

**ARIZONA DEPARTMENT OF CORRECTIONS
DIRECTOR'S OFFICE**

MEMORANDUM

TO: DISTRIBUTION

FROM: CHARLES L. RYAN, DIRECTOR

DATE: January 25, 2016

SUBJECT: Director's Instruction # 343, Medical Marijuana Program (Offenders)

This Director's instruction is effective immediately and will remain in effect until incorporated into Department Order #1003, Community Corrections.

PURPOSE:

This Director's Instruction provides procedures for Community Corrections Officers who supervise offenders who are seeking authorization to use medical marijuana as a qualifying patient or to act as a designated caregiver or to work as a dispensary agent, in accordance with Arizona state law and the Arizona Department of Health Services Medical Marijuana Program.

PROCEDURES:

- 1.1 Verifying Medical Marijuana Status – If an offender advises the CCO that he/she is a qualifying patient, is a designated caregiver or is a nonprofit medical marijuana dispensary agent, the CCO shall seek clarification for the basis of the offender's claim. Clarification shall include:
 - 1.1.1 Requesting the offender provide a copy of his/her Arizona Department of Health Services (DHS) issued registry identification card. The CCO shall copy the identification card and place a copy in the offender's file.
 - 1.1.2 Verify the validity of the presented DHS issued registry identification card, via the Arizona Medical Marijuana Card Verification website.
 - 1.1.3 Receipt of the card from the offender, as well as results of the query on the verification website shall be noted in the OMS. Contacts/case notes, to include, the 20-digit alpha-numeric registry identification card number, the offender medical marijuana status (qualifying patient, designated caregiver or dispensary agent) the card issue date and the date the CCO verified the information with the verification website.
- 1.2 When Verification of a Qualifying Patient Cannot be Established – If the offender claims to be a qualifying patient, but declines to provide his/her DHS issued registry identification card and the CCO is unable to verify the offender's status through the Arizona Medical Marijuana Card Verification website, the CCO shall take the following steps:

- 1.2.1 Discuss with the offender that their marijuana use is considered a violation of Conditions of Supervision, unless he/she provides the verification.
 - 1.2.2 Communicate to the offender that he/she shall provide a copy of their registry identification card or number for any of the statutory medical marijuana provisions to apply. If the offender claims that they lost their identification card, the CCO shall advise the offender to immediately contact the DHS for a replacement card.
 - 1.2.3 Monitor the offender's drug use and refer to the Community Corrections Intervention Guide for strategies to motivate the offender to provide his/her registry identification card.
- 1.3 Supervision of Offenders Authorized to Use Medical Marijuana as a Qualifying Patient – Unless otherwise indicated, follow supervision guidelines outlined in this Department Order.
- 1.3.1 Community Supervision Risk Assessment Instrument (risk assessment) - When conducting a risk assessment for an offender who is a qualifying patient, his/her use of marijuana for medical purposes shall not be considered in the Drug Abuse section of the assessment, unless the offender reports abuse of marijuana prior to being a verified qualifying patient.
 - 1.3.2 Jail – If the offender is a qualifying patient and is required to serve a jail term, the CCO shall advise the offender that the law does not authorize the use of medical marijuana in a correctional facility. (A.R.S. § 36-2802(B)(3).
 - 1.3.3 Medical Marijuana Use – Offenders who use medical marijuana in accordance with the law are in compliance with Conditions of Supervision relating to substance use. CCOs shall:
 - 1.3.3.1 Verify that offenders renew their registry identification card annually and document the verification in the OMS.
 - 1.3.3.2 Note if there is a change in the offender's medical marijuana status (e.g., chose not to renew their registry identification card, switched from caregiver status to dispensary agent).
 - 1.3.4 Searches – All searches shall be conducted as outlined in section 1003.35 of this Department Order. Prior to conducting any search of an offender who is a qualifying patient, designated caregiver or dispensary agent, during the staffing with the unit supervisor, the CCO shall discuss the offender's medical marijuana status and if the proposed search includes a search for any drugs or drug paraphernalia.
 - 1.3.4.1 Prior to the search, if the offender is a registry identification cardholder as a qualified patient, designated caregiver or dispensary agent, a search may not be appropriate, unless there is reliable information there is activity that significantly violates any law (e.g., possessing significantly more than allowed by law, qualifying patient selling their medical marijuana).

- 1.3.4.2 If marijuana is located during the course of a search, the CCO shall inquire if the offender or any residents of the home are registry identification cardholders. If any resident claims they are a cardholder, the CCO shall ask to see their registry identification card or number and verify it through the verification website (if not previously verified). If the offender or another resident is a verified cardholder, the Community Corrections Bureau shall not seize any marijuana, unless there is reliable information that there are significant violations of the law.
- 1.3.4.3 If the CCO cannot immediately verify that the offender or any other resident is a qualified patient, caregiver or dispensary agent, then any marijuana located may be considered contraband. Appropriate action shall be taken based on the purpose and goal of the search, the presenting circumstances and risk to public safety, which may include, but not limited to the following:
 - 1.3.4.3.1 If the offender claims he/she lost their card, require them to immediately contact the DHS for a replacement card, and provide to the CCO. The follow-up search shall be conducted within ten business days.
 - 1.3.4.3.2 Consider the amount of marijuana seized in comparison to the allowable amount authorized by law.
 - 1.3.4.3.3 Arrest for new violation.
 - 1.3.4.3.4 New charges being filed by law enforcement.
 - 1.3.4.3.5 Seizure of all marijuana, including any part of the plant.
- 1.3.5 Unemployed (But Not Legally Eligible to Work) – The CCO shall provide written instructions to the offenders to seek employment or attend school and provide verification.
 - 1.3.5.1 If the offender advises that he/she is unable to work due to a medical condition and he/she has no source of income, the CCO shall provide written instruction to the offender to provide medical documentation from their physician indicating the offender is not able to work. This should include a discussion that, unless the offender is able to provide this documentation, the Conditions of Supervision require the offender to seek, obtain or maintain employment or attend school, if legally eligible to do so.
 - 1.3.5.2 If the offender does not provide medical documentation that he/she is unemployable, the CCO shall have the offender sign a release of information for his/her physician. The CCO or supervision staff shall send a letter to the physician requesting clarification of the offender's inability to work due to his/her medical condition.

1.3.5.3 The CCO shall refer to the Community Corrections Intervention Guide for strategies to motivate the offender to provide documentation of his/her inability to work.

1.3.6 Urinalysis – CCOs shall not request urinalysis for THC for any offender authorized to use medical marijuana, unless there are extenuating circumstances and the CCOs supervisor has given approval after staffing the case.

1.3.6.1 Designated caregivers and dispensary agents are not authorized to use marijuana. CCOs may request urinalysis for THC for these offenders.

1.4 Out-of-State Authorization

1.4.1 Offenders With an Out-of-State Authorization – If an offender produces documentation that he/she is authorized to use medical marijuana as a qualifying patient in another state, the CCO shall adhere to the following procedures:

1.4.1.1 Advise the offender that a visiting qualifying patient is defined as a non-resident of Arizona or an Arizona resident for less than 30 calendar days (A.R.S. § 36-2801).

1.4.1.2 If the offender plans to remain in Arizona for supervision and is seeking authorization to use medical marijuana as a qualifying patient in Arizona, he/she shall apply for an Arizona registry identification card through the DHS website (www.azdhs.gov/prop203/).

1.4.1.3 Once the offender provides a copy of the DHS issued registry identification card, the CCO shall verify the validity of the identification card and documents in the OMS, via the process outlined in this section of this Department Order.

1.4.2 Interstate Compact (Incoming Offenders Considerations) – Offenders sentenced out of state who are qualifying patients in the sending state and seeking transfer to Arizona shall be required to comply with the Arizona law and Conditions of Supervisions outlined in this Department Order.

1.4.3 Interstate Compact (Outgoing Offender Considerations) – For offenders who are qualifying patients seeking ISC supervision in another state, the following consideration apply:

1.4.3.1 If the receiving state has a medical marijuana law, the offender shall adhere to supervision conditions related to medical marijuana in that state.

1.4.3.2 If the receiving state does not have a medical marijuana law, the offender shall not use medical marijuana in that state.

- 1.4.3.3 Statutes and supervision conditions in potential receiving states shall be discussed with the offender prior to applying for Interstate Compact. This discussion shall clarify that the receiving state supervises offenders accepted under ISC in a manner determined by the receiving state and consistent with the supervision of other similar offenders sentenced in the receiving state.
- 1.4.3.4 CCOs may contact the Community Corrections Bureau ISC with additional questions regarding specifics of medical marijuana provisions in specific states.

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