCS. The PO is to advise the parolee of their right to appeal the decision via the Parolee Grievance Program.

C. Senior Parole Officer Responsibility

1. The SPO will review requests for medical marijuana, when presented by the PO, to ensure all relevant information is provided.
2. The SPO will review the PO's recommendation for authorization and submit it to the Bureau Chief, along with their recommendation. The SPO's recommendation should include, but not be limited to, an assessment of the parolee's substance abuse history and the criminogenic bearing on the individual, as well as the facts used to make their determination.

- D. Bureau Chief Responsibility: The Bureau Chief will review all requests made by parolees for medical marijuana use. Decisions will be annotated in CMS.

**V. CMS REQUIREMENTS AND TESTING**

- A. Staff will utilize the program field of CMS (F-13) to annotate all the details relative to the parolee's use of medical marijuana.
- B. This will include: name, address, and telephone number for the treatment provider; diagnosis; name, address, and telephone number of the dispensary; dosage; and method of ingestion. Information regarding the registration card number and expiration date will also be noted.
- C. Case Conference for any case where medical marijuana is authorized should include a review of that field to ensure all information is accurate.
- D. Pursuant to this Directive, parolees approved to use medical marijuana will not be tested solely for marijuana usage.

**VI. REVOCATION OF RELEASE AND RETURN TO DOCCS CUSTODY**

- A. The Department's approval for a parolee's use of medical marijuana while under supervision in the community shall be deemed rescinded in response to a revocation of release and return to state custody.
- B. Upon re-release to community supervision, it is the responsibility of the parolee to seek approval for the use of medical marijuana from the Bureau Chief.