



Justice Center for the Protection of People with Special Needs

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This guidance supersedes the guidance issued on April 1, 2020

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. In 2020, the Justice Center issued guidance to ensure that the facility and provider agencies under the Justice Center's jurisdiction understood that the Justice Center recognized that medical marijuana is a lawful medical treatment in New York State and that the Justice Center would not substantiate an individual **solely** for the lawful and appropriate administration of medical marijuana, in accordance with all applicable laws, rules, regulations, and policies. On March thirty-first of this year, the Governor signed the "Marijuana Regulation and Taxation Act" which amended paragraph (g) of subdivision one of section four hundred eighty-eight of the social services law to clearly exempt from reporting to the Justice Center, the lawful administration of medical cannabis and further require that facility and provider agencies have safe storage, administration, and diversion prevention policies with regard to controlled substances and medical cannabis.

These changes are consistent with the previously issued guidance and medical cannabis should be continued to be treated as any other medication, including that failure to adhere to appropriate protocols for the dispensing or administration, diversion, or misuse should still be reported to the Justice Center and that such conduct may result in abuse or neglect findings.

As a reminder, examples of possible abuse and neglect involving medication, including medical cannabis include, but are not limited to:

- Diversion of prescription medications or medical cannabis from a certified patient¹;
- Failure to provide medical cannabis 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 cannabis to the incorrect individual, AND subsequent failure to document the error, notify appropriate personnel, and/or to obtain appropriate medical care for the individual(s);
- Failure to properly secure medications, including medical cannabis, resulting in improper ingestion of medication; or,
- Failure to properly supervise an individual, resulting in improper ingestion of medication.

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

¹ Illegally diverting prescription drugs or marijuana from the intended recipient for unlawful use or distribution.
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