

January 31, 2011

ACCESS TO CLINICAL PROGRAMS FOR VETERANS PARTICIPATING IN STATE-APPROVED MARIJUANA PROGRAMS

1. PURPOSE: This Veterans Health Administration (VHA) Directive provides policy regarding access to clinical programs for patients participating in a State-approved marijuana program.

2. BACKGROUND

a. Department of Veterans Affairs (VA) providers must comply with all Federal laws, including the Controlled Substances Act. Marijuana is classified as a Schedule I drug under the Controlled Substances Act.

b. Veterans who receive their care from VA and who have a desire to participate in one of several State marijuana programs might ask their VA physicians to complete State authorization forms.

c. State laws authorizing the use of Schedule I drugs, such as marijuana, even when characterized as medicine, are contrary to Federal law. The Controlled Substances Act (Title 21 United States Code (U.S.C.) 801 et al.) designates Schedule I drugs as having no currently-accepted medical use and there are criminal penalties associated with production, distribution, and possession of these drugs. State law has no standing on Federal properties.

d. VHA policy does not administratively prohibit Veterans who participate in State marijuana programs from also participating in VHA substance abuse programs, pain control programs, or other clinical programs where the use of marijuana may be considered inconsistent with treatment goals. While patients participating in State marijuana programs must not be denied VHA services, the decisions to modify treatment plans in those situations need to be made by individual providers in partnership with their patients. VHA endorses a step-care model for the treatment of patients with chronic pain: any prescription(s) for chronic pain needs be managed under the auspices of such programs described in current VHA policy regarding Pain Management.

3. POLICY: It is VHA policy to prohibit VA providers from completing forms seeking recommendations or opinions regarding a Veteran's participation in a State marijuana program.

4. ACTION

a. **Deputy Under Secretary for Health for Operations and Management (10N).** The Deputy Under Secretary for Health for Operations and Management is responsible for ensuring that medical facility Directors are aware of the prohibition of completing forms for participation in State marijuana programs.

b. **Chief Officer Patient Care Services.** The Chief Officer Patient Care Services is responsible for providing clinical guidance to VA providers regarding factors to be considered

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when determining how substance abuse, pain control, or other treatment plans could be impacted by a Veteran's participation in State marijuana programs.

c. **Medical Facility Director.** Each medical facility Director is responsible for ensuring facility clinical staff are aware:

(1) Of the prohibition of completing forms for participation in State marijuana programs.

(2) If a Veteran presents an authorization for marijuana to a VA provider or pharmacist, VA will not provide marijuana nor will it pay for it to be provided by a non-VA entity. **NOTE:** *Possession of marijuana, even for authorized medical reasons, by Veterans while on VA property is in violation of VA regulation 1.218(a)(7) and places them at risk for prosecution under the Controlled Substances Act.*

(3) That if a patient reports participation in a State marijuana program to a member of the clinical staff, that information is entered into the "non-VA medication section" of the patient's electronic medical record following established medical facility procedures for recording non-VA medication use.

5. REFERENCES

a. Office of General Counsel (OCG) Opinion on State Medical Marijuana Registration Forms - VAOPGCADV 9-2008.

b. Title 21 U.S.C. 801 et al, the Controlled Substances Act.

6. FOLLOW-UP RESPONSIBILITY: Population Health Services (10P4V) is responsible for the content of this Directive. Questions may be directed to (202) 461-1012.

7. RECISSIONS: VHA Directive 2010-035 is rescinded. This VHA Directive expires January 31, 2016.

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