
 Corrections and Community Supervision DIRECTIVE	TITLE		NO. 9436
	Special Condition – Prohibiting Adult-Use Cannabis		DATE 04/26/2021
SUPERSEDES	DISTRIBUTION A B	PAGES PAGE 1 OF 2	DATE LAST REVISED
REFERENCES (Include but are not limited to)	APPROVING AUTHORITY 		

- I. PURPOSE:** To instruct Community Supervision staff on the approved use of cannabis by parolees pursuant to NYS law.
- II. POLICY:** It is the policy of the Department of Corrections and Community Supervision (DOCCS) to not impose special conditions prohibiting parolees to use cannabis. Special conditions can only be considered in cases where “it is shown by clear and convincing evidence that the prohibition is reasonably related to the underlying crime.” Nothing shall restrict the rights of a certified medical patient (see “Note” below).
- III. PROCEDURE**
- A. Parole Officer (PO) Responsibility
1. The PO shall not impose special conditions prohibiting cannabis unless there is clear and convincing evidence that the prohibition is reasonably related to the underlying crime.
 2. The PO shall document the supporting evidence and rationale for the special condition in the Case Management System (CMS) and seek approval of a Senior Parole Officer (SPO) or higher authority prior to imposing the special condition.
 3. The PO shall explain to the parolee that they have a right to appeal to the Parolee Grievance Program the imposition of the special condition.
- B. Senior Parole Officer (SPO) Responsibility
1. The SPO will review all written special conditions prohibiting cannabis use to confirm that all clear and convincing evidence in support of the prohibition is documented.
 2. The SPO will submit recommended special conditions regarding cannabis to the respective Bureau Chief or higher authority.
- C. Bureau Chief/Regional Director Responsibility: The Bureau Chief or Regional Director shall authorize or deny the imposition of the special condition upon review of the record as required in subsections A and B.
- IV. CASE MANAGEMENT SYSTEM (CMS) REQUIREMENTS AND TESTING**
- A. A case conference for any case where cannabis is prohibited will include a review of CMS to ensure all information is accurate.
- B. Cannabis (marijuana) drug testing will only occur for parolees that are subject to a special condition prohibiting use.

NOTE: If a parolee is a “certified medical patient,” no special condition prohibiting cannabis usage can be imposed, nor can the parolee be drug tested for cannabis even when cannabis use is reasonably related to the underlying crime.

Currently, there is no definition in the law as to what constitutes a “certified medical patient.” Therefore, until further notice, anyone who is under the care of a physician and is prescribed cannabis in their medical treatment will meet the definition.