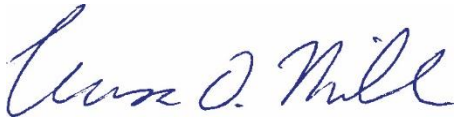





ISSUE DATE January 2, 2020	EFFECTIVE DATE January 2, 2020	NUMBER *See below
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SUBJECT Medical Marijuana and State Licensure of Facilities and Agencies
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BY  Teresa D. Miller, Secretary Department of Human Services	BY  MD Dr. Rachel Levine, Secretary Department of Health
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IMPORTANT REMINDER: All providers must revalidate the Medical Assistance (MA) enrollment of each service location every 5 years. Providers should log into PROMISE to check the revalidation dates of each service location and submit revalidation applications at least 60 days prior to the revalidation dates. Enrollment (revalidation) applications may be found at:
http://www.dhs.pa.gov/provider/promise/enrollmentinformation/S_001994.

SCOPE:

All Facilities Regulated by the following:

- 55 Pa. Code Chapter 2600 (relating to Personal Care Homes)
- 55 Pa. Code Chapter 2800 (relating to Assisted Living Residences)
- 55 Pa. Code Chapter 3270 (relating to Child Day Care Centers)
- 55 Pa. Code Chapter 3280 (relating to Group Child Day Care Homes)
- 55 Pa. Code Chapter 3290 (relating to Family Child Day Care Homes)
- 55 Pa. Code Chapter 3800 (relating to Child Residential and Day Treatment Facilities)
- 55 Pa. Code Chapter 5310 (relating to Community Residential Rehabilitation Services for the Mentally Ill)
- 55 Pa. Code Chapter 6400 (relating to Community Homes for Individuals with an Intellectual Disability)
- 55 Pa. Code Chapter 6600 (relating to Intermediate Care Facilities for Individuals with and Intellectual Disability)
- 28 Pa. Code Part IV (relating to Health Facilities)

*01-20-03	05-20-01	47-20-01
02-20-01	06-20-01	56-20-01
03-20-01	34-20-01	

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

The appropriate toll free number for your provider type.

Visit the Office of Medical Assistance Programs Website at:
<http://www.dhs.pa.gov/provider/healthcaremedicalassistance/index.htm>.

PURPOSE:

The purpose of this bulletin is to clarify the storage, use, and administration of medical marijuana in facilities licensed by the Pennsylvania Department of Health (DOH) and Pennsylvania Department of Human Services (DHS) in accordance with the Pennsylvania Medical Marijuana Act.

The following responses relate only to the state statutes and regulations enforced by the Departments. The Departments cannot make any representations or guarantees about the position of any other state or federal law enforcement or regulatory entity. The Departments strongly recommend that providers consult with their legal counsel with any questions or concerns related to state or federal medical marijuana requirements not specifically addressed in this document.

BACKGROUND/DISCUSSION:

1. Will licensing agencies cite residential or facility providers for storing or administering medical marijuana to a participant in the Medical Marijuana Program?

Except when required by Federal law or regulation, the Departments will not cite providers for regulatory violations as long as they store and administer medical marijuana in accordance with regulatory requirements relating to storage, administration, and documentation of medications. The provider is responsible for ensuring that it is in compliance with the Pennsylvania Medical Marijuana Act (Act 16 of 2016) and with other state laws and regulations relating to storage, documentation and administration of medication applicable to the provider.

2. If a participant who is a resident in a provider-owned residence has designated a caregiver through the DOH Caregiver Registration Process, not associated with the provider, may the participant who is a resident use medical marijuana on the premises of the provider-owned home?

Except when required by Federal law or regulation, the Departments will not cite providers for regulatory violations for the use of medical marijuana by a participant who is a resident in a provider-owned residence, is certified by an approved practitioner to use medical marijuana, and who uses it in accordance with the Pennsylvania Medical Marijuana Act and its accompanying regulations.

Additionally, except when required by Federal law or regulation, the Departments will not cite providers for regulatory violations for administering medical marijuana to a participant who is a resident in a provider-owned residence, is certified by an approved practitioner to use medical marijuana, and who uses it in accordance with the Pennsylvania Medical Marijuana Act and its accompanying regulations.

3. May a staff person who is a medical marijuana patient in the Medical Marijuana Program, certified by an approved practitioner to use medical marijuana, administer their medication in a provider-owned residence?

Except when required by Federal law or regulation, the Departments will not cite providers for regulatory violations for the use of medical marijuana by staff who are certified by an approved practitioner to use medical marijuana, and who use it in accordance with the Pennsylvania Medical Marijuana Act. Employers are not required to make any accommodation for the use of medical marijuana on the property or premises. Staff may not allow their medical marijuana to be accessible to residents. Staff may not provide care to residents if impaired, as defined by applicable regulations.

4. Are direct care workers/professionals, paid with Federal Medicaid dollars, allowed to assist individuals in their usage of medical marijuana or be designated as a registered DOH Medical Marijuana caregiver?

Except when prohibited by Federal law or regulation, any individual who is registered with the DOH Medical Marijuana Program can be a caregiver for a patient of the Pennsylvania Medical Marijuana Program. In accordance with the Pennsylvania Medical Marijuana Act and regulations, an individual may act as a caregiver for up to five individuals at a time. A patient of the Medical Marijuana Program can designate up to two caregivers. Staff who are qualified to administer and who have completed additional training conducted by a DOH-approved dispensary or DOH-approved practitioner may also administer medical marijuana prescribed in the following forms: pill/capsule, topical forms, oil, liquid suspension, tincture, vaporization or nebulization, and dry leaf that is vaporized and not smoked. Approved forms of medical marijuana shall be administered according to the directions specified by a DOH-approved practitioner.

The Medical Marijuana Act applies regardless of funding source. Therefore, the answer remains the same for direct care workers/professionals paid by Federal Medicaid dollars.

5. Are program sites, supported by Medicaid dollars, allowed to store medical marijuana on site with other prescriptions under lock and key?

Except when prohibited by Federal law or regulation, medical marijuana may be stored with prescribed medications in accordance with the Pennsylvania Medical Marijuana Act and regulations, as well as the program site's policies and procedures regarding medication. In accordance with the Medical Marijuana Act, medical marijuana that has not been used by the patient shall be kept and stored in the original package in which it was dispensed.

The Medical Marijuana Act applies regardless of funding source. Therefore, the answer remains the same for program sites supported by Federal Medicaid dollars.

6. Can providers permit medical marijuana use on the premises by an individual or caregiver even if the provider chooses not to store or administer it?

Except when prohibited by Federal law or regulations, providers may permit medical marijuana use without storing or administering the medication. However, providers are encouraged to consider the benefits of the medication to an individual who holds a certification for medical marijuana use and individuals' means of use without the provider's accommodations when determining whether or not to assist a patient by allowing storing and/or administering on the premises.

7. Are providers required to have designated caregivers available to all individuals who are currently participating in the Medical Marijuana Program or who are interested in seeking a certification?

Providers may choose not to require provider staff to serve as designated caregivers, but, except when prohibited by Federal law or regulations, may store medical marijuana for an individual participating in the Medical Marijuana Program. Providers are required to store medical marijuana in accordance with statutory and regulatory requirements relating to storage of medications, along with the provider's policies and procedures relating to storage of medication.

8. May a staff person or resident share prescribed medical marijuana with other staff persons or residents?

Medical marijuana may only be used by the resident certified to use the medication by a DOH-approved practitioner. Residents and staff certified to use medical marijuana or acting as caregivers pursuant to the Medical Marijuana Act and regulations may not share or distribute medical marijuana.

OBSOLETE BULLETIN

This bulletin updates MA Bulletin 01-19-45, titled "Medical Marijuana and State Licensure of Facilities and Agencies" issued July 17, 2019, to add two additional licensed facilities, Assisted Living Residences and Personal Care Homes. The previously issued bulletin is obsolete with the issuance of this bulletin.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:
Department of Human Services Office of Policy Development, P.O. Box 2675, Harrisburg, PA 17110-2675. General Office Number 717-265-8347