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MEDICINAL CANNABIS COMPASSIONATE USE SCHEME GUIDELINES

STATE CRIME COMMAND

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Summary

The NSW Government Medicinal Cannabis Compassionate Use Scheme (the Scheme) extends compassion to adults with a terminal illness.

These guidelines aim to provide members of the NSW Police Force with guidance to assist them in determining appropriate circumstances in which to exercise their discretion not to charge terminally ill adults who use cannabis to alleviate their symptoms, or their nominated carers.

NSW Police Force encourages the use of discretion.

A decision not to take legal action against a person for cannabis offences within the scope of the Scheme is at the discretion of the investigating officer. Police may exercise their discretion not to charge **adults with a terminal illness** if:

- the adult is registered as a participant with the Scheme
- the adult possesses no more than the specified maximum amount of cannabis that is not lawfully prescribed
- the use of cannabis that is not lawfully prescribed by the terminally ill person is at their usual place of residence or any domestic residence.

Police may exercise their discretion not to charge **carers of adults with a terminal illness** if:

- the person is registered as a carer with the Scheme
- the carer possesses no more than the specified maximum amount of cannabis that is not lawfully prescribed
- the administration/supply by the carer of cannabis that is not lawfully prescribed is to a registered adult at their usual place of residence, or any domestic residence.

Document Control Sheet

Document Properties

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2.0	08/2023	Crime Prevention Command	Updated title of program, agency name and NSWPF Guidelines template
3.0	12/2023	Crime Prevention Command	Update of guidelines to reflect Corporate Procedures template
4.0	07/2024	Crime Prevention Command	Update public disclosure status from 'no' to 'yes'

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Purpose

The NSW Government has developed the Medicinal Cannabis Compassionate Use Scheme (the Scheme) to extend compassion to adults with a terminal illness.

These guidelines aim to provide members of the NSW Police Force with guidance to assist them in determining appropriate circumstances in which to exercise their discretion not to charge terminally ill adults who use cannabis to alleviate their symptoms, or their nominated carers.

Scope

This document is provided for the information and guidance of all NSW Police Force officers.

Roles & responsibilities

Assistant Commissioner – State Crime Command	Document approval
Commander – Drug & Firearms Squad	Document sponsor
Commander – Drug & Firearms Squad	Document Owner
Drugs, Alcohol & Mental Health Team – Crime Prevention Command	- Review these procedures prior to the scheduled review date and ensure content remains up to date - Support sworn staff by answering queries relating to these procedures as they arise
All Sworn staff	Are encouraged to familiarise themselves with these guidelines and follow this guidance to assist in determining when to exercise discretion not to charge terminally ill adults who use cannabis to alleviate their symptoms, or their nominated carers.

Procedure

Context

NSW residents who are aged 18 years or older who have a terminal illness are eligible to be registered with the Scheme. See Annexure A for publicly available information on the Scheme.

Under the Scheme, a terminal illness is defined as: *'an illness which, in reasonable medical judgement will, in the normal course, without the application of extraordinary measures or of treatment unacceptable to the patient, result in the death of the patient'*.

A person may nominate up to three carers aged 18 years and over to be registered under the Scheme. A person may be nominated as the carer for a maximum of three registered adults with a terminal illness.

Eligibility

Police may exercise their discretion not to charge **adults with a terminal illness** if:

- the adult is registered as a participant with the Scheme
- the adult possesses no more than the specified maximum amount of cannabis that is not lawfully prescribed (outlined in the table below)
- the use of cannabis that is not lawfully prescribed by the terminally ill person is at their usual place of residence or any domestic residence.

Police may exercise their discretion not to charge **carers of adults with a terminal illness** if:

- the person is registered as a carer with the Scheme
- the carer possesses no more than the specified maximum amount of cannabis that is not lawfully prescribed (outlined in the table below)
- the administration/supply by the carer of cannabis that is not lawfully prescribed is to a registered adult at their usual place of residence, or any domestic residence

Procedures

If an officer detects a person committing an offence that falls within the Scheme, and the person indicates they are a registered terminally person or a nominated carer, officers will need to verify the following:

1. The weight of the drug is not more than the maximum quantity permitted under the Scheme

The quantities and forms of cannabis considered to be within the Scheme's guidelines are as follows:

Cannabis form	Maximum quantity under the Scheme (half small quantity)
Cannabis leaf	15 grams
Cannabis oil	1 gram
Cannabis resin	2.5 grams

2. The person is registered with the Scheme.

The name, date of birth and address on the person's registration certificate can be checked against other forms of identification the person may be carrying.

If you have concerns about the veracity of the certificate, email Application.Services@facs.nsw.gov.au

Registration lasts for 24 months.

See below for the registration form.

3. The nature of the offence is consistent with intent of the Scheme.

If you are satisfied that the criteria have been met, you may use your discretion not to take legal action and not to seize the cannabis.

Recording

In situations where you exercise your discretion not to take legal action, it should be recorded in COPS.

- You should make a COPS event for the substantive offence
- In completing the event, the involvement status for the POI should be updated as 'No further action'. 'Terminally Ill Cannabis Scheme' should be selected as the 'Reason for no further action'.

The registration number of the POI should be recorded in the narrative.

Property (the cannabis and/or any equipment) should be updated as 'Not seized'.

If the person is registered with the Scheme but you decide to take legal action, the narrative for the COPS event should clearly indicate the reasons for your decision.

If the person or incident does not fall within the guidelines of the Scheme, your options to respond are not affected, and may include a caution under the Cannabis Cautioning Scheme or proceed as you would for other drug detections.

Further information

Further details about the Scheme can be found at the [NSW Centre for Medicinal Cannabis](#).

Below is an example of the Registration Form and publicly available information for adults with a terminal illness and their carers and medical practitioners.

Medicinal Cannabis Compassionate Use Scheme

NSW Medical Practitioners



The Medicinal Cannabis Compassionate Use Scheme

The NSW Government established the Medicinal Cannabis Compassionate Use Scheme to extend compassion to adults with a terminal illness.

The Scheme provides guidelines for NSW Police officers about using their discretion not to charge adults with a terminal illness for possession of cannabis not lawfully prescribed if they are registered with the Scheme, as well as up to three registered carers.

Eligibility

NSW residents who are aged 18 years or older who have a terminal illness are eligible to be registered with the Scheme.

Under the Medicinal Cannabis Compassionate Use Scheme, a terminal illness is defined as: 'an illness which, in reasonable medical judgement will, in the normal course, without the application of extraordinary measures or of treatment unacceptable to the patient, result in the death of the patient'.

The role of the patient

The patient can download the registration form and complete Part A. The patient will then ask their practitioner to complete Part B.

The patient will send the completed registration form to the Department of Communities and Justice by email or registered post. Once the application is processed, the patient will receive copies of their original documentation with registration numbers for themselves and any nominated carers.

Registration will last for 24 months, after which point the patient can re-register by making a new application.

Registered adults and carers must produce their documentation to NSW Police on request.

The Scheme is administered by the Department of Communities and Justice. By registering, patients agree that the Department of Communities and Justice can use and disclose information provided in Part A and Part B to check eligibility and for future reviews of the Scheme.

The role of the medical practitioner

A general practitioner or treating specialist who is registered in Australia and involved in their patient's ongoing care must certify that the patient has a terminal illness as defined by the Scheme.

When completing Part B of the registration form, the medical practitioner must provide patient details, the length and nature of their therapeutic relationship with the patient and the evidence relied upon for certification. As with any certification, false claims may have criminal and professional consequences.

Medical practitioners are not being asked to endorse the use of cannabis and are only certifying that the patient has a terminal illness as defined under the Scheme.

Cannabis use

Unregulated cannabis use is illegal and potentially harmful. Adults with a terminal illness who choose to use cannabis do so at their own risk. Medical practitioners may wish to discuss the health impacts of cannabis with their patients and are encouraged to use the opportunity to collaboratively review the patient's care plan.

There are legal pathways for a medical practitioner to prescribe a cannabis medicine for their patient, if the practitioner believes it is an appropriate treatment option. More information can be found at www.medicinalcannabis.nsw.gov.au.

Police discretion

Police may exercise their discretion not to charge adults with a terminal illness if:

- the adult is registered as a participant with the Scheme
- the adult possesses no more than the specified maximum amount of cannabis that is not lawfully prescribed (outlined in the table on right)
- the use of cannabis that is not lawfully prescribed by the terminally ill person is at their usual place of residence or any domestic residence.

Police may exercise their discretion not to charge carers of adults with a terminal illness if:

- the person is registered as a carer with the Scheme
- the carer possesses no more than the specified maximum amount of cannabis that is not lawfully prescribed (outlined in the table on right)
- the administration/supply by the carer of cannabis that is not lawfully prescribed is to a registered adult at their usual place of residence, or any domestic residence.

How much cannabis (not lawfully prescribed) is permitted under the Scheme?

Cannabis form	Specified maximum amount
Cannabis leaf	15 grams
Cannabis oil	1 gram
Cannabis resin	2.5 grams

Activities not covered by the Scheme include

- supplying cannabis or cannabis products (not lawfully prescribed) to a person who is not registered under the Scheme
- cultivating cannabis
- using cannabis that is not lawfully prescribed in public
- possessing cannabis that is not lawfully prescribed over the specified maximum amount
- driving while using cannabis. It is an offence under the *Road Transport Act 2013 (NSW)* to drive if the delta-9-tetrahydrocannabinol component of cannabis is present in a person's saliva, blood or urine.

More information

- email the Centre for Medicinal Cannabis Research and Innovation: MOH-CannabisTrial@health.nsw.gov.au
- write to:
**Centre for Medicinal Cannabis Research and Innovation Locked Bag 2030
St Leonards NSW 1590**

Medicinal Cannabis Compassionate Use Scheme

Adults with a terminal illness and their carers



What is the Medicinal Cannabis Compassionate Use Scheme?

The NSW Government established the Medicinal Cannabis Compassionate Use Scheme to extend compassion to adults with a terminal illness.

The Medicinal Cannabis Compassionate Use Scheme provides guidelines for NSW Police officers about using their discretion not to charge adults with a terminal illness for possession of cannabis not lawfully prescribed if they are registered with the Scheme, as well as up to three registered carers.

The Scheme does not supply cannabis or cannabis products or endorse the use of cannabis products not lawfully prescribed.

Who is eligible?

NSW residents who are aged 18 years and over who have a terminal illness are eligible to be registered with the Scheme.

For the purpose of the Medicinal Cannabis Compassionate Use Scheme, terminal illness is defined as: 'an illness which, in reasonable medical judgement will, in the normal course, without the application of extraordinary measures or of treatment unacceptable to the patient, result in the death of the patient.'

A person may nominate up to three carers aged 18 years and over to be registered under the Scheme. A person may be nominated as the carer for a maximum of three registered adults with a terminal illness.

How do I register for the Scheme?

A medical practitioner who is registered in Australia and involved in your ongoing care must certify that you have a terminal illness as defined by the Scheme.

To register, you must complete Part A of the registration form by providing your details, along with the details of your nominated carer(s). Your medical practitioner then completes Part B of the form. The form can be downloaded at medicinalcannabis.nsw.gov.au. It is important that all parts of the form are completed.

Once Part A and Part B of the registration form are complete you can either:

- a. Post the completed original registration form to:
Appointments and Applications
Department of Communities and Justice
GPO Box 6
Sydney NSW 2001
- b. Scan and send the completed form to
Application.Services@facs.nsw.gov.au

The Scheme is administered by the Department of Communities and Justice. After your registration has been processed, you will receive a letter enclosing copies of your registration documentation with registration numbers for yourself and each of your nominated carers. Your registration will last for 24 months, after which point you can re-register by making a new application.

By registering, you agree that the Department of Communities and Justice can use and disclose any personal information provided in Part A and Part B of the registration form to other government and law enforcement agencies to assist with investigations and confirm registration status.

Registered adults and carers must produce their documentation to NSW Police on request.

How can I update my details?

Please ensure that your registration details are kept up-to-date, including a change in treating practitioner. This will ensure the new practitioner is alerted about a lapsed registration. After 24 months, a letter is sent to your practitioner indicating your registration is due for renewal.

To only update your registration details (e.g. change of address, carer or doctor), you don't need to complete a new registration form in full. Simply include your revised registration details and registration number on a registration form and send it by post or email to the above address.

There are legal pathways for a medical practitioner to prescribe a cannabis medicine for their patient, if the practitioner believes it is an appropriate treatment option. More information can be found at www.medicinalcannabis.nsw.gov.au.

For all other enquiries, please contact the NSW medicinal cannabis hotline on 1800 217 257.

How can NSW Police officers exercise their discretion?

Police may exercise their discretion not to charge adults with a terminal illness if:

- the adult is registered as a participant with the Scheme
- the adult possesses no more than the specified maximum amount of cannabis that is not lawfully prescribed (outlined in the table on right)
- the use of cannabis that is not lawfully prescribed by the terminally ill person is at their usual place of residence or any domestic residence.

Police may exercise their discretion not to charge carers of adults with a terminal illness if:

- the person is registered as a carer with the Scheme
- the carer possesses no more than the specified maximum amount of cannabis that is not lawfully prescribed (outlined in the table on right)
- the administration/supply by the carer of cannabis that is not lawfully prescribed is to a registered adult at their usual place of residence, or any domestic residence.

How much cannabis (not lawfully prescribed) is permitted under the Scheme?

Cannabis form	Specified maximum amount
Cannabis leaf	15 grams
Cannabis oil	1 gram
Cannabis resin	2.5 grams

What activities are not covered by the Scheme?

- supplying cannabis or cannabis products that are not lawfully prescribed to persons who are not registered under the Scheme
- cultivating cannabis
- using cannabis that is not lawfully prescribed in public
- possessing cannabis that is not lawfully prescribed over the specified maximum amount
- driving while using cannabis. It is an offence under the *Road Transport Act 2013* to drive if the delta-9-tetrahydrocannabinol component of cannabis is present in a person's saliva, blood or urine.

More information

- email the Centre for Medicinal Cannabis Research and Innovation: MOH-CannabisTrial@health.nsw.gov.au
- write to:
**Centre for Medicinal Cannabis Research and Innovation Locked Bag 2030
St Leonards NSW 1590**

Medicinal Cannabis Compassionate Use Scheme Registration Form

Part A: Registration Information – for completion by participant

Please provide your details				
Please indicate registration type	☐ new	☐ renewal	☐ updating your details or your carer details (please only include those details that have changed)	
First name		Middle name		
Last name				
Date of birth	____/____/____	Place of birth		
Usual residential address				
		Suburb	P/code	
Postal address (if different from above)				
		Suburb	P/code	
Home phone		Mobile phone		
Gender	☐ Male	☐ Female	Are you Aboriginal or Torres Strait Islander?	☐ Yes ☐ No
Please provide details of your nominated carer/s. You may nominate up to three carers. A carer can be nominated for no more than three registered participants (including you). Please ask your carer if they have already been registered for three other participants before nominating them.				
Carer 1	First name		Middle name	
	Last name			
	Date of birth		Place of birth	
	Residential address			
			Suburb	P/code
Carer 2	First name		Middle name	
	Last name			
	Date of birth	____/____/____	Place of birth	
	Residential address			
			Suburb	P/code
Carer 3	First name		Middle name	
	Last name			
	Date of birth	____/____/____	Place of birth	
	Residential address			
			Suburb	P/code

As well as having your certifying doctor complete Part B, please provide your certifying doctor's details (you should be able to find all of these details in the medical certification in Part B).

First name		Middle name	
Last name			
Provider OR AHPRA number			
Practice name		Phone number	
Practice address		Suburb	P/code
In order to be registered under the Scheme you must agree to the use and disclosure of the personal and health information contained in Parts A and B of this form for the administration and enforcement of the Scheme. Do you agree?			☐ Yes ☐ No
Do you agree to the use and disclosure of the personal and health information contained in Parts A and B of this form for any future review of the Scheme?			☐ Yes ☐ No
Signature of participant		Date	

Part B: Medical Certification – for completion by medical practitioner

TERMINAL ILLNESS CERTIFICATE

This report is made as a certificate of the opinion of a registered medical practitioner that the patient has a terminal illness for the purposes of the Medicinal Cannabis Compassionate Use Scheme. It is not an endorsement by the medical practitioner of the use of cannabis.

For the purpose of the Medicinal Cannabis Compassionate Use Scheme, the definition of terminal illness is:

'an illness which, in reasonable medical judgment will, in the normal course, without the application of extraordinary measures or of treatment unacceptable to the patient, result in the death of the patient.'

First name		Middle name	
Last name			
Provider OR AHPRA number		Phone number	
Practice name			
Practice address		Suburb	P/code

Patient details

First name		Middle name	
Last name			
Date of birth	____/____/____	Place of birth	
Usual residential address		Suburb	P/code
Postal address (if different to above)		Suburb	P/code

Relationship with patient

Length of care relationship	
Nature of care (e.g. general practitioner, oncologist etc)	
The basis of my opinion is as follows. (Evidence relied on as a basis of certification of terminal illness.)	Details can be continued on a separate page, if necessary.

For the purpose of certification, this medical certificate expires 2 years from date of certification. In my opinion, the patient is a person with a terminal illness as defined by the Medicinal Cannabis Compassionate Use Scheme:

Signature of medical practitioner	Date
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Note to medical practitioners: This statement may be relied on by a member of the NSW Police Force when deciding whether to charge your patient with a criminal offence. Giving false or misleading information is a serious offence and may also amount to unsatisfactory professional conduct or professional misconduct for the purposes of the *Health Practitioner Regulation National Law (NSW) No. 86a*.

Checklist

Please ensure you:

- ☐ Have Part B completed and signed by your usual treating Doctor.
- ☐ Check that your nominated carer/s has/have been nominated by no more than two other registered users and is/are willing to assist you.

Send completed Parts A and B to:

The Director
Appointments and Applications
Department of Communities and Justice
GPO Box 6
SYDNEY
NSW 2001

OR

Scan and send the completed form to Application.Services@facs.nsw.gov.au

Once your registration is processed, you will receive a record for yourself and each of your nominated carers. Please note that, in order to participate in the scheme, you and your nominated carer/s, must each carry a copy of that record and provide it to officers of the NSW Police on request.

Office use only

(To be completed by register holder and sufficient copies to be returned to participant.)

Part C: Record of Registration

Registered participant name			
Registration number			
Date of birth	____ / ____ / ____		
Usual residential address		Suburb	P/code

Nominated carer name			
Registration number			
Date of birth	____ / ____ / ____		
Usual residential address		Suburb	P/code

Nominated carer name			
Registration number			
Date of birth	____ / ____ / ____		
Usual residential address		Suburb	P/code

Nominated carer name			
Registration number			
Date of birth	____ / ____ / ____		
Usual residential address		Suburb	P/code