



# MARYLAND Department of Health

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary  
Bernard Simons, Deputy Secretary of Developmental Disabilities Administration

## MEMORANDUM

**TO:** DDA Recipients & Families

**FROM:** Bernard Simons, Deputy Secretary, DDA; and  
Adrienne Hollimon, Director of Nursing, DDA

**DATE:** June 25, 2018

**RE:** Use of Medical Marijuana, Cannabis, and Cannabinoids

The Developmental Disabilities Administration (“DDA”) is supportive of Maryland’s endeavors to provide access to medical cannabis for qualifying patients. However, due to DDA’s federal funding requirements, the DDA is limited in how it can support such endeavors. This memorandum sets forth DDA’s guidance for use of medical marijuana, cannabis, and cannabinoids (collectively, “medical cannabis”) by DDA recipients, particularly those who require assistance in administering other (non-medical cannabis) medications, in accordance with applicable laws and regulations.

### Funding

DDA’s services are primarily funded through DDA’s Medicaid Waiver program, whereby the federal Medicaid program provides a 50% match to each service. The federal Medicaid program currently prohibits its funds from being used to provide or support the use of medical cannabis. Therefore, to comply with this requirement and maintain DDA’s Medicaid funding for its services, the DDA cannot pay for either (1) medical cannabis or paraphernalia; or (2) staff to assist a DDA recipient in administration of medical cannabis.

This does not mean that a DDA recipient cannot use or receive medical cannabis while receiving DDA-funded services. A DDA recipient may use medical cannabis, in accordance with this memorandum, so long as the DDA recipient pays for the product, paraphernalia, and assistance with administration from his or her own personal funds.

DDA-funded direct care support staff cannot assist with administration. However, the DDA recipient may seek an unpaid caregiver or pay another individual, from the DDA recipient’s personal funds, to provide such assistance in accordance with the Maryland Medical Cannabis Commission’s regulations and requirements.

If the DDA becomes aware of any Medicaid funds being used to pay for medical cannabis, paraphernalia, or assistance with administration of medical cannabis, then the DDA must report such unlawful use of Medicaid funds to the Medicaid Fraud Control Unit for investigation and potential prosecution.

### Compliance with Laws

**Any DDA recipient who chooses to access medical cannabis is responsible for complying with applicable laws and regulations governing access to and use of medical cannabis.**

If you have any questions regarding these requirements, you can access the Maryland Medical Cannabis Commission’s website at: <http://mmcc.maryland.gov>.



The DDA has received many questions about CBD oils procured from out-of-state, allegedly containing less than medical grade cannabis. Given the unknown pharmacology of these products, the DDA's funding requirements, and the Medical Cannabis Commission's statute and regulations regarding permissible products, the DDA cannot, at this time, support their use by funding either the product itself or administration of it by DDA-funded direct care support staff or nursing staff. Again, the DDA recipient is responsible for ensuring that his or her purchase and use of any CBD oils complies with applicable laws and regulations.

### **DDA's Requirements for Use of Medical Cannabis by DDA Recipients**

#### *Use of Medical Cannabis in Home & Community Based Settings*

Many DDA recipients either share residences with other DDA recipients or have DDA-funded staff present with them throughout the day. As a result, the DDA is concerned about how the use of medical cannabis that releases into the air or surrounding environment (via smoke or mist) may impact those who share the space with the DDA recipient. Specifically, the DDA cannot risk inhalation of or incidental exposure to medical cannabis by other DDA recipients, who do not use medical cannabis, or staff, who cannot be impaired while providing services to the DDA recipient or others.

To address this concern, the DDA requires that, if the DDA recipient is in the presence of other DDA recipients or staff, then the DDA recipient can only use a medical cannabis product that is self-contained, does not release into the air, or otherwise does not risk inhalation of or incidental exposure to medical cannabis by other DDA recipients or staff.

#### *Use of Medical Cannabis in Conjunction with Other Medications*

Many DDA recipients require assistance in administering his or her medications. DDA-funded direct care support staff, who are certified by the Maryland Board of Nursing as a Certified Medication Technician ("CMT"), may administer medications to a DDA recipient. However, a CMT performs this role under the delegation and supervision of a licensed Registered Nurse (a "RN CM/DN"). In order to delegate administration of medication to a CMT, the RN CM/DN must review the DDA recipient's medications in order to ensure it is safe to administer those medications in conjunction with one another. See COMAR 10.27.11 for regulatory requirements governing delegation of nursing functions.

As described above, DDA-funded CMT or nursing staff cannot assist the DDA recipient in administering medical cannabis. However, since many DDA recipients who will access medical cannabis may also receive other (non-medical cannabis) medications, the DDA must ensure that the DDA recipient's other medications are not contraindicated with the use of medical cannabis, potentially resulting in a harmful drug interaction. In other words, the DDA must ensure that use of medical cannabis in conjunction with other (non-medical cannabis) medications will not adversely affect the DDA recipient's health and safety.

If a DDA recipient desires to use medical cannabis in conjunction with other medications he or she takes, and he or she receives assistance from a DDA-funded CMT or nurse in administration of those other (non-medical cannabis) medications, then each of the following steps must be taken **prior to use of any medical cannabis**:

1. The DDA Recipient must notify his or her RN CM/DN of his or her desire to use medical cannabis.
2. The DDA Recipient must have a licensed prescribing practitioner (physician, physician assistant, or nurse practitioner) review the DDA Recipient's non-medical cannabis medications, specifically the practitioner prescribing these non-medical cannabis medications, to determine if their use is contraindicated with the use of medical cannabis. Based on such review, the practitioner must issue an order or note in writing, indicating whether it is safe for the other medications to be administered in conjunction with medical cannabis. Such physician order or note must be shared with the RN CM/DN and maintained in the DDA recipient's health care record.
3. The RN CM/DN will then develop a nursing care plan governing the administration of the other (non-medical cannabis) medications in conjunction with any medical cannabis the DDA recipient uses.

**As described above, neither the DDA-funded nursing nor CMT staff is permitted to administer, or assist the DDA recipient in administering, any medical cannabis.** This requirement is limited to ensuring the safe administration of the DDA recipient's other (non-medical cannabis) medications when the DDA recipient uses medical cannabis.

CC: DDA Providers;  
CCS Providers;  
Providers' Registered Nurse Case Manager & Delegating Nurse ("RN CM/DN")  
DDA Regional Offices