



Approved:

Chief Marcia Harnden

Subject:

586. Medical Marijuana

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586.1: 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 marijuana under Oregon's medical marijuana laws ([Oregon Medical Marijuana Act, ORS 475B.788 et](#)).

586.1.1: DEFINITIONS

Cardholder - Any patient or caregiver who has been issued a valid Registry Identification Card (RIC) ([ORS 475B.797](#)).

Caregiver (or designated primary caregiver) - An individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as the person responsible for managing the well-being of a person who has been diagnosed with a debilitating medical condition on either that person's application for a RIC or in other written notification submitted to the Oregon Health Authority. Caregiver does not include the person's attending physician; however, it may include an organization or facility that provides hospice, palliative care, or home health services ([ORS 475B.807](#)).

Mature marijuana plant - A marijuana plant that has flowers. ([ORS 475B.015](#)).

Medical use of marijuana - The production, processing, possession, delivery, distribution or administration of marijuana, or use of paraphernalia used to administer marijuana to mitigate the symptoms or effects of a debilitating medical condition ([ORS 475B.791](#)).

Patient - A person who has been diagnosed with a debilitating medical condition within the previous 12 months and been advised by his/her attending physician that the medical use of marijuana may mitigate the symptoms or effects of that debilitating medical condition ([ORS 475B.913](#)). This includes a person who has been issued a valid RIC for his/her medical condition ([ORS 475B.797](#)).

Registry Identification Card (RIC) - A document issued by the Oregon Health Authority under ORS 475B.797 that identifies a person authorized to engage in the medical use of marijuana and, if the person has a designated primary caregiver under ORS 475B.804, the person's designated primary caregiver (ORS 475B.791). The RIC may also identify a person applying to produce marijuana or designate another person to produce marijuana under [ORS 475B.810](#).

Statutory Possession Amounts – The amount of marijuana allowable for acquisition, possession, transportation, delivery, or production under Oregon State Law ([2017 Oregon Laws, Chapter 21, Sections 3 and 4](#), [ORS 475B.316](#)).

Statutory Grow Site Amounts – The amount of mature and/or immature plants permissible under Oregon Law at the site of a marijuana grow ([2017 Oregon Laws, Chapter 21, Section 6](#)).

Usable Marijuana – The dried leaves and flowers of marijuana, not including the seeds, stalks, and roots or waste material which is a by-product of producing or processing marijuana. ([2017 Oregon Laws, Chapter 21, Section 1](#)).

586.2: POLICY

It is the policy of the Albany Police Department to abide by Oregon law in regard to suspected marijuana offenses, and to exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under Oregon law and the resources of the Department.

586.3: INVESTIGATIONS

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 related to patient cardholders;
- c. Investigations related to patient non-cardholders.

586.3.1: INVESTIGATIONS WITH NO MEDICINAL 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. 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.

586.3.2: INVESTIGATIONS RELATED TO PATIENT CARDHOLDERS

- a. Officers shall not take enforcement action against a cardholder for engaging in the medical use of marijuana with amounts at or below statutory possession amounts or statutory grow site amounts.
- b. Officers shall not take enforcement action against a caregiver for assisting a patient cardholder in the medical use of marijuana with amounts at or below statutory possession amounts or statutory grow site amounts ([ORS 475B.450](#)).

- c. Cardholders are required to possess a RIC when using or transporting marijuana, usable marijuana, medical cannabinoid products, cannabinoid concentrates, or cannabinoid extracts at a location other than the address on file with the Oregon Health Authority ([ORS 475B.837](#)).
- 1) However, officers should treat a person without a RIC in his/her possession as if it were in his/her possession if the RIC can be verified through an Oregon State Police Law Enforcement Data Systems (LEDS) query or other sources.

586.3.3: INVESTIGATIONS RELATED TO PATIENT NON-CARDHOLDERS

- a. Officers should not take enforcement action against a patient who does not have a RIC for possession or production of marijuana, or any other criminal offense in which possession or production of marijuana is an element, if the patient meets all of the following ([ORS 475B.913](#)):
- 1) Is engaged in the medical use of marijuana;
 - 2) Possesses, delivers, or manufactures a quantity at or below statutory possession limits or the quantity cultivated is below statutory grow site amounts.
- b. Officers should not take enforcement action against a person who does not meet the definition of a patient if the person is taking steps to obtain a RIC, possesses, delivers, or manufactures marijuana at or below statutory possession amounts or below statutory grow site amounts, and the person's medical use claim appears genuine under the circumstances ([ORS 475B.913](#)).

586.3.4: ADDITIONAL CONSIDERATIONS

- a. Officers should consider the following when investigating an incident involving marijuana possession, delivery, production or use ([ORS 475B.010 to 475B.968](#)):
- 1) The Oregon Health Authority must have issued a medical marijuana grow site registration card for a site to be valid;
 - 2) The grow site registration card must be posted for each RIC holder for whom marijuana is being produced at a medical marijuana grow site.
 - 3) The number of mature marijuana plants and amount of usable marijuana that a RIC holder and designated primary caregiver may possess under [ORS 475B.831](#) and [475B.834](#), respectively, are in addition to, and not in lieu of, the quantities that may be possessed at a household as described in [ORS 475B.301](#).
 - 4) An officer who determines that the number of marijuana plants at an address exceeds quantities authorized by statute may confiscate only the excess number of plants ([ORS 475B.831](#)).
- b. 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:

- 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) Any other relevant factors exist, such as limited available Department resources and time constraints.
- c. Before proceeding with enforcement related to grow sites or processing sites, officers should consider conferring with appropriate legal counsel and the Oregon Health Authority.
- d. Registration or proof of registration under ORS 475B.785 to ORS 475B.949 does not constitute probable cause to search the person or property of the registrant or otherwise subject the person or property of the registrant to inspection (ORS 475B.922).
- e. As a licensing authority, the Oregon Liquor Control Commission may assist with related questions regarding recreational marijuana.

586.3.5: EXCEPTIONS

- a. Medical marijuana users are generally not exempt from other criminal laws and officers should enforce criminal laws not specifically covered by the Medical Marijuana Act appropriately. Officers may take enforcement action if the person (ORS 475B.478):
- 1) Drives under the influence of marijuana as provided in [ORS 813.010](#).
 - 2) Engages in the medical use of marijuana in a place where the general public has access ([ORS 161.015](#)), in public view or in a correctional facility ([ORS 162.135\(2\)](#)), or in a youth correction facility ([ORS 162.135\(6\)](#)).
 - 3) Delivers marijuana to any individual or entity that the person knows has not been designated to receive marijuana or assigned a possessory interest in marijuana by an individual in possession of a RIC.
- b. If an officer knows or has reasonable grounds to suspect a violation of the Adult and Medical Use of Cannabis Act (ORS 475B.010 to ORS 475B.545), the officer shall immediately notify the district attorney who has jurisdiction over the violation and provide any relevant information, including the names and addresses of any witnesses. (ORS 475B.429).

586.3.6: INDUSTRIAL HEMP

- a. Growers and handlers who operate under the industrial hemp laws of Oregon must be registered

with the Oregon Department of Agriculture to grow or handle industrial hemp or produce agricultural hemp seed.

- b. Growers and handlers who produce seed products incapable of germination are not required to be registered with the Oregon Department of Agriculture ([ORS 571.305](#)).
- c. Officers may contact the Department of Agriculture's Commodity Inspection Division for information about industrial hemp sites and registration compliance.

586.4: 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.

586.5: PROPERTY AND EVIDENCE RESPONSIBILITIES

- a. The Property and Evidence Specialists shall 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, harmed, neglected, or injured. The Property and Evidence Specialists are not responsible for caring for live marijuana plants (ORS 475B.922).
- b. Marijuana should not be returned to any person unless authorized by the courts and/or upon advice of the jurisdictional prosecuting Attorney. Any court order to return marijuana should be referred to the City Attorney.
- c. The Property and Evidence Specialists may release marijuana to federal law enforcement authorities upon presentation of a valid court order.