**Update for RSAT Programs: Medical Marijuana Laws and Criminal Justice Policies**

by Niki Miller, Senior Research Associate, AHP - July 21, 2016

A total of 25 states, the District of Columbia, Guam and Puerto Rico now allow some form of medical marijuana use by individuals meeting applicable statutory conditions. Those conditions and the amounts and forms of medical marijuana that are allowable vary considerably from state to state.

For example, in many states, medical marijuana use is restricted to individuals diagnosed with certain conditions. In every state except Washington, some type of patient registration is required. Some states authorize the sale of marijuana through dispensaries, others allow cultivation only and restrict sales; some state laws impose limits on THC content. Most laws specify that medical marijuana cannot be smoked, since there is a sound scientific basis to prohibit smoking as an accepted delivery method for therapeutic medications.

Recreational use of marijuana is legal only in Alaska, Colorado, Oregon, and Washington State; however, the District of Columbia recently decriminalized possession of up to two ounces or six plants for recreational use. Even in some of these states, only possession and cultivation of marijuana is actually legal and marijuana sale remains a punishable offense.

At the federal level, marijuana is still illegal and remains a Schedule I drug under the Controlled Substance Act (1970), a designation reserved for drugs of abuse with no accepted medical use and a high potential for dependency. For this reason, doctors cannot write an actual prescription for marijuana, only a recommendation.

The changing statutory landscape is recognized as a source of potential confusion across a number of human service disciplines, but it has immediate implications for criminal justice. RSAT program staff and staff responsible for supervising RSAT graduates upon release may be required to carefully consider the impact of new policies and guidelines as inmates re-enter their communities.

Important points to keep in mind:

* Medical use of opioid analgesics is legal in every state. That does not render it harmless or compulsory, nor does it prohibit imposing abstinence from opioids as a condition of release and monitoring compliance, when appropriate.
* Recreational alcohol use is also legal, but that has little bearing on our thinking about re-entry planning and post-release supervision for individuals recovering from alcoholism.

Some state correctional systems have already developed policies and directives to address medical marijuana use by offenders under community supervision (see list of examples below). These policies and procedures vary. For example, correctional policies in Arizona and Washington State outline procedures that individuals under community supervision must follow in order to document the validity of their use of medical marijuana. Once they have met these requirements, they are exempt from violation or penalty for testing positive for THC on a drug screen.

However, not all state correctional departments wish to institute a process that allows justice-involved individuals access to medical marijuana. For example, Connecticut’s medical marijuana legislation exempts inmates and those under supervision: ***"Prison inmates, or others under the supervision of the Department of Corrections, would not qualify, regardless of their medical condition."***  In Oregon, a state where medical and recreation marijuana use is legal, the Board of Parole and Post-release Supervision **does not** support provisions to include justice-involved individuals: **“The board will find a violation of General Condition (GC) #10 for the possession of marijuana, even if the offender has a medical marijuana card….”**

The resources listed below are intended to inform and update RSAT programs as they develop a framework to deal with the issue. The only two things that appear certain are that more changes are likely, and the issue will remain in the national spotlight.

**Medical Marijuana & Criminal Justice Populations - Policies, Positions & Laws:**

**Arizona - DOC Medical Marijuana Directive, January 2016**: [https://corrections.az.gov/sites/default/files/policies/DI/di\_343.pdf](https://corrections.az.gov/sites/default/files/policies/DI/di_343.pdf%20)

**Washington DOC - Medical Marijuana Policy, 2015**

[http://www.doc.wa.gov/Policies/default.aspx?show=500](%20http:/www.doc.wa.gov/Policies/default.aspx?show=500)

**Oregon Board of Parole and Post-release Supervision, Medical Marijuana Policy, 2011** <https://www.oregon.gov/BOPPPS/docs/medical_marijuana_policy.pdf>

**Connecticut legislation, effective May 2012 -** Excludes prison inmates and others under DOC supervision from medical marijuana use, regardless of medical condition:

<http://medicalmarijuana.procon.org/sourcefiles/Connecticut-hb-5389.pdf>

**National Association of Drug Court Professionals – 2012** **Position Statement on Marijuana:** <http://www.nadcp.org/sites/default/files/nadcp/NADCP%20Board%20Position%20Statement%20-%20Marijuana.pdf>

**Other Current Information:**

**State Medical Marijuana Laws – National Conference of State Legislators:** <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>

**Office of National Drug Control Policy – Marijuana FAQ’s**

[https://www.whitehouse.gov/ondcp/frequently-asked-questions-and-facts-about-marijuana](https://www.whitehouse.gov/ondcp/frequently-asked-questions-and-facts-about-marijuana%20)

**Treatment Research Institute – Position Statement on Medical Marijuana, 2012:** <http://www.tresearch.org/tri-issues-position-statement-on-medical-marijuana/>

**National Association of Addiction Professionals – NAADAC Medical Marijuana Position Statement, 2011:** <http://www.naadac.org/assets/1959/medical_marijuana_2011.pdf>

**DEA Position on Marijuana, 2013:**

<https://www.dea.gov/docs/marijuana_position_2011.pdf>