



Justice Center for the Protection of People with Special Needs

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The Protection of People with Special Needs Act (PPSNA) was passed two years prior to the Compassionate Care Act, which made the use of medical marijuana legal in New York State. While the PPSNA makes the *'unlawful* administration of a controlled substance, as defined by article thirty-three of the public health law (including marijuana) to a service recipient,¹ a Category One finding resulting in placement on the Staff Exclusion List, the administration of medical marijuana was not lawful or contemplated at the time of the PPSNA's enactment.

The Justice Center recognizes that medical marijuana is a lawful medical treatment in New York State and that the individuals served by the providers in our settings are in the unique position of relying on those providers for their medical needs and care. For that reason, the Justice Center will not substantiate an individual **solely** for the lawful and appropriate administration of medical marijuana, in accordance with all applicable laws, rules, regulations, and policies. However, medical marijuana should be treated as any other medication, and relevant duties, misuse and subsequent findings of abuse and neglect may still occur. Furthermore, any reporting requirements involving medication errors or misconduct apply also to medical marijuana.

The Justice Center encourages providers who administer or oversee the self-administration of medical marijuana to revisit their medication storage, administration, and diversion prevention policies to ensure their adequacy for the prevention of abuse or neglect involving medication and marijuana.

Examples of possible abuse and neglect involving medication and medical marijuana include, but are not limited to:

- Diversion of prescription medications or medical marijuana from a certified patient²
- Failure to provide medical marijuana to the correct individual, AND subsequent failure to document the error, notify appropriate personnel, and/or to obtain appropriate medical care for the individual(s)
- Provision of medical marijuana to the incorrect individual, AND subsequent failure to document the error, notify appropriate personnel, and/or to obtain appropriate medical care for the individuals
- Failure to properly secure medications or marijuana, resulting in improper ingestion of medication or marijuana
- Failure to properly supervise an individual, resulting in improper ingestion of medication or marijuana

Providers are encouraged to speak with their respective state licensing and certifying agencies for clarification on agency specific policies regarding the authorized administration of medical marijuana.

¹ SSL 493 (4)(a)(ix)

² Illegally diverting prescription drugs or marijuana from the intended recipient for unlawful use or distribution.
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