

**Sex Offender Management Board**  
**Guidance to SOMB Listed Providers**  
**on the Use of Medical Marijuana by Sexual Offenders**  
**Approved December 16, 2011**

Obtain information from the court

SOMB listed providers, in conjunction with the Community Supervision Team (CST), should obtain information from the Judicial District in which the sexual offender is being supervised regarding its policy related to medical marijuana use while under court supervision. Per the State Court Administrator's Office, the sex offender on probation "cannot be allowed to use medical marijuana unless/until the court has given approval. Depending on each district, you may need to get clarification for every individual case, from each Judge, or from your Chief Judge only." It is further noted that the clarification should include "whether or not the client can use marijuana, in any quantity or form, for medical purposes," and "if the medical marijuana use will be allowed, can the client use a 'provider' with a felony conviction, if the terms and conditions in that district prohibit probationers associating with felons; what type of monitoring of the marijuana use, if any, does the court expect; and can the client be denied entry into a drug court program?"<sup>1</sup>

SOMB Providers Agency Policies

SOMB listed providers can determine which clients they accept, or do not accept, into treatment, and whether their program allows and/or is qualified to deal with medical marijuana use.

Confidentiality of the Marijuana Registry

It is important to keep in mind that per the State Court Administrator's Office, a sex offender's "status on the medical marijuana registry is not public information. It is a class 1 misdemeanor to release or make public confidential information from the marijuana registry. Therefore, if the information regarding a person's status is to be released, it is important to secure a signed release of information from the client before doing so, or place with communication with the court under confidential cover."<sup>2</sup>

Clinical Considerations for Medical Marijuana use in Treatment

If medical marijuana use is sanctioned by the Colorado Department of Health and allowed for a specific sex offender by the court, and the SOMB listed provider decides to accept such a client, then the offender's use of medical marijuana while in offender treatment should be treated like other medication, such as prescription narcotics. For example, an offender cannot be impaired during treatment and needs to be able to focus, be present, participate, and track content of treatment sessions. Allowing medical marijuana use does not prohibit a SOMB listed provider from also determining as necessary whether the medical marijuana use is being abused by the sex offender.

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<sup>1</sup> For more information related to the use of medical marijuana, please see the Memorandum from the State Court Administrator's Office (DPS 09-01, March 5, 2009).

<sup>2</sup> Memorandum from the State Court Administrator's Office (DPS 09-01, March 5, 2009).

### Testing and Assessment Considerations

Medical marijuana usage by a sex offender may affect their polygraph results. Therefore, the use of medical marijuana by the offender subject to polygraph assessment should be allowed only through consultation with the polygraph examiner and prescribing physician. The CST should make a determination about the suitability of a sex offender for assessment utilizing polygraph, plethysmograph, and VRT. If use of medical marijuana makes the sex offender not a suitable candidate for one or more of these assessments, alternative monitoring and accountability measures must be employed.