

## PATROL

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### MEDICAL MARIJUANA

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**Purpose:** The purpose of this policy is to establish guidelines for investigating the possession, transportation, delivery and use of marijuana under Arkansas Medical Marijuana Amendment (AMMA) of 2016.

**Policy Statement:** The primary purpose of medical marijuana is to aid those who are ill and benefit from the use of medical marijuana. Arkansas medical marijuana law does not affect federal law and there is no medical exception under federal law for the possession or distribution of marijuana. The North Little Rock Police Department will exercise discretion to ensure laws are appropriately enforced taking into consideration the AMMA.

#### Summary of Changes:

#### Procedure:

##### 1. Certification vs. Prescription

- 1.1 AMMA requires an Arkansas physician to complete a "Medical Marijuana Physician Written Certification" that the patient has one of the qualifying medical conditions authorized by the AMMA which makes the patient eligible to receive a registry identification card.
- 1.2 The "Medical Marijuana Physician Written Certification" is **NOT** a prescription.
- 1.3 Under Arkansas law, a physician may only issue a prescription for controlled substances in Schedules II, III, IV or V only.
  - 1.3.1 Marijuana is a Schedule VI drug under Arkansas law.
- 1.4 In any investigation involving the possession, delivery, production or use of marijuana or drug paraphernalia where a person refuses or is not able to provide a valid registry identification card 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 medical purposes.
- 1.5 Any violation of the AMMA should be documented on a general report and forwarded to the Investigation Division for review. An arrest will not be made solely for a violation of the AMMA. The AMMA is a medical act, therefore, there are no criminal statutory enforceable actions included. Examples of a violation of the AMMA can include but not limited to the following:
  - 1.5.1 Improper storage or disposal at a cultivation facility and dispensaries;
  - 1.5.2 Delivery to qualified patients and designated caregivers outside of the delivery hours (0900 hours to 1900 hours);
  - 1.5.3 Improper equipment on a delivery vehicle.
- 1.6 Examples of non-violations of the AMMA that should be treated as a criminal investigation can include but not limited to the following:
  - 1.6.1 An individual without a current registry identification card in possession of marijuana;
  - 1.6.2 A qualified patient with a registry identification card in possession of more than two and one-half ounces (2 ½ oz.) of marijuana at one time.

##### 2. Registry Identification Cards

- 2.1 Cards identify how the person functions within the medical marijuana industry: Qualified Patient, Designated Caregiver, Minor Patient, Agent, Owner and Laboratory.
- 2.2 Persons with multiple roles will have multiple cards; thus, a qualifying patient who works in a dispensary will have 2 cards: 1 patient card and 1 dispensary agent card. Moreover, a designated caregiver for 3 patients will have 3 cards: 1 designated caregiver card for each patient.
- 2.3 Qualifying patients and designated caregivers apply to Arkansas Department of Health (ADH) for registry identification cards.
- 2.4 Cultivation and dispensary employees apply to Arkansas Alcoholic Beverage Control (ABC) for registry identification cards.
- 2.5 Registry identification cards are valid for one (1) year after date of issuance (less in some cases) and printed on heavy card stock.

2.6 ADH is required to verify for law enforcement whether a registry identification card is valid.

2.6.1 ADH **may not** disclose any information other than whether a registry identification card is valid.

2.7 Act 479 of 2017 prohibits a member of the Arkansas National Guard or the United States military from being registered as a qualifying patient or as a designated caregiver.

### **3. Arkansas Registry Identification Card Validation**

3.1 All Arkansas registry identification cards may be validated through the Arkansas Crime Information Center (ACIC) by means of a "QMM" transaction through the Arkansas Threat Level Assessment System (ATLAS).

3.2 The transaction may be checked only by the Document Discriminator Number (DD Number) listed on the registry identification card.

3.2.1 The DD number changes every time a new card is printed;

3.2.2 Reprinting a card voids a previous card and its DD number;

3.2.3 The DD number applies to all cards.

3.3 A check in (ACIC) is only conducted via DD number.

3.4 Querying the medical marijuana database will provide law enforcement with:

3.4.1 Whether or not the card is valid or not valid and the type of card issued;

3.4.2 The name and state driver's license/identification card number of the card holder;

3.4.3 The card holder's name, gender and date of birth; and

3.4.4 Most recent DL/ID photograph on file.

### **4. Encounters with Qualifying Patients or Designated Caregivers**

4.1 A patient or designated caregiver in possession of a registry identification card shall not be arrested for possession, transportation or delivery of medical marijuana at or below the statutory amount.

4.2 A qualifying patient or designated caregiver may be in possession of no more than two and one-half (2 ½ oz.) of usable medical marijuana during any fourteen-day (14) period.

4.3 The AMMA does not prohibit a law enforcement officer from asking a qualifying patient or a designated caregiver to show his or her registry identification card; however, the AMMA imposes no legal obligation on the part of the qualifying patient or the designated caregiver to comply with a law enforcement officer's request to show a registry identification card.

4.4 A registry identification card issued under the law of another state allowing a qualifying patient to possess and/or use medical marijuana in the issuing state is valid in Arkansas when held by the qualifying patient while visiting Arkansas.

4.4.1 Each state maintains its own confidential registry of patients who have been issued registry identification cards. Therefore, each state has its own distinct procedures law enforcement officers must use to verify the validity of out-of-state registry identification cards. There is no "national" registry identification card database for the purpose of registry identification card verification.

4.5 According to the AMMA a qualifying patient or designated caregiver in actual possession of a registry identification card who possesses not more than 2 ½ ounces of medical marijuana for use in accordance with the terms of the AMMA is not subject to arrest.

4.6 A qualifying patient or designated caregiver possessing medical marijuana (regardless of the amount) who is **NOT** in actual possession of his or her registry identification card does not enjoy immunity from arrest or prosecution.

4.6.1 Additionally, a qualifying patient or designated caregiver in actual possession of his or her registry identification card but possessing more than two and one-half ounces (2 ½ oz.) of marijuana does not enjoy immunity from arrest or prosecution.

### **5. Transportation and Delivery**

5.1 Prior to the transport of any medical marijuana by either a licensed cultivation facility or by a licensed dispensary, a printed inventory manifest shall be generated from the Inventory Tracking System. The manifest shall include:

5.1.1 License number of the cultivation facility or the dispensary;

5.1.2 Point of contact at the cultivation facility or the dispensary;

5.1.3 License number of the destination cultivation facility, dispensary or laboratory;

5.1.4 Address of the destination; and

5.1.5 Point of contact at the destination.

5.1.6 Quantities by weight or unit of each type of medical marijuana product in transport, along with the UINs for each item;

5.1.7 Date of transport and approximate time of departure;

5.1.8 Estimated arrival date and time;

- 5.1.9 Identity of agents making the transport;
- 5.1.10 Make, model and license number of delivery vehicle being used.
- 5.2 A separate manifest shall be prepared for each licensed facility or approved laboratory to be visited.
- 5.3 All medical marijuana in transport shall be shielded from public view in a locked, safe and secure storage compartment that is part of the motor vehicle; or in a locked storage container that has a separate key or combination pad.
- 5.4 Vehicles used in the transport of medical marijuana shall be:
  - 5.4.1 Insured as required by law;
  - 5.4.2 Capable of securing medical marijuana during transport;
  - 5.4.3 Equipped with an alarm system; and
  - 5.4.4 Free of any markings that would indicate the vehicle is being used to transport medical marijuana.
- 5.5 Persons transporting medical marijuana shall:
  - 5.5.1 Have a valid cultivation facility agent or dispensary agent registry identification card issued by the ABC Division;
  - 5.5.2 Have a valid Arkansas Driver's License; and
  - 5.5.3 Be in actual physical possession of both the registry identification card and the driver's license while in transport.
- 5.6 Licensed dispensaries delivering medical marijuana to a qualifying patient or to a designated caregiver must follow the same transportation guidelines listed above that are applicable to deliveries to cultivation facilities, other dispensaries or approved laboratories. In addition to the above guidelines any dispensaries delivering medical marijuana:
  - 5.6.1 A delivery manifest shall accompany each delivery;
  - 5.6.2 Delivery agents shall not deviate from the delivery route or make unnecessary stops;
  - 5.6.3 All deliveries shall be accompanied by a delivery ticket listing the name of the qualifying patient and/or designated caregiver and describing the product ordered;
  - 5.6.4 The delivery ticket must be signed by the qualifying patient and/or the designated caregiver.

## 6. Possession of Medical Marijuana and Firearms

- 6.1 If contact is made with a person in strict compliance with the AMMA and other state laws, then their registry identification card, marijuana, firearm(s) and firearm permit will **NOT** be seized. The contact will be documented on a general report and reviewed by the Investigation Division.
  - 6.1.1 This is dependent on the fact the person is in possession of the marijuana in conformity with the AMMA and in possession of the firearm in conformity with state law; however, if any violation of the AMMA or state law is occurring the person is not legally possessing the marijuana (including if they don't have or show their registry card). Also, if the person committed an offense involving the firearm, the firearm would be contraband, evidence and subject to seizure.
- 6.2 Arkansas Code Annotated § 5-73-132 states: A person shall not sell, rent, or transfer a firearm to any person who he or she knows is prohibited by state **or federal law** from possessing the firearm.
  - 6.2.1 If reasonable cause exists to believe a person sold or otherwise transferred a firearm to a person with a medical marijuana card that would be a violation of federal law and a violation of Arkansas Code Annotated § 5-73-132.
  - 6.2.2 Any such contact should be documented on a general report and have potential for federal prosecution.

## 7. Additional Considerations

- 7.1 Officers should consider the following when investigating an incident involving marijuana possession, delivery, production or use: 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:
  - 7.1.1 The suspect has been identified and can be easily located at a later time.
  - 7.1.2 The case would benefit from review by a person with expertise in medical marijuana investigations.
  - 7.1.3 Sufficient evidence, such as photographs or samples, has been lawfully obtained.
- 7.2 After reviewing the circumstances when investigating an incident involving marijuana possession if an officer has unanswered questions the on duty supervisor should be contacted.