

Medical Cannabis

429.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transportation, delivery, production or use of cannabis under Maryland's medical cannabis laws (Md. Code CR § 5-601(c)(3); Md. Code HG § 13-3301 et seq.)

429.1.1 DEFINITIONS

Definitions related to this policy include (Md. Code HG § 13-3301; COMAR 10.62.01.01):

30-day supply - 120 grams of usable cannabis or 36 grams of tetrahydrocannabinol (THC).

Caregiver - A person who has agreed to assist with a qualifying patient's medical use of cannabis, including the parent or legal guardian of a qualified patient who is under the age of 18.

Certifying provider - A person licensed by the State Board of Physicians, the State Board of Dental Examiners, the State Board of Podiatric Medical Examiners, or the State Board of Nursing who has a state-controlled dangerous substances registration and is approved by the Commission to make cannabis available to patients for medical use.

Commission - The Natalie M. LaPrade Medical Cannabis Commission.

Dispensary - An entity licensed by the Commission that acquires, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers cannabis; products containing cannabis; related supplies; related products including food, tinctures, aerosols, oils, or ointments; or educational materials for use by a qualifying patient or caregiver.

Dispensary agent - An owner, member, employee, volunteer, officer, or director of a dispensary.

Grower - An entity licensed by the Commission that cultivates or packages medical cannabis and is authorized to provide cannabis to a processor, dispensary, or independent lab.

Grower agent - An owner, employee, volunteer, officer, or director of a grower.

Transportation Agent- A secure transportation company or shipping licensee who may transport products containing medical cannabis.

- a. A registered Grower Agent, registered Processor Agent, and registered Dispensary Agent authorized by license to transport products containing medical cannabis; or
- b. A licensed and bonded carrier of a secure transportation company that provides highly secure vehicles for the transportation of valuables.
- c. Transportation Agents must carry a transportation manifest, their MMCC Agent identification card, and driver's license at all times, and may not wear clothing or any accessory with any name, illustration, ect. that refers to medical cannabis.

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- d. The transportation vehicle shall display current State registration and be insured as required by law.
- e. Transportation vehicles may not display any sign or illustration related to medical cannabis.
- f. Transportation Agent status and manifest validity can be verified in Dashboard.
- g. Transportation Agents must maintain medical cannabis in the processor's packaging and may not repackage or alter the packaging in any manner.

Identification card - An identification card provided by the Commission to qualifying patients and caregivers.

Processor - An entity that transforms medical cannabis into another product or extract and packages medical cannabis.

Processor agent - An owner, member, employee, volunteer, officer, or director of a processor.

Qualifying patient - A person who possesses a written certification by a certifying provider with whom the person has a bona fide provider-patient relationship. If the person is under the age of 18, he/she must have a caregiver.

Written certification - Certification issued by a certifying provider which includes a written statement confirming that, in the certifying provider's professional opinion, the patient has a condition justifying the use of medical cannabis and, if appropriate, that a 30-day supply of medical cannabis is not sufficient to meet the patient's medical needs.

429.2 POLICY

It is the policy of the Easton Police Department to prioritize resources to avoid making arrests related to cannabis that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

Maryland medical cannabis laws are intended to provide protection from prosecution to those who possess a written certification by a certifying provider for the use of cannabis for medical use. However, Maryland medical cannabis laws do not affect federal laws, and there is no medical exception under federal law for the possession or distribution of cannabis. The Easton Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under Maryland law and the resources of the Department.

429.3 INVESTIGATION

Investigations involving the possession, delivery, production or use of cannabis generally fall into the following categories:

- (a) Investigations when no person makes a medicinal claim.
- (b) Investigations when the person is a qualifying patient or caregiver.

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429.3.1 INVESTIGATIONS WITH NO MEDICAL CLAIM

In any investigation involving the possession, delivery, production or use of cannabis or drug paraphernalia where no person claims that the cannabis is used for medicinal purposes, the officer should proceed with a criminal investigation. A medicinal defense may be raised at any time, so officers should document any statements and observations that may be relevant to whether the cannabis was possessed or used for medicinal purposes.

429.3.2 INVESTIGATIONS INVOLVING A QUALIFYING PATIENT OR CAREGIVER

A qualifying patient or caregiver shall not be arrested for the medical use or possession of cannabis provided (Md. Code HG § 13-3313):

- (a) Any qualifying patient possesses no more than a 30-day supply, unless the patient's written certification allows for the possession of more.
- (b) In the case of a caregiver, he/she is in possession of the cannabis for a qualifying patient he/she has agreed to assist in the use of medical cannabis.

A patient or caregiver identification card should suffice as evidence that a written certification has been issued. Certification or lack of certification should be verified through the Commission's registry before making an arrest (COMAR 10.62.04.06; COMAR 10.62.06.01 et seq.). No arrest should be made if there is reason to believe that the individual has a valid claim to possess.

429.3.3 ENFORCEMENT

Officers should consider the following when investigating an incident involving cannabis possession, delivery, production, or use:

- (a) Because enforcement of medical cannabis laws can be complex, time consuming, and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:
 - 1. The suspect has been identified and can be easily located at another time.
 - 2. The case would benefit from review by a person with expertise in medical cannabis investigations.
 - 3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.
 - 4. Any other relevant factors, such as available department resources and time constraints.
- (b) Before proceeding with enforcement related to a dispensary agent, grower agent, or processor agent, officers should consider conferring with appropriate legal counsel. Licensed dispensary agents, grower agents, and processor agents are provided protection from arrest and prosecution under Md. Code HG § 13-3313 and Md. Code HG § 13-3306.

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429.3.4 ADDITIONAL ENFORCEMENT CONSIDERATIONS

Officers should consider the following when investigating an incident involving cannabis possession, delivery, production or use:

- (a) Because enforcement of medical cannabis laws can be complex, time consuming and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:
 - 1. The suspect has been identified and can be easily located at another time.
 - 2. The case would benefit from review by a person with expertise in medical cannabis investigations.
 - 3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.
 - 4. Any other relevant factors, such as available department resources and time constraints.
- (b) Before proceeding with enforcement related to a dispensary agent, grower agent or processor agent, officers should consider conferring with appropriate legal counsel. Licensed dispensary agents, grower agents and processor agents are provided protection from arrest and prosecution under Md. Code HG § 13-3313.

429.3.5 EXCEPTIONS

This policy does not apply to the following offenses; officers may take enforcement action if the person is (Md. Code HG § 13-3314):

- (a) Undertaking any task under the influence of cannabis, when doing so would constitute negligence or professional malpractice.
- (b) Operating, navigating or being in actual physical control of any motor vehicle, aircraft or boat while under the influence of cannabis.
- (c) Smoking cannabis in any public place.
- (d) Smoking cannabis in a motor vehicle.
- (e) Smoking, which for purposes of this exception does not include vaporizing, cannabis on private property that is:
 - 1. Rented from a landlord and subject to a policy that prohibits smoking cannabis on the property.
 - 2. Subject to a condominium or homeowners' association policy that prohibits the smoking of cannabis on the property of an attached dwelling.

429.4 PROCEDURES FOR CALLS FOR SERVICE

Written reports are required for all incidents occurring at licensed cannabis dispensaries, grower, or processor establishments and surrounding parking lots, as well as any incidents that involve violations of the MMCC rules away from the facility.

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Traffic stops or encounters involving the odor of marijuana when an individual is a validated patient, caregiver, or transportation agent:

(a) Vehicles Searches

1. The mere odor or presence of marijuana consistent with a medical cannabis certification does not justify a vehicle search.
2. A Carroll search of the vehicle should only be conducted if there are other factors indicating criminal activity, including but not limited to:
 - (a) Packaging consistent with street sales of marijuana.
 - (b) Information known to the officer, (Intelligence, Leads, etc.) to indicate the possibility of criminal activity.
 - (c) Recent association with known drug offenders.
 - (d) In or around areas with known drug activity.
 - (e) Probable Cause search for other violations of the law.
 - (f) Past criminal CDS possession by the occupants.
 - (g) Known violations of the MMCC rules (i.e. smoking CDS in the vehicle,) while an administrative violation, may contribute to probable cause to conduct a Carroll search.
3. Searches shall be limited only to compartments of or within the vehicle where evidence can reasonably be located.
4. Because a police canine can detect drugs other than marijuana, a positive K-9 alert provides probable cause to search a vehicle even if a person in the vehicle possesses a valid MMCC identification card and/or is registered with the MMCC in Dashboard.
5. Officers are required to complete an incident report after any vehicle search.

(b) Person Searches

1. The search of an individual's person is NOT authorized for the odor of marijuana when the individual is a validated patient, caregiver, or transportation agent, absent a search incident to arrest for other criminal or there is probable cause to search the person for weapons.

(c) Other Locations

1. The mere odor of marijuana at a home or location where Fourth Amendment protections exist and where a validated patient, caregiver, or transportation agent resides is not sufficient probable cause for a search warrant. Other information such as evidence of a grow operation is necessary.

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429.5 FEDERAL LAW ENFORCEMENT

Officers should provide information regarding a cannabis investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have particular interest in the information.

429.6 PROPERTY AND EVIDENCE SECTION SUPERVISOR RESPONSIBILITIES

The Property and Evidence Section supervisor should maintain cannabis that was alleged to be for medical purposes in accordance with Policy 802, Property. Seized cannabis, even if verified at a later time that it was legally obtained cannabis, will not be returned to the owner except upon receipt of a court order.

The Property and Evidence Section supervisor may release cannabis to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Support Services Commander.

429.7 MISUSE OF PATIENT OR CAREGIVER ID CARDS

Identification cards presented to law enforcement not issued to the person presenting the card shall be confiscated and placed into Property and Evidence. If the identification card is not needed for court purposes, it shall be returned to the Commission.

Officers encountering an individual misusing a patient or caregiver card or in possession of a false or forged MMCC ID card may seize any cannabis products in the individual's possession and submit it to Property and Evidence. Any stops of this nature shall be treated like any other CDS stop.

Possessing or presenting another State's patient or agent identification does not permit those persons to possess cannabis in Maryland. Any stops of this nature shall be treated like any other CDS stop.