


Medical Marijuana

429.1 POLICY HEADER

Original Effective Date:	Revised Date:
September 1, 2021	January 4, 2023
<p>Authorization:</p>  <p>Jason Haberman Chief of Police</p>	

429.2 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 marijuana under Pennsylvania's medical marijuana laws (35 P.S. § 10231.101 et seq.).

429.2.1 DEFINITIONS

Definitions related to this policy include (35 P.S. § 10231.103):

Caregiver – A person designated to deliver medical marijuana to a patient.

Certified medical use of marijuana – The acquisition, possession, use, or transportation of medical marijuana by a patient, or the acquisition, possession, delivery, transportation, or administration of medical marijuana by a caregiver for the treatment of a patient's serious medical condition as authorized in a certification provided by a registered practitioner (35 P.S. § 10231.401).

Identification Card - A document issued by the Pennsylvania Department of Health (DOH) that authorizes access to medical marijuana under the Medical Marijuana Act.

Patient – A resident of Pennsylvania with a serious medical condition who possesses a valid identification card issued by the DOH.

429.3 POLICY

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

Pennsylvania medical marijuana laws are intended to provide protection from arrest and prosecution to those who use, manufacture, transport, or dispense medical marijuana for serious medical conditions. However, Pennsylvania medical marijuana laws do not affect federal laws and

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there is no medical exception under federal law for the possession or distribution of marijuana. The Mt. Lebanon Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under Pennsylvania law and the resources of the Department.

429.4 INVESTIGATION

Investigations involving the possession, delivery, production, or use of marijuana generally fall into one of several categories:

- (a) Investigations when no person makes a medicinal claim.
- (b) Investigations involving a medicinal claim.

429.4.1 INVESTIGATIONS WITH NO MEDICAL CLAIM

In any investigation involving the possession, delivery, production, or use of marijuana or drug paraphernalia where no person claims that the marijuana 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 marijuana was possessed or produced for medicinal purposes.

429.4.2 INVESTIGATIONS INVOLVING A MEDICAL CLAIM

Members shall not take enforcement action against a patient or caregiver who is in possession of a valid identification card when (35 P.S. § 10231.303; 35 P.S. § 10231.403; 35 P.S. § 10231.801):

- (a) The form and amount of medical marijuana possessed is in compliance with the recommended amount or limitation set by the medical practitioner who issued the patient's certification for the use of medical marijuana. Patients and caregivers are authorized to possess a 97-day supply of marijuana, which includes a full 90-day supply and a seven-day supply remaining from the previous 90-day period.
- (b) The medical marijuana is in the original package in which it was dispensed except for the portion removed for immediate consumption.

An officer should not take enforcement action if the officer can reasonably ascertain that the person otherwise has a valid identification card (35 P.S. § 10231.1103), refer to the [Pennsylvania Department of Health](#) website. The officer should document in a written report any attempts to verify the existence and validity of an identification card issued to the patient or designated caregiver.

429.4.3 ADDITIONAL CONSIDERATIONS

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

- (a) Because enforcement of medical marijuana 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:

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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 marijuana investigations.
 3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.
 4. There are any other relevant factors, such as available department resources and time constraints.
- (b) Before proceeding with enforcement related to a permitted grower or dispensary, officers should consider conferring with appropriate legal counsel.
 - (c) Employees and others affiliated with permitted growers or dispensaries that lawfully produce and disperse medical marijuana are also protected from enforcement action as set forth in the Medical Marijuana Act (35 P.S. § 10231.601 et seq.).
 - (d) Patients 17 years of age or younger must have a caregiver who is a parent or legal guardian of the patient, someone designated by a parent or legal guardian, or another person approved by the DOH (35 P.S. § 10231.506).
 - (e) The DOH may verify the validity of identification cards and other certifications or permits they issue to growers or dispensaries (35 P.S. § 10231.1103).

429.4.4 EXCEPTIONS

This policy does not apply to the following offenses. Officers may take enforcement action if the person (35 P.S. § 10231.304; 35 P.S. § 10231.510; 35 P.S. § 10231.1309):

- (a) Incorporates medical marijuana into edible form, except by a patient or caregiver to aid ingestion of the medical marijuana by the patient.
- (b) Smokes medical marijuana.
- (c) Possesses, stores, or maintains an amount of marijuana in excess of the amount legally permitted.
- (d) Undertakes any task under the influence of marijuana that would constitute negligence or professional malpractice.
- (e) Possesses marijuana in jails or other correctional facilities.
- (f) Operates, navigates, or is in actual physical control of any vehicle, aircraft, or motorboat while under the influence of medical marijuana.
- (g) Provides medical marijuana to a person who is not lawfully permitted to receive medical marijuana (35 P.S. § 10231.1304).

429.5 FEDERAL LAW ENFORCEMENT

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

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429.6 INVESTIGATIVE SERVICES UNIT SUPERVISOR RESPONSIBILITIES

The Investigative Services Unit supervisor or their authorized designee should ensure that marijuana, drug paraphernalia, or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed. The Investigative Services Unit supervisor is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Investigative Services Unit supervisor, or their authorized designee should as soon as practicable return to the person from whom it was seized any medical marijuana or other related property.

The Investigative Services Unit supervisor or their authorized designee should not destroy marijuana that was alleged to be for medical purposes except upon receipt of a court order.

The Investigative Services Unit supervisor or their authorized designee may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Investigative Services Unit supervisor or their authorized designee.