



Parolees with cards pose dilemma for system

By ANGELA BRANDT Independent Record | Posted: Monday, May 31, 2010 12:00 am

More than 9 percent of Montanans on probation and parole, including those who were previously arrested for drug offenses, carry registered medical marijuana cards, according to statistics released last week by the Department of Corrections to Lee Newspapers of Montana.

According to Corrections, 786 of the 8,710 probationers and parolees here have medical marijuana cards. Of the 967,440 residents in the Treasure State, 12,081 — or roughly 1.25 percent of the total population — had obtained a marijuana card as of March 31, according to the state Department of Public Health and Human Services. That figure rose to nearly 15,000 in April and May.

“It’s a ridiculously large amount,” said Andrew W. Paul, deputy Missoula County attorney, who specializes in drug offenses.

By law, medical marijuana is available to people who suffer a “debilitating medical condition.” Nearly 7,000 people with medical marijuana cards suffer from severe or chronic pain, and another 3,000 list their ailments as severe or chronic pain/muscle spasms. According to the latest records, 355 card holders in the state have cancer, HIV or glaucoma.

However, justice officials are concerned that many people are skirting the law by falsely reporting they suffer from chronic pain in order to receive a prescription. They worry that the public’s image of an elderly glaucoma or cancer patient as the primary receivers of medical marijuana prescriptions is far off mark.

“I’m all for the cancer patient who is wasting away who needs it. That was how this initiative was sold,” Paul said. “To call it medicine for 80 percent of the people with cards is just a farce.”

Paul isn’t alone in his field. County attorneys across Montana are seeing similar trends in the distribution of medical marijuana.

“My main concern is the abuse we’re seeing,” said Mike Menahan, a state legislator and deputy county attorney in Lewis and Clark County. “There are people it’s beneficial for, but the people we see the most are scamming the system for their own benefit. I’m afraid it will ruin it for the people who are legitimate.”

The legalization of medical marijuana also changes how law enforcement officials look at probable cause in order to obtain a search warrant for illegal growing operations or drug dealers. Paul said if police officers receive information on an indoor grow operation, they must first check to see if the person is a caregiver and how many cardholders the person is supplying. Each grower, or “caregiver,” can have up to six plants for each patient they supply.

Paul said in his experience, many caregivers are going over their limit with anywhere from a dozen to 100 more plants than they can legally have.

“Every single search warrant, they’ve had more than their limit,” he said.

Growers who possess more than the legal limit are charged with manufacture or distribution of dangerous drugs. A person with a felony drug offense on their record can’t be a caregiver, but can have a prescription card.

Paul said one of the answers to these issues is complete transparency. Lists of caregivers and their patients should be available to law enforcement officials 24 hours a day. Officers can call DPHHS during business hours to check, but after hours, there is currently no way to check. This would also help those with legitimate prescriptions to ensure they aren’t unjustly thrown in jail if they are found with marijuana and aren’t carrying their card, he said.

Menahan agrees that there is a lot of gray area when it comes to the green.

“Montana’s wheat crops face more scrutiny,” he said.

In probation and parole’s Region 2 — the largest of six regions, which includes Lewis and Clark, Broadwater, Powell, Granite, Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Gallatin, Meagher, Park and Sweet Grass counties — 172 people under parole supervision have medical marijuana cards.

“It’s a big concern for us,” Region 2 Administrator Monty LeTexier said.

One of the largest issues for probation officers is that there is no distinguishable line for abuse of marijuana like there is with prescription painkillers such as oxycodone.

“How can we tell if they are using at a therapeutic level and who is abusing it? That makes it very hard for us at a supervisory level,” said Annette Carter, state probation and parole officer.

Another problem is court-ordered treatment for people with medical marijuana prescriptions, LeTexier said. Many treatment programs won’t work with people under the influence of any mind-altering medication. The probationer must then seek a licensed addiction counselor who will work with people currently using medical marijuana.

Boyd Andrew Community Services, which provides services across the state and is the primary provider of chemical dependency outpatient services to residents in Lewis and Clark, Broadwater and Jefferson counties, will not provide services for people under the influence of medicinal marijuana.

Mike Rupert, chief executive officer for Boyd Andrew, said its programs discourage the use of any mind-altering medications, but medicinal marijuana is the one substance with which it has a zero tolerance policy.

“People are just realizing how it’s being abused,” Rupert said. “The vast majority of these people are scamming the system. It’s a joke. It’s got to be 90-something percent are scamming.”

Although Montana voters passed the medical marijuana initiative in November 2004, not many cards were issued for the first couple of years. In the year after it passed, 176 people were issued cards, according to a study prepared for the Children, Families, Health, and Human Services Interim Committee in April.

In June 2008, the number of cardholders reached 1,000.

By December 2009, the number had jumped to 7,339.

DPHHS has issued nearly 5,000 more cards in the first three months of this year, according to the study — with almost 15,000 now. About 2,800 people are registered to provide marijuana on behalf of one or more patients.

Mineral County has the highest population of cardholders with nearly 3 percent of the total population. Probation and parole officers reported that in Mineral, Ravalli and Missoula counties, 213 people currently under supervision have medical marijuana cards.

The actual number of probationers and parolees who have cards may be higher given that some report every six months and may have obtained a card in the meantime, and sometimes it is only revealed that an offender has a card after failing a urinalysis.

The Department of Corrections in 2008 proposed banning anyone on probation from using medical marijuana. That was abandoned when it was realized the state’s medical marijuana law does not allow for any penalty for using medical marijuana, regardless of a person’s criminal history.

“The problem is we’re really on the cusp of this issue,” said Bob Anez, spokesperson for Corrections. “It has incubated in the background for quite some time.”

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