

Medical Cannabis

425.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for handling and distinguishing between claims of medical cannabis use under Washington's Medical Use of Cannabis Act and criminal controlled substance violations (RCW 69.51A.005 et seq.).

425.1.1 DEFINITIONS

Definitions related to this policy include (RCW 69.51A.010):

Authorization - Documentation that is signed and dated by a qualifying patient's health care professional, authorizing use of medical cannabis.

Designated provider - A person who:

- Is 21 years of age or older and is the parent or guardian of a qualifying patient who is 17 years of age or younger and holds a recognition card.
- Has been designated in writing by a qualifying patient to serve as the designated provider for that patient.
- Has an authorization from the qualifying patient's health care professional.
- Has been entered into the medical cannabis authorization database as being the designated provider to a qualifying patient and has been provided a recognition card.

An individual may act as a designated provider to no more than one patient at a time, is prohibited from consuming cannabis obtained for the use of the qualifying patient, and may only provide cannabis to the patient designated to the provider.

Medical use of cannabis - The manufacture, production, possession, transportation, delivery, ingestion, application, or administration of cannabis for the exclusive benefit of a qualifying patient in the treatment of the patient's terminal or debilitating medical condition.

Qualifying patient - Any person who meets all of the following criteria:

- Has been diagnosed by the person's health care professional as having a terminal or a debilitating medical condition
- Is a resident of the state of Washington at the time of such diagnosis
- Has been advised by the person's health care professional about the risks and benefits of the medical use of cannabis
- Has been advised by the health care professional that the person may benefit from the medical use of cannabis
- Has an authorization from the person's health care professional or has been entered into the medical cannabis authorization database and has been provided a recognition card

Medical Cannabis

- Is not under supervision for a crime that does not allow for the use of medical cannabis

Recognition card - A card issued to qualifying patients and designated providers by a cannabis retailer with a medical cannabis endorsement that has entered them into the medical cannabis authorization database.

425.2 POLICY

It is the policy of the Olympia 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.

Washington medical cannabis laws are intended to provide protection from prosecution for those who use, possess, deliver, or produce cannabis to mitigate the symptoms of certain debilitating or terminal medical conditions. However, Washington medical cannabis laws do not affect federal laws and there is no medical exception under federal law for the possession or distribution of cannabis.

Officers should exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both the individuals protected under Washington law and the resources of the Department.

425.3 INVESTIGATION

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

- (a) No medicinal claim is made.
- (b) A medicinal claim is made by a qualifying patient or designated provider who is in possession of amounts within the limits designated by RCW 69.51A.040.
- (c) A medicinal claim is made by a qualifying patient or designated provider who is in possession of amounts exceeding the limits designated by RCW 69.51A.040 or who presented no authorization when initially contacted.

425.3.1 INVESTIGATIONS WITH NO MEDICINAL CLAIM

In any investigation involving the possession, delivery, or production of cannabis where there is no claim that the cannabis is for medicinal purposes, the officer should proceed with reasonable enforcement action. 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 is possessed or produced for medicinal purposes.

425.3.2 MEDICAL CLAIMS BY QUALIFYING PATIENTS OR DESIGNATED PROVIDERS

A qualifying patient or designated provider who was entered into the medical cannabis authorization database and who possesses a valid recognition card or who holds a valid authorization but has not been entered into the authorization database nor issued a recognition card should not be arrested or cited if the patient or provider possesses no more than six plants

Medical Cannabis

in the patient's or provider's residence with up to 8 ounces of useable cannabis from these plants and any of the following (RCW 69.51A.040):

- (a) 48 ounces of cannabis-infused product in solid form
- (b) 3 ounces of useable cannabis
- (c) 216 ounces of cannabis-infused product in liquid form
- (d) 21 grams of cannabis concentrates

A qualifying patient may be allowed to possess up to 15 plants with up to 16 ounces of useable cannabis in the patient's residence for the personal medical use of the patient with appropriate health care professional authorization (RCW 69.51A.210).

Qualifying patients and designated providers who have not been entered into the authorization database may purchase cannabis only at a retail outlet at the same quantities as non-patients (RCW 69.50.360; RCW 69.51A.210). Qualifying patients and designated providers may purchase immature plants or clones and cannabis seeds from a licensed cannabis producer (RCW 69.51A.310).

If a person is both a qualifying patient and a designated provider for another, the person may possess no more than double the amounts described above (RCW 69.51A.040(1)).

Officers may take enforcement action against a designated provider even when the above thresholds are not exceeded if there is evidence that the provider has converted the patient's cannabis for the provider's personal use or benefit or has provided for more than one patient within a 15-day period (RCW 69.51A.040).

Officers may take enforcement action against a qualifying patient even when the above thresholds are not exceeded if there is evidence that the patient sold, donated, or supplied the cannabis to another person (RCW 69.51A.040).

425.3.3 EXCESS AMOUNTS OR NO AUTHORIZATION

A qualifying patient or designated provider may raise an affirmative defense to charges that the amount of cannabis in the patient's or provider's possession exceeds the amount legally allowed by RCW 69.51A.040 based upon medical need (RCW 69.51A.045).

Officers should conduct a thorough investigation in such cases, but in general, should not arrest a subject for possession, delivery, or production of cannabis if an excess amount appears reasonable based upon the above policy consideration. Similarly, if an officer can verify that authorization exists, even though a recognition card was not presented or obtained by a qualified patient or designated provider, an arrest generally should not be made (RCW 69.51A.040).

All facts should be thoroughly documented and if evidence is not seized, it shall be photographed and detailed in the report.

Medical Cannabis

425.3.4 ADDITIONAL CONSIDERATIONS

Prior to making a physical arrest or confiscating cannabis plants, usable cannabis, or product, officers should consider the following:

- (a) Whenever the initial investigation reveals an amount greater than specified by law, officers should, in anticipation of an affirmative defense, consider and document:
 - 1. The medical condition itself.
 - 2. The quality of the cannabis (chemical content).
 - 3. The method of ingestion (e.g., smoking, eating, nebulizer).
 - 4. The timing of the possession in relation to a harvest (patient may be storing cannabis).
 - 5. Whether the cannabis is being cultivated indoors or outdoors, and the climate.
- (b) Before proceeding with enforcement related to collective gardens, cooperatives, or commercial producers, officers should consider conferring with appropriate legal counsel and the Washington State Liquor and Cannabis Board for license-related issues (WAC 314-55-410).
- (c) Medical use and possession of cannabis authorized under the Washington medical cannabis statute does not support the forfeiture of property as set forth in the Asset Forfeiture Policy (RCW 69.51A.050).
- (d) Laws and regulations do provide for the cultivation of industrial hemp. The Washington State Department of Agriculture should be contacted should questions arise regarding possible industrial hemp activity (RCW 15.140.030).
- (e) A medical endorsement can be added to a cannabis retail license to allow a retailer to sell cannabis for medical use to qualifying patients and designated providers. Transaction limits apply (WAC 314-55-080; WAC 314-55-095).
- (f) The Washington State Department of Health maintains a Medical Cannabis Authorization Database and regulates cannabis retail outlets with medical cannabis endorsements. This database may be accessed by authorized law enforcement officials for specific criminal investigations (WAC 246-71-080).

425.4 EXCEPTIONS

This policy does not apply to the following offenses; officers may take enforcement action if the person (RCW 69.51A.060):

- (a) Engages in the medical use of cannabis in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway, including violations of RCW 46.61.502 or RCW 46.61.504, or equivalent local ordinances.
- (b) Uses or displays medical cannabis in a manner or place open to the view of the public.

Medical Cannabis

425.5 FEDERAL LAW ENFORCEMENT

Officers may exchange information regarding a cannabis investigation with federal law enforcement authorities when information is requested by federal law enforcement authorities or whenever the officer reasonably believes federal law enforcement authorities would request the information if the authorities were aware of the information.