

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

1. REASON FOR ISSUE: This Veterans Health Administration (VHA) directive provides policy on access to VHA clinical programs for Veterans participating in a State-approved marijuana program.

2. SUMMARY OF MAJOR CHANGES: Major changes include adding policy to support the Veteran-provider relationship when discussing the use of marijuana and its impact on health including Veteran-specific treatment plans.

3. RELATED ISSUES: None.

4. RESPONSIBLE OFFICE: Population Health Services (10P4V) within the Office of Patient Care Services (10P4) is responsible for the content of this directive. Questions may be referred to the Chief Consultant, Population Health Services at (650) 849-0365.

5. RESCISSIONS: VHA Directive 2011-004, Access to Clinical Programs for Veterans Participating in State-Approved Marijuana Programs, dated January 31, 2011, is rescinded.

6. RECERTIFICATION: This VHA directive is scheduled for recertification on or before the last working day of December 2022. This VHA directive will continue to serve as national VHA policy until it is recertified or rescinded.

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

1. PURPOSE

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

2. DEFINITIONS

a. **Controlled Substance.** A drug or other substance included in Schedule I, II, III, IV, or V established by section 202 of the Controlled Substances Act of 1970 (84 Stat. 1236), as updated and republished under the provisions of that Act (21 United States Code (U.S.C.) 812). Schedule I includes drugs or other substances with a high potential for abuse, without a currently acceptable medical use in treatment in the United States, and lacking accepted safety for use under medical supervision. Marijuana is classified as a Schedule I.

b. **Marijuana:** All parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

3. POLICY

It is VHA policy that:

a. VHA providers and/or pharmacists discuss with the Veteran marijuana use, due to its clinical relevance to patient care, and discuss marijuana use with any Veterans requesting information about marijuana;

b. To comply with Federal laws such as the Controlled Substances Act (Title 21 United States Code (U.S.C.) 801 et. al.), VHA providers are prohibited from completing forms or registering Veterans for participation in a State-approved marijuana program; and,

c. VHA providers and/or pharmacists should discuss with patients how their use of State-approved medical marijuana to treat medical or psychiatric symptoms or conditions may relate to the Veterans participation in other clinical activities, (e.g., discuss how marijuana may impact other aspects of the overall care of the Veteran such as how marijuana may interact with other medications the Veteran is taking, or how the use of marijuana may impact other aspects of the overall care of the Veteran such as

pain management, Post-Traumatic Stress Disorder (PTSD), or substance use disorder treatment).

4. RESPONSIBILITIES

a. **Under Secretary for Health.** The Under Secretary for Health is responsible for ensuring VHA compliance with this directive.

b. **Deputy Under Secretary for Health for Operations and Management.** The Deputy Under Secretary for Health for Operations and Management, or designee, is responsible for ensuring that the Department of Veterans Affairs (VA) medical facility Directors are aware that it is VHA policy for providers to assess Veteran use of marijuana but providers are prohibited from recommending, making referrals to or completing paperwork for Veteran participation in State marijuana programs.

c. **Deputy Under Secretary for Health for Policy and Services.** The Deputy Under Secretary for Health for Policy and Services, or designee, is responsible for assuring that all policies are aligned with the content of this directive.

d. **Assistant Deputy Under Secretary for Health for Policy and Services, Patient Care Services.** The Assistant Deputy under Secretary for Policy and Services, Patient Care Services, or designee, is responsible for assuring that VA providers receive current information regarding known/potential impact of participation in State marijuana program on clinical care and treatment planning.

e. **Chief Consultant, Population Health Services.** The Chief Consultant, Population Health Services is responsible for the content of this directive and development of strategies to educate Veterans and VHA staff regarding this directive.

f. **Veterans Integrated Service Network (VISN) Director.** The VISN Director, or designee, is responsible for assuring that this policy is disseminated and implemented at all facilities in the VISN.

g. **VA Medical Facility Director.** Each VA medical facility Director, or designee, is responsible for ensuring VA facility staff are aware of the following:

(1) Clinical staff may discuss with Veterans relevant clinical information regarding marijuana and when this is discussed it must be documented in the Veteran's medical record. Veterans must not be denied VHA services solely because they are participating in State-approved marijuana programs. Providers need to make decisions to modify treatment plans based on marijuana use on a case-by-case basis, such decisions need to be made in partnership with the Veteran and must be based on concerns regarding Veteran health and safety.

(2) The prohibition on recommending, making referrals to or completing forms and registering Veterans for participation in State-approved marijuana programs.

(3) If a Veteran presents an authorization for marijuana to a VHA provider or pharmacist, VA will not provide marijuana nor will VA pay for marijuana to be provided by a non-VA entity.

(4) Possession of marijuana, even for authorized medical reasons, by Veterans while on VA property is in violation of 38 CFR 1.218(a)(7) and places them at risk for prosecution under the Controlled Substances Act, 21 U.S.C 801 et. al.

(5) Employees of VA, including those who are Veterans receiving care through VHA, are prohibited from using a Schedule 1 drug, including marijuana, by the Mandatory Guidelines for Federal Workplace Drug Testing Programs published by the Department of Health and Human Services and VA Handbook 5383.2, VA Drug-Free Workplace Program.

(6) If a Veteran reports marijuana use and/or participation in a State-approved marijuana program to a member of the clinical staff, that information is entered into the “non-VA/herbal/Over the Counter (OTC) medication section” of the Veteran's electronic medical record following established procedures for recording non-VA medication use (see VHA Directive 2011-012, Medication Reconciliation, or subsequent policy document, VHA Directive 1108.08, VHA Formulary Management Process). If a provider discusses marijuana with a Veteran, relevant information must be documented in progress notes, and considered in the development or modification of the treatment plan.

5. REFERENCES

- a. 21 U.S.C. 801 et al, the Controlled Substances Act.
- b. 38 CFR 1.218(a)(7).
- c. VA Handbook 5383.2, VA Drug-Free Workplace Plan, dated April 11, 1997, or subsequent policy.
- d. VHA Directive 1108.08, VHA Formulary Management Process, dated November 2, 2016, or subsequent policy.
- e. VHA Directive 2011-012, Medication Reconciliation, dated March 9, 2011, or subsequent policy.
- f. Department of Human Health Services, Federal Register 73, Number 228. <https://www.gpo.gov/fdsys/pkg/FR-2008-11-25/html/E8-26726.htm>.
- g. Office of General Counsel (OCG) opinion on State Marijuana Registration Forms—VAOPGCADV 9-2008. SharePoint: <https://vawww.ogc.vaco.portal.va.gov/library/Lists/opinions/AllItems.aspx?RootFolder=%2Flibrary%2FLists%2Fopinions%2F2008&FolderCTID=0x012000BE5DF3519EC2CA4BBCDF6A21B2A724C6&View={FEA4080F-164B-4746-855F-F70FE42BE487}>. **NOTE:** *This is an internal VA Web site that is not available to the public.*