

[EXT] medical cannabis

Julie Morales <julie.morales80sjam@gmail.com>

Fri 6/28/2019 10:21 AM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

I wonder what the PED and the state will do to get these students back in school that have been out due to school districts refusing to allow medical cannabis on campus? The school district in [REDACTED] where [REDACTED] used to attend refuses to allow his medication in school which he needs during the day to access his education, has already refused to administer it and continues to, due to it being federally illegal. This new rule change has not changed anything. So what will happen to these districts or administrations that refuse to uphold State law? These students CAN NOT go another school year with out their education! Its sad that no one is doing anything to help these children! Again this law ins't helping! It is sad to see [REDACTED] how he just want to go back to school to learn and be with his friends. Its wrong and should be a criminal offense to do this to young children! Its sad that the secretary of the PED said she would bring in his mother [REDACTED] to help with this law and such and then not even notify her of this! Its sad the government has to be shady when dealing with children! I'm tired of the discrimination and harm being done to these young minds including [REDACTED] (the two students I'm aware of) I'm sure there are others! I think I read somewhere that there are approximately 175 students on medical cannabis in this state. This needs to be made a priority! This is a medicine like all other medication and needs to be treated as such! The PED, state of NM, and the department of health need to step up already and help these students and families! This state need to make all students and education a priority not just Prek. Thanks for hearing me out! Sincerely, Julie Morales

[EXT] medical cannabis

Julie Morales <julie.morales80sjam@gmail.com>

Fri 6/28/2019 10:50 AM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

 1 attachment

Medical Cannabis Must Be Allowed In Public Areas.pptx;

My son did his senior research paper on this issue and cannabis in schools was one part of it.I wanted to include this into the comments from another student. Included is his power point and part of his essay.

Essay

The first reason medical cannabis needs to be allowed in public areas is so patients or students can take it at school. The medical cannabis program is growing and the amount of people being prescribed this medicine is increasing as well as the approved conditions this medicine can treat. There are many conditions that are found in children including schizophrenia, epilepsy or seizure disorders, cancer, anorexia, PTSD (post-traumatic stress disorder), and many more. The approved conditions vary from state to state. Children between the ages of 4 to 18 are required to attend school, however, if these children are in school and are diagnosed this medicine the law contradicts it being administered to patients on school campuses because it is classified as a schedule 1 drug. More gray area in regards to the law. In New Mexico medical cannabis is approved and prescribed to children. There are currently two students that have been in the news for not being allowed to take their medication when needed on school campus and are no longer in school receiving the education they are entitled to, as every other student. One of these students is in our own community and used to attend [REDACTED]. He has been out of school and missing so much including valuable learning experiences, therapies, friends, most of his 4th grade year and now going on his entire 5th grade year (almost a total of two academic years), that can never be replaced. The other little girl is just barely a kindergartener and used to attend

██████████. Both mothers of these students are fighting for change to the laws so that their children can return to school. They have been up in Santa Fe at the round house pushing for changes and pleading with senators and lawmakers to protect these patients on the medical cannabis program and to make changes to the laws (KRQE & KOAT). These students are being discriminated and denied their human rights. Every other schedule drug is allowed to be administered on campus including amphetamine and methylphenidate which are used to treat ADHD (attention deficit hyperactivity disorder). ADHD has been diagnosed in 9.5 percent of children in the United States between the ages of 3-17.

██████████ the eleven year boy has been diagnosed with ADHD, PTSD, and schizophrenia and is being treated with medical cannabis as a prescription medication and due to this cannot attend school because he needs access to his medication at school and on campus (Campbell, 2019). ██████████

██████████ the five year old girl is also prescribed medical cannabis to treat Dravet Syndrome (a severe form of epilepsy) which needs to be administered her medication three times a day to keep her seizures under control, is in the same boat as ██████████, not in school, not living a normal child's life simply because of their medication (Perea 2018). This is not fair that most students can dose at school, but, yet these others are not even allowed to, even though it is a prescription medication like these other medications. Their cannabis is not being used as an "illegal drug" for recreational use or because of drug addiction, it is not being abused! It is simply being used as a needed prescribed medication to treat a series of medical conditions. These innocent young students should not be punished or denied their right to a free appropriate education! A girl from Schaumburg, Illinois is back in school after a federal judge declared it was okay for her to take her medication to school after her parents sued the school district in federal court (Christensen 2018). The states of Washington, New Jersey, Maine, and Colorado require their schools to allow students to use their legal prescriptions on campus, according to 2016 information from the education policy team Education Commission of the States.

[EXT] Rule 6.12.10 Medical Cannabis

Charity Cheung <Charity.cheung@demingps.org>

Wed 7/10/2019 8:40 PM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

To Whom It May Concern,

Despite being an advocate for Medical Cannabis, I am appalled by this rule. It completely ignores the reality of SMOKING cannabis.

I submit that someone carefully consider the following questions, before this rule is implemented:

While the proposed rule *seems* to imply that only edibles or oils will be medically prescribed, it is doubtful that this will be the reality. The medical cards that people receive now, do NOT provide any guidelines as to what kind or how much cannabis a person needs to consume. And before you begin to say that we are talking about children and their prescriptions will be different, what will you tell an 18-year old in high school who has such a card?

Also, are you confident that a younger teenager with intense anxiety or depression will receive a limited prescription that does not include smoking cannabis?

How on earth is a school supposed to allow a student to smoke? In many schools, it will set off the smoke detectors.

Are we then to allow the student to sit outside to smoke? Where other students, parents and community will see them? Wouldn't that violate FERPA?

What about the reality of second hand smoke? As a young woman, I acquired a second hand buzz when a family member was smoking their medical cannabis. So, I know that such a thing is extremely possible. How is a school supposed to ensure that other students aren't exposed? What about staff? If a staff member is assigned to "administer" the medicine, doesn't that mean they have to be in the same room as the student?

Thank you for the consideration of my concerns. I strongly urge PED to reconsider this Proposed Rule 6.12.10 Medical Cannabis.

Charity Cheung

Deming Intermediate Teacher

NEA-Deming Co-President
575-546-6568 ext. 1328

[EXT] Notice of Proposed Rulemaking 6.12.10 NMAC-Public Comment

Tonna Burgos <tonna.burgos@rrps.net>

Wed 7/17/2019 12:02 PM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

Cc:Loren Hatch <loren.hatch@rrps.net>; Cleveland, Dr. Sue <sue.cleveland@rrps.net>;

 1 attachment

NMAC 6.12.10 Proposed Rulemaking Medical Cannabis July 2019.pdf;

Good Morning,

Please see the attached public comment document for Rio Rancho Public Schools in reference to Proposed Rulemaking 6.12.10.

Rio Rancho Public Schools appreciates the opportunity to comment on the pending rulemaking for the implementation of Senate Bills 204 and 406 passed during the 2019 Regular Legislative Session.

If you do have any clarification questions please let us know.

Thank you,

Tonna Burgos, Ed.S.
Rio Rancho Public Schools
Executive Director of Student Services
505-896-0667 ext 51177, 51129 or 51123
Fax 505-994-9723

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Notice of Proposed Rulemaking 6.12.10 NMAC
Public Comment Period June 25, 2019 to July 26, 2019.
NMPED encourages early submission of written comments.
Electronic email: rule.feedback@state.nm.us

Rio Rancho Public Schools Public Comment

Rio Rancho Public Schools appreciates the opportunity to comment on the pending rulemaking for the implementation of Senate Bills 204 and 406 passed during the 2019 Regular Legislative Session.

1. This proposed rule seems to violate the requirements of NMSA 1978, Section 14-4-5.7 regarding the validity and enforceability of rules that conflict with statute. No rule is valid or enforceable if it conflicts with statute. 14-4-5.7(A).

A. 6.12.10.8(A)(1) and (A)(6)(a)&(b). This section of the proposed rule appears to make it mandatory for school districts to authorize the possession, storage and administration of medical cannabis by parents and legal guardians AND by designated school personnel, whereas the statute allows a district to choose one or both groups for this authorization but does not mandate both be authorized. *Id.*

B. 6.12.10.7. This section of the proposed rule contains definitions that are worded differently and may conflict with those in statute: certifying practitioner, designated school personnel, medical cannabis, and written certification. To the extent that these definitions are different from the statutory definitions, they are resolved in favor of the statutory definition. 14-4-5.7(B).

C. 6.12.10.11. This section of the proposed rule appears to require a school district to have a written communication from the federal government indicating a withholding or withdrawal of federal education funding. This appears to conflict with the statute that only requires a school district to “reasonably determine that it would lose, or has lost, federal funding” as a result of implementation. It is possible for a district to reasonably determine it will lose federal funding without a letter from a federal agency to that effect and there may be funding, other than education funding, that could be lost as a result of implementation.

2. Because this rule appears to require school districts to provide for storage and administration of medical cannabis by school personnel, it requires school districts or school employees to violate the federal Controlled Substances Act, 21 U.S.C. 841, et. seq., which prohibits the possession and distribution of illegal drugs. Violations of the CSA carry serious penalties including some mandatory minimum prison sentence requirements. *Id.* These violations include enhanced penalties for individuals over the age of 18 who distribute illegal drugs to individuals under the age of 21 and those who possess illegal drugs at a school. 21 U.S.C. 859 and 860.

While the United States Department of Justice, in a memo dated August 29, 2013, clarified its priorities in prosecuting marijuana-related violations of the CSA, DOJ listed “[p]reventing the distribution of marijuana to minors” as its top priority. This guidance is often cited as a reason for individuals to be less-concerned with violating federal marijuana laws; however, there is no reason for the memo to comfort school districts or school employees who will be “forced” by this proposed rule to engage in possession and distribution to minors. At the close of the memo, DOJ reserves the right to prosecute any organization or person who violate the CSA and neither state law or the DOJ’s own guidance memo is a defense to a violation of federal law.

3. School Nurses do not dispense substances such as herbs or dietary supplements that are not FDA approved. While there has been some recent work to evaluate the effectiveness of cannabis products for the treatment of medical conditions, they fall under these categories since they are NOT FDA approved or regulated. A doctor cannot prescribe medical cannabis and a nurse cannot monitor expected outcomes.

A school nurse may only administer prescription medications according to a provider's orders that are in a pharmacy-labeled container (NMAC 16.12.27 Definitions--“administration of medications”, a process whereby a prescribed drug or biological agent is given to a patient/client by a person licensed or certified by the board to administer medications;”) OR over the counter medications with a form signed by a parent or legal guardian according to the directions on the package labeling that adhere to strict FDA guidelines.

A medical cannabis card is NOT a physician's order. While a medical provider needs to certify the patient's diagnosis, the provider is NOT prescribing medical cannabis. SB 406--"qualified patient" means a person who has been diagnosed by a practitioner as having a debilitating medical condition and has received written certification." The student must possess a Medical Marijuana Card; the school must have documentation (i.e. a birth certificate) on file that confirms the card belongs to the student.

The Right Dose is one of the 7 Rights of Medication Administration. Cannabis preparations are currently formulated by a dispensary or an individual who has a "personal production license." The dosage of THC can vary widely, thereby making expected outcomes difficult to identify. According to SB 406, "cannabis": (1) means all parts of the plant *Cannabissativa* L. containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent" (< 3/10% = hemp.) Section of SB 406 states, "THC CONTENT--NO LIMITATION.--The department shall not limit the amount of THC concentration in a cannabis product."

4. Requiring a school board to identify the school personnel who are designated to perform responsibilities of possession, storage and administration of medical cannabis seems to violate the spirit, if not the letter, of HB 212. Placing this responsibility on a school board (at any level other than policy) is probably a violation of the Public School Code which empowers the superintendent to “employ, fix the salaries of, assign, terminate or discharge all employees of the school district.” NMSA 1978, 22-5-14(B)(3). This requirement also ignores operational realities of the school environment where schools encounter daily administrative challenges but school boards only meet a couple of times per month.

5. As a matter of law, a release from a primary caregiver will not have the legal effect desired if a minor repudiates any release signed by the caregiver and institutes a claim for personal injury, civil rights violations or medical malpractice after reaching the age of majority. A release from a caregiver will also not protect the released parties from third-party claims, such as crashes involving hypothetical students who receive a dose of cannabis that impairs their ability to drive or operate machinery that injures others. While the rule cannot conflict with the requirement that such a release be provided, this rule should contain as many provisions that would better protect schools and school employees, such as a requirement that a primary caregiver indemnify, defend and hold harmless the released parties from ANY and ALL claims experienced by the released parties as a result of the use of medical cannabis.

6. The rule does not address the use of vehicles on campus by students who may be under the influence of medical cannabis..

[EXT] 6.12.10 NMAC Medical Cannabis- Feedback from APS

Dahl, Heather J <heather.dahl@aps.edu>

Fri 7/19/2019 12:23 PM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

Cc:Reedy, Raquel <reedy@aps.edu>; Chavez, Nancy N <chavez_n@aps.edu>; Yager, Brenda B <yager@aps.edu>;

 1 attachment

Letter to comment on 6.12.10 NMAC-Medical Cannabis In Schools.pdf;

Dear Mr. Sena,

Please find comment from Albuquerque Public Schools regarding the proposed rule for medical cannabis.

Thank you,

Heather Dahl, Ph.D.

Policy Analyst/Government Affairs Liaison | Albuquerque Public Schools

Cell: [505-350-1649](tel:505-350-1649) | heather.dahl@aps.edu | PO Box 25704 Albuquerque, NM 87125-0704

Mr. John Sena
New Mexico Public Education Department
300 Don Gaspar Ave.
Santa Fe, NM 87501
Submitted via Email: rule.feedback@state.nm.us

July 22, 2019

Dear Mr. Sena:

Thank you for allowing feedback on proposed rule change, 6.12. 10 N.M.A.C., Medical Cannabis in Schools, from the New Mexico Public Education Department. While the rule helps to explain the process of medical cannabis in schools, federal law does not recognize or protect medical cannabis possession or use; the federal government can prosecute people who are otherwise protected under state medicinal cannabis laws.

Though school districts desire to support the needs of all students to participate in public education, we cannot support a rule that, on its face, puts our employees at risk of violating federal law. Albuquerque Public Schools expresses concern for this rule in five main areas: protection for employees from criminal and civil liability; designation of school personnel, rather than parents; provisions and sources for training for districts and school boards; information required for administration and dosage; exemptions for districts from the rule. In sum, APS believes this rule exerts demands on the district that exceed those required in SB 406 and SB 204 and puts school districts between choosing to honor state or federal law.

There remain several areas in which the imposition of this rule, and the subsequent creation of district policy would put employees at risk for criminal and civil liability. Only through state and federal law, not PED rule, can employees be guaranteed of protection from civil or criminal liability for following this rule. According to Senate Bill 406, the parent or legal guardian must act as the Primary Caregiver. In addition, in order to allow the use of cannabis in a child under 18 they must be informed by a patient's practitioner the risk and benefits to their child for using Cannabis. It further outlines that the primary caregiver-(parent) must consent in writing that they consent to its use, will be the primary caregiver and they *will be the individual controlling the dosage and frequency of use*. These exceptions for parents to not be liable to criminal proceedings also hinge on the amount of supply. These protections for parent providers do not seem to equally apply to school personnel in this section of law, nor do they address the possible situation when the cumulative collection of medicine at a school site, for multiple students, may exceed the limit defined by department rule. In addition, SB 406 states that "participation in a medical use of cannabis program by a qualified patient or primary caregiver does **not** relieve the qualified patient or caregiver from ... Criminal prosecution or civil penalty for possession or use of cannabis:... at a public park, recreation center, youth center or other public place." Many schools share property with public parks and field trips and after school activities take place in these venues. This rule does not protect school personnel from personnel liability when carrying cannabis for students to off-site activities. In addition, SB 204 provides so that districts/charter schools may adopt policies that restrict the types of designated school personnel who may administer medical cannabis to qualified students. This needs to be defined in 6.12.10.8.B. so school districts/charter schools do not designate a person who can lose their license by administering medical cannabis (e.g. school nurses).

This rule requires schools to designate personnel responsible for storage and administration; both SB 406 and SB 204 do not require school personnel, making parental administration an option. In both SB 406 SB 204, districts are directly to draft policies and procedures “to authorize the possession, storage, and administration of medical cannabis by parents and legal guardians, or by designated school personnel.” This rule requires a stricter interpretation of the law. Not only does this rule require schools to designate school personnel it requires policies for “disciplining a school employee who refuses to administer medical cannabis.” Permitting students into schools who use medical cannabis is far different than requiring involvement of employees.

This rule requires the school board to provide training for the medical cannabis policy. School boards are not equipped to provide this training. In all other areas the Department of Health provides this training to schools. PED should work with the Department of Health to create resources and training.

This rule provides insufficient information about dosage requirements to be consistent with other medicine stored and administered in schools. NMAC 6.12.10.10.B.9 states that the “primary caregiver” must “provide... a new package or container with clearly labeled identifiers including the qualified student’s name, date of birth, and dosage allotment, upon enrollment in a new public school following disenrollment, withdrawal, transfer or graduation from another school.” In order to safely administer any medication the information provided must also contain needs the **dosage amount, the time of administration, how to give it and the parents need to provide the appropriate delivery and measurement device (e.g. teaspoon, medicine cup, dropper).** Furthermore, the labeled containment MUST match the providers and caregivers provided treatment plan. If the plan is changed, the parent must provide a new updated treatment plan and appropriate labeled container of cannabis. This rule needs language that also says that a new plan is needed **every school** year or when the treatment plan is changed and it is only valid for a calendar year.

This rule, 6.12.10 NMAC also takes a much stricter interpretation for exemption than that provided in SB 204 and SB 406, essentially, not allowing any district option to exempt from this rule. In 6.12.10.11 Exemption from Rule; Appeal procedures: “A school district or charter school may seek an exemption from implementing the provisions of this rule if it receives written communication from the federal government that implementation would result in federal education funding being withheld or withdrawn.” This section seems to be in conflict with Senate Bill 204 and 406 that state that the bill may not apply to a school district/charter school that “**reasonably** determines that it would lose or has lost federal funding as a result of implementation the provisions of subsection A.” PED should provide a process, outlined in rule, to allow districts to demonstrate this request with support from PED for districts within the range of reasonable. Verification of the loss of federal funding as well as the criminal and liability of employees, exceed the burden of “reasonable.”

If you should have, any questions or concerns please contact Heather Dahl, APS Government Affairs and Policy, at heather.dahl@aps.edu.

Sincerely,



Raquel Reedy
Superintendent

[EXT] Proposed rule/regulation 6.12.10/Medical Cannabis in Schools

R. Daniel Castille <dcastille@cuddymccarthy.com>

Mon 7/22/2019 7:12 PM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

Cc:R. Daniel Castille <dcastille@cuddymccarthy.com>;

To whom it may concern:

SB 406 and SB 204 each provide, in Section 1(A) that “local school boards and the governing bodies of charter schools shall authorize by rule the possession, storage and administration of medical cannabis by parents and legal guardians, or by designated school personnel, to qualified students for use in school settings....”

By its use of the word “or,” it is clear that the Legislature did not intend to require boards to authorize medical cannabis possession, storage, and administration by both parents/guardians and designated school personnel. The legislature intended that the medical use of cannabis be allowed in schools, but it did not state that designated school personnel had to administer it. The Legislature left it up to local boards to determine that parents could administer but that school personnel may not.

The proposed rule clouds that issue and makes it appear more likely than not that board must require both parents/guardians and school personnel to administer. Proposed 6.12.10.8 is the main problem.

- A. Policies and Procedures.** Each local school board or governing body shall establish policies and procedures for the possession, storage, and administration of medical cannabis as follows:
- (1) school district and charter school policies and procedures shall:
 - (a) prohibit students from possessing, storing, or self-administering medical cannabis in a school setting;
 - (b) require the primary caregiver to deliver the medical cannabis in a container clearly labeled with:
 - (i) the student’s name and date of birth; and
 - (ii) the dosage allotment;
 - (2) prohibit qualified students from storing the medical cannabis in the school setting;
 - (3) require the provision of a secure location with a locked storage container that is accessible only by designated school personnel;

- (4) require the immediate return of medical cannabis used in a school setting outside of school premises to a locked storage container;
- (5) require the designated school personnel responsible for storage of the qualified student’s medical cannabis to return any unused medical cannabis to the primary caregiver at the end of each school year or upon disenrollment, withdrawal, transfer, or graduation of the qualified student, whichever occurs first;
- (6) address the administration of medical cannabis in school settings during the school day by:
 - (a) primary caregivers; and
 - (b) designated school personnel;

The final rule should be explicit that school can choose to have parents administer, can choose to have school personnel administer, and can do both, but are not required to do both so long as medical cannabis is administered by somebody.

Dan Castille



CUDDY & McCARTHY, LLP
Attorneys at Law

R. Daniel Castille, Partner
Cuddy & McCarthy, LLP
P.O. Box 4160
Santa Fe, New Mexico 87502-4160
(505) 988-4476
(888) 977-3814 (Fax)
dcastille@cuddymccarthy.com

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[EXT] NMSBA Comments Regarding Public Education Department Rule 6.12.10

Joe Guillen <jguillen@nmsba.org>

Tue 7/23/2019 4:23 PM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>; Bobroff, Kara, PED <Kara.Bobroff@state.nm.us>; Hand, Timothy, PED <Timothy.Hand@state.nm.us>;

Cc:Williams, Donn <nmsbapolicy@cox.net>;

 1 attachment

NMSBA Comments on Proposed Rule 6.12.10 Medical Cannabis.pdf;

To: Interim Secretary Kara Bobroff
Assistant Secretary Tim Hand
RuleFeedback@state.nm.us

Attached please find formal comments I am in agreement with from the New Mexico School Boards Association relative to the Proposed Public Education Department Rule 6.12.10 – Medical Cannabis. We appreciate your consideration of our comments. Should you have any questions or require additional information please feel free to contact me or Dr. Donn Williams, NMSBA Policy Service Director at nmsbapolicy@cox.net

Thank you.

Joe Guillen
Executive Director
New Mexico School Boards Association
300 Galisteo Street, Suite 204
Santa Fe, New Mexico 87501
(505) 983-5041 office
(505) 470-3967 cell
jguillen@nmsba.org



I Am...New Mexico Public Schools!

To whom it may concern

Regarding Proposed Public Education Department Rule 6.12.10

Date: July 10, 2019

From: Dr. Donn Williams, Policy Service Director New Mexico School Boards Association

Sirs and Madams,

In preparing to advise over seventy (70) New Mexico School Districts regarding Senate Bills 204 and 406 as compiled in 22-33-5 NMSA regarding medical cannabis, it has come to my attention that the bills specifically give direction to local school boards to adopt authorizing policies and procedures within specific limitations and with certain allowances of judgement on the local school board's part.

I am concerned that the NM Public Education Department (PED) has proposed a regulation regarding the legislatively enacted statute that repeats the statute and adds requirements. The authorities cited by PED for this purpose are statutory but are limited. The limitations are summarized as follows: "except as provided by law" in 22- 2-1 A NMSA, "properly and uniformly enforce the provisions of the Public School Code [Chapter 22 [except Article 5A] NMSA 1978]" in 22-1-2 A NMSA and "not inconsistent with the law" as found in 9-24-8 B(5).

The newly added Statute 22-33-5 NMSA is clear on its face in providing direction to the local school boards. It states "shall adopt policies and procedures to authorize the possession, storage and administration of medical cannabis". 22-33-5 NMSA regarding medical cannabis provides an opt out clause to the local school board and gives the local school board the additional option to adopt policies with certain restrictions. The statute does not indicate, as do other recent statutory enactments that these policies and procedures are subject to rules developed by PED. SB 288 and HB 129 passed in the same legislative session specifically provide for rules to be provided by PED. In the interpretation of legislative intent, it seems clear that the legislature would have indicated such if PED rules were necessary to implement 22-33-5 NMSA.

This leads me as an attorney to the conclusion that this statute requires and allows only policies that are developed by the local school board. Nothing in the law would indicate that there are additional limitations. I see no reasonable interpretation that would permit the PED to change the legislative enactment. The role of PED is clearly to see that the laws are followed. In this case PED must ensure that the policies which are to be followed are also within the law as found in 22-33-5 NMSA.

It would be my request that PED withdraw the proposed rule 6.12.10 regarding medical cannabis for use in school settings because the rule is not within the authority of PED per its own citation of statutory authority in 6.12.10.3.

To summarize:

22-33-5 NMSA compiled from SB 204 and 406 clearly states the law and any administrative action, orders or instructions changing or adding to this statute would be inconsistent with the law, or not as provided by the law. Therefore; proposed rule 6.12.10 should be withdrawn as not authorized by current law.

In this case, the PED must ensure that the policies and procedures developed by the school district are within the law and are followed by the district.

[EXT] No Marijuana In Schools

Eric James <kirtlandjamesgang@gmail.com>

Wed 7/24/2019 6:23 AM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

I am opposed to the legislation requiring schools to possess and administer marijuana to students. This is wrong for so many reasons.

1. Against federal law. Why would our state advocate schools to violate federal laws and jeopardize funding?
2. Moral opposition. We have spent decades trying to help students avoid addictions and drugs. Now, because of a few activists and revenue dollars, we are turning from our moral values. Many recognize this move as wrong and harmful.

Please stop the efforts to impose this law on our schools. As a licensed administrator for our public schools, I oppose it.

Eric James
4722 Raptor Rd
Rio Rancho NM

[EXT] SB 204 PED rules public comment

Tisha Brick <tbrick2009@live.com>

Thu 7/25/2019 12:33 PM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

Importance: High

 1 attachment

sb 204 ped final rules brick public comment.docx;

My extended public comment to contribute.
Respectfully,
Tisha Brick

Sent from [Mail](#) for Windows 10

Dear Parties,

I will begin with the fact that as the primary mother of a pediatric medical cannabis patient being endlessly discriminated and retaliated against, which is my son, the mother who has been tirelessly fighting for all participants in the medical cannabis program over 3 years now, the mother who is responsible for causing SB 204 to even be a concept, I am absolutely appalled by the rules set forth from the applicable state government cabinets including the Public education Department. The laws are already poorly written, but the rules and promulgations are even worse, and altogether shows the clear lack of carelessness upon all parties behalves in laws and rules that were intended by me in promoting quality of life, equal access, and having equal access to a free appropriate public education.

I. “Medical Cannabis” means cannabis:

- (1) recommended for treatment of a debilitating medical condition as defined in the Lynn and Erin Compassionate Use Act, in a written certification by a certified practitioner;
- (2) dispensed by a cannabis producer that has received approval from the New Mexico department of health to conduct sales of medical cannabis;
- (3) is in the form of a capsule, extract, or concentrate to be ingested through the mouth that:
 - (a) may be safely divided into measurable doses;
 - (b) is not an aerosol product consumable through smoking or in particulate form as a vapor or by burning;
 - (c) is not a food or beverage product;
 - (d) is not a salve, balm or other topical product;
 - (e) does not require refrigerated storage; and
- (4) is provided to a school in package or container clearly labeled with:
 - (a) the student’s name and date of birth; and
 - (b) the dosage allotment.

This rule is unjust and unconstitutional as it discriminates, it allows extortion and retaliation, it conflicts with original Medical Cannabis laws and definitions, it conflicts with the anatomical purpose and functions of the human endocannabinoid system which is what makes this plant medicinal to begin with, this all against medical cannabis patients who are alleviated and benefit by using whole plant spectrums in various forms of consumption methods from all varieties cannabis species which have been deemed medicinally appropriate and legal statewide in the original Medical Cannabis laws set forth many years ago.

C. Training. Each local schoolboard or governing body shall provide training to designated school personnel on the possession, storage, and administration of medical cannabis to a qualified student in accordance with the provisions of this rule.

This rule is also unjust and unconstitutional and again unlawfully complicates and discriminates on medical cannabis and its purpose. No other medication requires this to be given in school.

6.12.10.9 MEDICAL CANNABIS RESTRICTIONS:

- A.** Each school shall ban a student’s possession, use, distribution, sale, or being under the influence of a cannabis product in a manner inconsistent with provisions of the Lynn and Erin Compassionate Use Act.
 - B.** No school shall discipline a student who is a qualified student on the basis that the student requires medical cannabis as necessary for the student to attend school.
 - C.** No school shall deny eligibility to attend school to a qualified student on the basis that the qualified student requires medical cannabis as a reasonable accommodation necessary for the student to attend school or an in-state school-sponsored activity.
- [6.12.10.9 NMAC –N, 8/27/2019]

This rule is unconstitutional and unjust it again discriminates allows for setting up patients and caregivers for discrimination and retaliation due to bias, there is no lawful protection to be upheld in a court of law nor is there stringent punishment to follow through with in a court of law either should this rule be violated.

6.12.10.8 POSSESSION, STORAGE AND ADMINISTRATION:

- A. Policies and Procedures.** Each local school board or governing body shall establish policies and procedures for the possession, storage, and administration of medical cannabis as follows:
 - (1) school district and charter school policies and procedures shall:
 - (a) prohibit students from possessing, storing, or self-administering medical cannabis in a school setting;
 - (b) require the primary caregiver to deliver the medical cannabis in a container clearly labeled with:
 - (i) the student’s name and date of birth; and
 - (ii) the dosage allotment;
 - (2) prohibit qualified students from storing the medical cannabis in the school setting;
 - (3) require the provision of a secure location with a locked storage container that is accessible only by designated school personnel;
 - (4) require the immediate return of medical cannabis used in a school setting outside of school premises to a locked storage container;
 - (5) require the designated school personnel responsible for storage of the qualified student’s medical cannabis to return any unused medical cannabis to the primary caregiver at the end of each school year or upon disenrollment, withdrawal, transfer, or graduation of the qualified student, whichever occurs first;
 - (6) address the administration of medical cannabis in school settings during the school day by:
 - (a) primary caregivers; and
 - (b) designated school personnel;
 - (7) prohibit:
 - (a) a primary caregiver from administering medical cannabis in a manner that creates disruption to the education environment or causes other students to be exposed to medical cannabis;
 - (b) disciplining a school employee who refuses to administer medical cannabis; and
 - (8) require witnessed clean-up and witnessed destruction of medical cannabis in the event of spillage and waste and notification to the primary caregiver within the same day in which spillage or waste occurs.
 - B. Designated school personnel.** Each local school board or governing body shall identify the school personnel who will serve as designated school personnel and will perform any or all of the following functions to implement the Lynn and Erin Compassionate Use Act:
 - (1) possess medical cannabis on behalf of a qualified student;
 - (2) store medical cannabis on behalf of a qualified student; and
 - (3) administer medical cannabis to a qualified student.
 - C. Training.** Each local school board or governing body shall provide training to designated school personnel on the possession, storage, and administration of medical cannabis to a qualified student in accordance with the provisions of this rule.
- [6.12.10.8 NMAC –N, 8/27/2019]

6.12.10.9 MEDICAL CANNABIS RESTRICTIONS:

- A.** Each school shall ban a student’s possession, use, distribution, sale, or being under the influence of a cannabis product in a manner inconsistent with provisions of the Lynn and Erin Compassionate Use Act.
 - B.** No school shall discipline a student who is a qualified student on the basis that the student requires medical cannabis as necessary for the student to attend school.
 - C.** No school shall deny eligibility to attend school to a qualified student on the basis that the qualified student requires medical cannabis as a reasonable accommodation necessary for the student to attend school or an in-state school-sponsored activity.
- [6.12.10.9 NMAC –N, 8/27/2019]

6.12.10.10 MEDICAL CANNABIS – PRIMARY CAREGIVER RESPONSIBILITIES:

- A.** School districts and charter schools shall adopt policies and procedures that establish primary caregivers’ responsibilities under this rule.
- B.** Prior to any school’s possession, storage, and administration of medical cannabis on behalf of a qualified student, the primary caregiver is required to:
 - (1)** demonstrate evidence to the school that the student is authorized as a qualified patient pursuant to the Lynn and Erin Compassionate Use Act;
 - (2)** provide a written certification;
 - (3)** provide a written treatment plan;
 - (4)** submit a written release of liability that:
 - (a)** releases from civil liability the following persons and entities for acting in accordance with the provisions of Chapter 261, Laws of 2019 and this rule, as well as the Lynn and Erin Compassionate Use Act and applicable department of health rules:
 - (i)** school districts, school district personnel and volunteers, schools, school personnel and volunteers, local school boards, and local school board members;
 - (ii)** charter schools, charter school personnel and volunteers, governing bodies of charter schools, and governing body members;
 - (b)** releases the persons and entities listed in Subparagraph (a) of Paragraph (4) of Section B of 6.12.10.10 NMAC, above, from any liability and reimbursement claims for costs associated with accidental spillage or waste of medical cannabis;
 - (c)** acknowledge that the qualified student shall not be entitled to the implementation of the provisions of Chapter 261, Laws of 2019 and this rule, as well as the Lynn and Erin Compassionate Use Act and applicable department of health rules, outside of this state;
 - (5)** submit a written treatment plan, using the written treatment plan form posted on the department’s website;
 - (6)** require the qualified student’s primary caregiver to submit to the school a signed Health Insurance Portability and Accountability Act (HIPAA) authorization, using the HIPAA authorization form posted on the New Mexico department of health’s website, that permits the school to obtain current information from the department of health regarding the enrollment status of the qualified student in the department of health’s medical cannabis program. The HIPAA authorization form shall be retained as a medical record;
 - (7)** indicate that a written certification and a written treatment plan shall be valid for no more than one year from the date of issuance and shall be presented to the school at, or prior to, the beginning of the school year for which the written certification and written treatment plan shall apply;
 - (8)** require the primary caregiver to pick up from the designated school personnel any unused medical cannabis at the end of each school year or upon disenrollment, withdrawal, transfer, or graduation of the qualified student, whichever occurs first; and
 - (9)** require the primary caregiver to provide the written certification and a written treatment plan, a new release from liability, and a new package or container with clearly labeled identifiers including the qualified student’s name, date of birth, and dosage allotment, upon enrollment in a new public school following disenrollment, withdrawal, transfer, or graduation from another school.

[6.12.10.10 NMAC – N, 8/27/2019]

6.12.10.11 EXEMPTION FROM RULE; APPEAL PROCEDURES:

- A.** A school district or charter school may seek an exemption from implementing the provisions of this rule if it receives written communication from the federal government that implementation would result in federal education funding being withheld or withdrawn. The school district or charter school shall deliver electronically such written communication from the federal government to the Secretary, who shall review the

written communication for compliance with this paragraph. After the Secretary confirms compliance with this paragraph, the school district or charter school shall post on its website the written communication from the federal government and notice of the exemption from implementing the provisions of this rule.

B. A primary caregiver may appeal the school district's or charter school's exemption by submitting a signed letter to the secretary containing a statement of the facts on which the appeal is based, detailing the basis of the appeal. The secretary or secretary's designee may require additional documentation to be provided by the primary caregiver, school district or charter school before responding to the appeal. Such additional documentation, if requested, shall be due within 10 days of the request. The secretary shall provide a written response with a final decision within thirty 30 days of receipt of the appeal or within 30 days of receipt of the additional documentation requested, whichever is later. The secretary, at the secretary's discretion, may require a hearing, to be conducted within 60 days of receipt of the appeal, and to include a representative of the school district or charter school, before the secretary or secretary's designee. The secretary shall issue a final decision within 30 days of the hearing. [6.12.10.11 NMAC –N, 6.12.10.14 NMAC, 8/27/2019]

6.12.10.12 EXEMPTION FROM STATE CRIMINAL AND CIVIL PENALTIES: In accordance with this rule and New Mexico department of health rules:

A. Designated school personnel shall be exempt from civil liability and are authorized within their scope of employment, and their licensure if applicable, to possess, store, and administer cannabis to qualified students in school settings for purposes of implementing the provisions of Chapter 261, Laws of, this rule, the Lynn and Erin Compassionate Use Act, and New Mexico department of health rules regarding the Lynn and Erin Compassionate Use Act.

B. Designated school personnel shall be exempt from criminal liability, as the department of health deems public schools to be licensees, and deems designated school personnel to be licensee representatives, authorized within their scope of employment, and their licensure if applicable, to possess and store medical cannabis on behalf of qualified students, and to administer medical cannabis to qualified students in school settings, in accordance with Chapter 261, Laws of 2019, this rule, the Lynn and Erin Compassionate Use Act, and New Mexico department of health rules regarding the Lynn and Erin Compassionate Use Act. The department of health deems the public schools and designated school personnel to be entitled to immunity from arrest, prosecution or penalty, in any manner, for activities conducted within their scope of employment and their licensure, if applicable, and in accordance with the Public School Code.

[6.12.10.12 NMAC – N, 8/27/2019]

6.12.10.13 HEMP EXEMPTED: School districts and charter schools are encouraged to have policies and procedures relating to hemp, which is not subject to the same civil or criminal laws as cannabis or medical cannabis.

[6.12.10.13 NMAC – N, 8/27/2019]

These rules are unconstitutional and unjust, again discriminating and retaliation intentionally, conflicts with the purpose of medical cannabis and original medical cannabis laws, and allows for setting up patients and caregivers for discrimination and retaliation due to bias, there is no lawful protection to be upheld in a court of law nor is there stringent punishment to follow through with in a court of law either should this rule be violated. Ultimately, this entire set of laws, rules/promulgations go above and beyond to require extraordinary amounts of undue burden on MCP participants for choosing to utilize a medicinal plant that is fully legal and monetarily extorted on a state level under the LECUA, and is in no way shape or form toxic, truly unsafe, harmful, or lethal to any creature with an endocannabinoid system. The state officials and cabinets, task forces and other applicable affiliates are directly responsible for causing intentional harm towards medical cannabis program participants, sets them up for

failure, undue burden, undue stress and duress, undue litigation, and is entirely a willful ongoing act of unconstitutionality violating human and civil rights one the same. You have corrupted my intention of the original proposed laws, rules and promulgations, you threw me and the rest of the citizens of NM under the bus and cut us out of the process making yourselves not servants but dictators which is tyrannical and treasonous, you lied and made promises you intended not to keep. You should be ashamed of yourselves and you disgrace your titles, positions, purposes and sworn oaths.

Respectfully,

Tisha Brick

[EXT] Public Comment for PED Hearing: Marijuana

Shanon Jaramillo <shanon@cannanmstaff.com>

Thu 7/25/2019 9:53 PM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

 1 attachment

Public Comment 7_12_19.pdf;

Hi,

My name is Shanon Jaramillo, please add my name for public comment at the 7/26/19 Marijuana and Public Schools Hearing. See the enclosed. Thank you.

Be well,

Shanon Jaramillo | CEO - Founder
Cannabis NM Staffing
Main: 505-550-4294
Cell: 505-463-7661

www.cannaNMstaff.com

<https://www.facebook.com/CannaNMstaff/>



7/12/2019 Public Hearing Commentary

To: New Mexico Department of Health and Governor Michelle Lujan-Grisham

Fr: Shanon Jaramillo, CEO Cannabis NM Staffing, LLC

Re: Current Issues and Solutions to Better Infrastructure / Economic Development in Cannabis Industry

Introduction Hi, thank you for being here, thank you to Kenny and for all who showed up today. My name is Shanon Jaramillo, I am the CEO and Founder of Cannabis NM Staffing, LLC. And for the past two and a half years I've been working to develop the workforce or the labor market in the medical cannabis industry. I originally got into the field to be helpful to licensed businesses with their staffing, however what I quickly found was that there was a gap of information as we are seeing here today. Everything I heard on Friday tells me that my work is on track and that we do need more education around cannabis. I feel like the legislators making the decisions, and those writing regulations and the medical professionals in the field require more education. ***I want to review some of the concerns I have and highlight some opportunities for improvement that the State of New Mexico has with regard to economic development & infrastructure around the now and future cannabis marketplace. If we can implement more education and compliance consultation and oversight into the NMMCP then we have a great chance at achieving Governor Michelle Lujan Grisham's goal of preserving the NMMCP as we open New Mexico's markets to Adult Use (recreational) cannabis.***

Goal of Commentary My case here is that we need a streamlined and robust effort from the state departments to the public that hits the masses around cannabis education and compliance (consultations and oversight) infrastructure if we are to preserve the NMMCP while the state heads into a legal cannabis marketplace.

Statement of Concern My concern is that there is a lack of education and compliance oversight at the state level over the licensed businesses and regulations for LNPPS, Manufacturers, Couriers and Labs operating in the field and that as we head into a legal market we are set up to lose steam with our 12 year old NMMCP as we set up another market the same way (without infrastructure) for long term economic development and gains in New Mexico. If patients and professionals don't know their rights, and updates to regulations clearly then why would they stay with the program when recreational hits?

I'm concerned that there are only approximately 8 staff members at the DOH and only 3-4 focused to provide compliance for businesses. As the program expands so should the team regulating, education and overseeing the program. This lack of oversight is directly responsible for the following short term and long term issues which negatively impact our economic development in New Mexico, rather than build it, which is what we are claiming medical and recreational cannabis is and will do for our people:

- Lack of compliance and public health education oversight puts the patients at higher risk than necessary

- Lack of compliance oversight and education puts the workforce at higher risk than needed
- Lack of communications (PSA, education and public infomercials) to the public puts the public at high risk
- Lack of compliance oversight puts those operating businesses in a position to cut corners and figure it out creating the gap between the state and the marketplace rather than fostering success and compliance (failure rates go up and fees go up, wages go down and things like compliance and employee training are compromised within the company)
- Lack of state support makes the black market and recreational cannabis more attractive business models for consumers
- Lack of infrastructure at the business level makes the labor market not want to work for these businesses (minimal wages, no benefits, no training or education, no state help, no upward career mobility)
- Lack of education and infrastructure puts the state in a position to fail the NMMCP and lose a lot of the patient population as we go into a recreational marketplace which will puncture and harm the NMMCP

Statement of Concern the lack of educational support and guidance and business compliance oversight due to under-staffing at DOH inadvertently produces a lack of compliance in the industry and is causing workforce and employer guidance oversights and loopholing, putting the workforce and the entire industry (patients) in a risky downward spiral. I truly believe that the marketplace feels and is volatile for employment and new employers to enter into due to this oversight. As we head into a legal market my concern is that the state has not focused on providing enough around simple and much-needed education with the patients, businesses, legislators, and the general public. ***There is a lack of infrastructure that currently exists within the New Mexico Medical Cannabis Industry, hemp industry and soon recreational industry on all levels.***

Solution Focused funding and RFP or contract pathways for companies or groups who are invested in education in the community to contract with the state to produce the compliance oversight and or staffing and education or educational systems and updates needed. The creation of a robust and streamlined program of education, courses, PSAs and communication pieces (offered online to assure that rural New Mexican businesses and people have access) for the patients and for the workforce/labor market operating in cannabis in New Mexico.

** While we are at it we need to focus on the entire State of New Mexico and Cannabis Education in an effort to destigmatize, mitigate risk around public health and safety, and to provide the tools to have success in our Medical and soon to be added Recreational marketplace.

For example if we had a streamlined system or platform (online) for education we would have a proactive rather than a reactive method of helping New Mexicans around cannabis and

regulatory changes and could have gotten ahead of these recent regulatory changes to educate Patients, Nurses, School District Members, Legislators, and the Public around SB 204 and 406 and the recent program changes since our last NM Legislative Session. Groups to consider educating immediately:

- DOH, PED, APS and All school districts in New Mexico
- Patients
- Medical Professionals: Nurses, Medical Practitioners
- Legislative bodies and state decision makers
- Police Force
- Hospitals, Hospice, Long Term Care Facilities

Statement of Concern: That the regulations (communications have been far and few between and more reactive than proactive between to the DOH and the businesses and patients) have not been made clear enough to the Patients, LNPPs, Manufacturers, Couriers, and Labs in the program causing compliance gaps of information. And especially that the DOH claims to not have the funding for more staff to help with business compliance oversight over the very regulations they position the businesses to have to follow. How can lack of funding exist when 34 businesses pay 90k or so each a year for this marketplace and are now asked to pay 180k each for maximum plant counts? That does not even take into account the manufacturers, labs and couriers paying fees to be in business under licensed cannabis regulations.

Statement of concern That the DOH has not gained their footing around how to produce a streamlined (updated) version of education that hits all 73,000 patients and the public. Especially around the regulatory changes. We have exhausted our solution to provide patient education by hiring 1 Public Health Educator and not a team or streamlined the voice of education from the state to the public.

Statement of concern That the past and future Public Health Educator has little support in their task to educate around cannabis so the effort becomes frustrating for that person and nothing gets accomplished on a large scale as they too are learning the market the plant the regulations the industry the patients etc etc.

The program is 12 years old now and we've had Public Health Educators come through the Department of Health and I'm sure that they are seeing as well as the DOH that there is about a 12-24 month learning curve and then it switches up on us really quickly right? Every time we hire a new Public Health Educator we start over with the effort to educate. So I always say that there is that space in time between regulations being written, applied and then we see how things worked out and boy aren't we seeing that with the recent expansion of the program. Knowing that we have to get ahead of things and utilize groups like mine to stay on top of the learning curve for new state employees.

RESEARCH ON OTHER STATES WITH WORKFORCE AND CONSUMER EDUCATION

THROUGH THE STATE: OR, CO, NV, and WA in particular have created programs under the state and have their information / education / processes / announcements and updates streamlined to online platforms to help mitigate the gaps in education that exist for applicants who wish to work with patients or in a safety sensitive position in the medical cannabis field. New Mexico has not missed the boat, yet, to put something similar in place and I believe that we can streamline and do much better and learn from the aforementioned states, with regards to education on behalf of our fellow New Mexicans who are patients under the program. My company and companies like mine can help with these efforts. If we gain our footing around infrastructure, particularly education and compliance, I believe that New Mexico can be ahead of the curve with a more robust and innovative platform that is way more advanced than our neighbors for long term gains. We will be a role model state if we can get ahold of this one component going forward in my professional opinion - long term planning is what this is and we need a foundation.

What are other neighboring medical and legal cannabis states doing?

- COLORADO: [Med Badge for applicants offered through state](#)
- OREGON: [Marijuana Permit needed and offered through state](#)
- WASHINGTON: [Washington State Liquor and Marijuana Board offers an educational platform through the state](#)
- NEVADA: [Marijuana Agent Portal through Nevada Taxation and Revenue](#)
 - [Safety for Kids Information](#)
 - [For Businesses in the Industry](#)
 - [University of Las Vegas offers Cannabis Classes to prepare to work in the field](#)

Statement of Concern that licensed businesses are foregoing employee compliance training and offering minimal wages to staff and sometimes hiring under the radar due to outrageous producer and state fees, and vague and finable compliance regulations and lack of compliance oversight from the state due to under-staffing and outdated tracking methods on paper.

The licensed/regulated businesses are faced with large taxes, fees and arbitrary non profit statuses without the tax breaks of nonprofits. These fees inevitably have to be offset in their business budgets and models. Patients, employers, employees and all bottom lines at the end of the day are being negatively impacted by these fees. Things like compliance training and simple safety data sheets needed for safety sensitive workers and oversight are often compromised when money goes toward unnecessary fees. I am very concerned about the 180,000 fee that producers face to achieve their plant count, because these small businesses are already hiring at minimum wage rates. **My concern is that the labor market will be negatively impacted by these fees** and that education and compliance oversight will continue to be compromised. In my opinion education, training and company compliance infrastructure creates a sustainable marketplace for those employees who take jobs in medical cannabis. The jobs that we will create do not, at this time have enough skilled or educated workers to fill them

and if we don't have support from WorkForce Solutions, The DOH, PED, or OSHA then we risk counterproductivity to the very cause of economic development and patient care that we are trying to achieve with the NMMCP (and Legalization). All of us working on the same thing in different corners of the state is just not working out anymore. We need to streamline things, come together in one room, and use technology. All of these departments can come together to focus and move quicker and become more proactive around cannabis in our state.

Solutions proposed: (1) Don't raise producer plant count fees for access to grow and process more plants, (2) keep regulatory and compliance fees the same as they are, BUT make regulations apparent and expectations clear with more frequent and positive supporting communications to LNPPS, Manufacturers, Labs and Couriers so that they can be more compliant. (3) Hire more compliance staff at DOH and create a budget for cannabis education on all levels and funding to outsource manpower to assist in compliance communications consultations and oversight through 3rd parties like Cannabis NM Staffing.

In my professional opinion the marketplace is volatile in every state, including NM, that has lacked in education and compliance oversight in their regulated state whether it be for medical or recreational cannabis. If New Mexico is to do better and become leaders in the medical cannabis and adult use markets by way of how positively we utilize the medical and recreational cannabis markets to impact our economy, then we have to think infrastructure now. We've been here for 12 years with precarious efforts around infrastructure and so have the other states who've gone the distance. Let's lead, let's be better, let's build infrastructure together and show the country how New Mexico has positioned itself for long term gains and economic wins by way of the cannabis industry.

Statement of Concern that licensed businesses are creating hiring practices and requirements that are discriminatory and out of compliance with the ADA and EEOC. That's a huge problem if even 5/35 producers are hiring this way, but I know that it's closer to a standard model for all 34 of them plus the other businesses to hire with this requirement and that deeply concerns me.

I want the businesses to address the American's for Disabilities Act within their hiring processes and at the compliance and state level because I am hearing that in interviews licensed companies are requiring that their employees be patients in order to work for them. This puts the applicant who needs and wants to work in the field (they are advocates) in a position to have to break the law and go get a card just to work. That is against the ADA and highly discriminatory for me to require that you have PTSD or cancer to work for me. I am saying this publicly in an effort to be of help to these businesses, the compliance team at the DOH and to make my point about education and infrastructure.

Proposal 1 I propose that the Department of Health and the State of New Mexico create a pathway to funding for companies and vocational schools dedicated to medical cannabis and

patient education to bridge the gap of information and provide the education necessary to be helpful to the patient-consumer population and the professional workforce.

Proposal # 2 I propose that the state support the DOH in their efforts to have more staff for business compliance staff and officers to oversee the vast and growing medical cannabis marketplace → let's not forget that this is industry semi-dictates what our Legalization or Adult Use infrastructure and marketplace will look like and at this point we are not ready if we are not staffing state departments appropriately and abundantly (especially around compliance)

Proposal # 3 I propose that the DOH and PED get together on a proactive solution or plan on how to educate the patients, Nurses, general public, medical professionals, police force, workforce, and legislative bodies in an effort to create infrastructure around the ever changing regulations we face in our industry and before legalization so that we have a foundation
Example: A simple PSA with a slide deck or short video put out to the public about the 3 Year Card renewal over the internet or news media and boom you've educated the masses over a very complex issue that doesn't have to be made that complex

** Please consider updating the format of public hearings and commentary to include acknowledging the people talking and possibly even validating them with real time commentary back from the state's side of the table. That validation could be a huge game changer in the rapport builder from the state to the patients to the businesses to the public down. The format might do with some addressing as it seems as though we are telling you guys our concerns to be met with no real acknowledgements or real-time conversations around things.

[EXT] Re: Public Comment for PED Hearing: Marijuana

Shanon Jaramillo <shanon@cannanmstaff.com>

Thu 7/25/2019 9:56 PM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

📎 1 attachment

PED (1).pdf;

I apologize that was a comment I submitted to DOH a few weeks ago- I mislabeled it, sorry for the confusion.

Enclosed is the comment for Shanon Jaramillo for tomorrow.

Thank you.

Be well,

Shanon Jaramillo | CEO - Founder
Cannabis NM Staffing
Main: 505-550-4294
Cell: 505-463-7661

www.cannaNMstaff.com

<https://www.facebook.com/CannaNMstaff/>

On Thu, Jul 25, 2019 at 9:53 PM Shanon Jaramillo <shanon@cannanmstaff.com> wrote:

Hi,

My name is Shanon Jaramillo, please add my name for public comment at the 7/26/19 Marijuana and Public Schools Hearing. See the enclosed. Thank you.

Be well,

Shanon Jaramillo | CEO - Founder
Cannabis NM Staffing
Main: 505-550-4294
Cell: 505-463-7661

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<https://www.facebook.com/CannaNMstaff/>

PED Statement 7/26/19 - Marijuana and Public Schools

Thank you to PED for having us here to discuss Marijuana and Public Schools. My name is Shanon Jaramillo, I am the CEO and Founder of Cannabis NM Staffing, LLC. It's a company with a Cannabis Training Center dedicated to cannabis and hemp education in New Mexico. I am here with a team of Nurses, 2 of them are with me today, Gina Lucero, and Marisa Cecco who are both Registered Nurses and Cynthia Rienhardt who is an CFNP and our Nurse Planner. We have worked together on cannabis education for the past 2.5 years together.

My statement today is in support of Department of Health and the Public Education Department and the following sections NMAC 6.12.10.8 The designation of school personnel and training sections is in B and C. See below.

The question is: How are we going to train the School Nurses and Administration, quickly enough, who are designated with possessing, storing and administering cannabis when they may not feel comfortable with the learning curve yet? Who is going to do that? What are the concerns of the community and the Nurses in the Schools, the Patients, etc?

I understand that the stopping point for everything around cannabis and hemp right now is the gaps of education and information. And for this reason we are conducting a Nurse Survey around cannabis education and their concerns and needs around education. Here is a quick run down:

Out of a sampling of 36 Nurses, 64% say they've worked with a medical cannabis patients, while 94% say they were not provided with education before working with patients and cannabis, and 86% say that their employer does not provide cannabis education, 64% say that they are concerned that they don't have enough accredited studies around cannabis, 56% are concerned with state and federal law, 53% say that they are concerned that the state has little support for Nurses and cannabis ed, and 28% say they are afraid to be fired by their employer. We are shooting for a sampling of 100 Nurses and will provide more information as we get it.

Strategies to help PED and DOH with the challenges and work ahead:

- 1. Nurse Education - a continuous higher education CE and CNE programs on cannabis**
- 2. More transparency in the Lynn and Erin Compassionate Use Act and those "designated", likely School Nurses and Administration around their rights for helping the kids with their medicine.**
- 3. A campaign to educate the public and de-stigmatize around cannabis... providing data, statistics on who it's helping, demographics of actual patients**

We know that there is a 12-24 month learning curve and if there is no access to cannabis educators then the delays around "how to proceed and what to do" will be even longer. I've identified the most important groups to educate first as:

1. School Administrators
2. School Nurses
3. School Parents (the public)

We have started by working on a Nursing Cannabis CE Curricula. We are in the application stages with the New Mexico Nurses Association, who seem very supportive, to produce our curricula by Sept of 2019. I think if we look at this type of education and getting the Nurses and schools protected in the regulations with more protective language and also in the Lynn and Erin Compassionate Use Act immediately then

we can help PED and DOH to move quicker. Essentially you folks would be the only in the country with a Nurse Cannabis Program or a designated group to do that for you under Governor Michelle Lujan Grisham. That's huge. Here is the list of courses we are accrediting, set to launch October 1st 2019:

Marijuana and Pediatrics in Schools in New Mexico

1. *Benefits and Science of Medical Cannabis*
2. *Qualifying Conditions in New Mexico*
3. *Storage and Administration*
4. *Planning Storage and Records*
5. *Adverse Reactions and Dosing*

We have 5 more classes for Nurses not listed here that will roll out in October.

Each course is 45-60 minutes, has a pre-and-post test to collect data and provide information on the measurable outcomes of the courses.

I am confident that with the right folks in place, which we absolutely have, and some intensive capacity building and educational long term planning that we can create a truly supportive environment for the kids and caregivers who need that medicine in schools. Just like someone who needs an inhaler. We have to view it that way and start to really talk about it. Thank you for letting me comment.

I'd love to have your feedback on my comments and the comments made here if and when you can provide that, that's helpful. My email is shanon@cannaNMstaff.com

Supporting Materials

Survey Nurses and Cannabis Education (currently underway, closes on 8/31/2019)

[Nursing CE Cannabis Courses Qu...](#) | [PED - Google Docs](#) | [Meeting on 26th and following u...](#) | +

<https://docs.google.com/forms/d/1vsWiZ0nm8qIHCdMcCG9JgRWZdeXLtLd86O1VwkeKBfi/edit#responses>

QUESTIONS **RESPONSES** 36

36 responses

SUMMARY INDIVIDUAL

Accepting responses

I am a Nurse practicing in New Mexico.

36 responses

Response	Percentage
Yes	66.7%
I am a retired Nurse in New Mexico	0%
I am a Nursing student	33.3%

Legend:

- Yes
- I am a retired Nurse in New Mexico
- I am a Nursing student

6.12.10_Med-Can....docx | 6.12.10-NMAC_N....docx | 6.12.10_Med-Can....docx | 6.12.10-NMAC_N....docx

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[Nursing CE Cannabis Courses Qu...](#) | [PED - Google Docs](#) | [Meeting on 26th and following u...](#) | +

<https://docs.google.com/forms/d/1vsWiZ0nm8qIHCdMcCG9JgRWZdeXLtLd86O1VwkeKBfi/edit#responses>

I have worked with someone who uses medical cannabis.

36 responses

Response	Percentage
Yes	63.9%
No	36.1%

Legend:

- Yes
- No

I was provided with information or education about cannabis in Nursing School.

36 responses

6.12.10_Med-Can....docx | 6.12.10-NMAC_N....docx | 6.12.10_Med-Can....docx | 6.12.10-NMAC_N....docx

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TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 12 PUBLIC SCHOOL ADMINISTRATION - HEALTH AND SAFETY
PART 10 MEDICAL CANNABIS IN SCHOOLS

B. **Designated school personnel.** Each local school board or governing body shall identify the school personnel who will serve as designated school personnel and will perform any or all of the following functions to implement the Lynn and Erin Compassionate Use Act:

- (1) **possess** medical cannabis on behalf of a qualified student;
- (2) **store** medical cannabis on behalf of a qualified student; and
- (3) **administer** medical cannabis to a qualified student.

C. **Training.** Each local school board or governing body shall provide training to designated school personnel on the possession, storage, and administration of medical cannabis to a qualified student in accordance with the provisions of this rule.
[6.12.10.8 NMAC –N, 8/27/2019]

Re: Automatic reply: [EXT] Public Comment for Medical Cannabis in Schools

Jason Barker <safeaccessnewmexico@gmail.com>

Fri 7/26/2019 4:55 AM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

 1 attachment

Medical Cannabis in Schools Policy Currently Enacted 051119 (2).pdf;

--

Safe Access New Mexico
Jason Barker - Organizer & Medical Cannabis Patient
8708 Palomar Ave. NE
Albuquerque, NM 87109
[505-449-7460](tel:505-449-7460)

www.cannabisnewsjournal.co
[LECUA Patients Coalition of New Mexico- Facebook Group](#)
[LECUA Patients Coalition of New Mexico Facebook Community Page](#)

Americans For Safe Access - Member
American Cannabis Nurses Association - Member
Medical Cannabis Patient in New Mexico

"The American Medical Association has no objection to any reasonable regulation of the medicinal use of cannabis and its preparations and derivatives. It does pretest, however, against being called upon to pay a special tax, to use special order forms in order to procure the drug, to keep special records concerning its professional use and to make special returns to the Treasury Department officials, as a condition precedent to the use of cannabis in the practice of medicine."

~Wm. C. Woodward, Legislative Counsel - 11:37 AM Monday, July 12, 1937

On Fri, Jul 26, 2019 at 4:15 AM FeedBack, Rule, PED <Rule.FeedBack@state.nm.us> wrote:

Thank you for your email. The Department considers all feedback received.

Thank you,

PED Rulemaking Team

Medical Cannabis in Schools Policy Currently Enacted

Safe Access New Mexico
Jason Barker
8708 Palomar Ave NE
Albuquerque, NM 87109
SafeAccessNewMexico@gmail.com

Thursday, July 25th 2019

Policy Division
New Mexico Public Education Department
300 Don Gaspar Avenue, Room 101
Santa Fe, New Mexico 87501
feedback@state.nm.us
FX (505) 827-6520.



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Safe Access New Mexico appreciates the opportunity to provide comment on the pending rulemaking for the implementation of Senate Bills 204 Medical Cannabis in School and 406 Medical Cannabis Changes that passed during the 2019 Regular Legislative Session and were signed into law by Governor Michelle Lujan Grisham.

Safe Access New Mexico strongly supports Senate Bill 204 and the implementation of rules allowing for safe access to medical cannabis at schools. No school or school district in the US has ever lost any federal funding for allowing safe access to medical cannabis at school, nor has there been any problems.

State Policy

Final Version of Paloma's Law (SB-204: Medical Cannabis in Schools):

<https://www.nmlegis.gov/Sessions/19%20Regular/final/SBo204.pdf>

Currently there are now Nine other states and one capital city with comprehensive medical cannabis programs allowing safe access to medical cannabis at school:

Oklahoma City School District and these states; New Mexico, New Jersey, Maine, Washington, Colorado, Pennsylvania, Florida, Illinois and Virginia.

No school or school district in the US has ever lost any federal funding for allowing safe access to medical cannabis at school, nor has there been any problems.

California and New York have active 2019 Legislation for Allowing Safe Access to Medical Cannabis in School.

Federal Policy:

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Protection for state medical cannabis laws, as provided in the Rohrabacher–Farr amendment, Sec. 538 of the “omnibus” appropriations bill. Every year, the federal budget in the US Congress (“omnibus” appropriations bill) includes a rider that continues to bar the DOJ from enforcing the federal marijuana ban in some circumstances pertaining to states who enact their own medical cannabis laws. This rider is also known as the Rohrabacher–Farr amendment.

Here is the full text of the rider: (www.safeaccessnow.org/federal_marijuana_law)
“SEC. 538. None of the funds made available under 4 this Act to the Department of Justice may be used, with respect to any of the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, or with respect to the District of Columbia, Guam, or Puerto Rico, **to prevent any of them from implementing their own laws that authorize the use, distribution, possession, or cultivation of medical marijuana.**”

United States v. McIntosh: The federal Ninth Circuit Court of Appeals interpreted the quoted language to bar the DOJ from prosecuting individuals who manufacture, distribute, or possess marijuana in strict compliance with state medical cannabis laws.

Conant v. Walters (2002): The Ninth Circuit Court of Appeals held that the federal government could not punish, or threaten to punish, a doctor merely for telling a patient that his or her use of cannabis for medical use is proper. However, because it remains illegal for a doctor to "aid and abet" a patient to obtain cannabis or conspire with him or her to do so, the court drew the line between protected First Amendment speech and prohibited conduct as follows -- A physician may discuss the pros and cons of medical cannabis with his or her patient, and issue a written or oral recommendation to use cannabis within a bona fide doctor-patient relationship without fear of legal reprisal. There have been no such criminal or administrative proceedings against doctors to date. (https://www.safeaccessnow.org/landmark_federal_conant_v_walters)

Recent Articles:

Article: New Mexico is now the 8th Medical Cannabis State to allow Safe Access to Medical Cannabis at Schools | April 11, 2019 | Americans For Safe Access |

https://www.safeaccessnow.org/new_mexico_is_now_the_8th_medical_cannabis_state_to_allow_safe_access_to_medical_cannabis_at_schools

Article: Understanding New Mexico’s Medical Cannabis in Schools Law | Wednesday, April 10, 2019 | Cannabis News Journal |

<http://www.cannabisnewsjournal.co/2019/04/understanding-new-mexicos-medical.html>

Article: A Parents and Caregivers Guide to New Mexico’s Medical Cannabis in Schools Legislation (Senate Bill 204) | Saturday, January 12, 2019 | Cannabis News Journal |

<http://www.cannabisnewsjournal.co/2019/01/a-parents-and-caregivers-guide-to-new.html>

Oklahoma

Oklahoma City Schools District

Oklahoma City School Board Policy (01-14-19):

“POLICY F-33 MEDICAL MARIJUANA

The district will not regulate or take any adverse action against an employee for holding a medical marijuana license. The school district may take action against an employee who possesses a medical marijuana license if the employee uses or possesses marijuana while at school or during the hours of employment as per 63 O.S. § 425.

Students whose medical condition requires the use of medical marijuana are allowed to access and utilize marijuana in accordance with state law. School personnel are not legally permitted to administer medical marijuana to students. The district will provide a private location for a caregiver to administer medical marijuana to students at school. Oklahoma law limits who may act as a caregiver and any caregiver will have a medical marijuana license designating them to act on behalf of a student. The caregiver is responsible for bringing the medical marijuana to the qualifying student and promptly removing the medical marijuana from the premises after consumption or use.

Upon arriving at school, the caregiver will follow district protocol with regard to check in and departure.

There will be no smoking on school premises of any substance 24/7 in accordance with the state’s no smoking act. At no time will marijuana be grown or stored on school premises.

School employees will not under any circumstances:

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- a. Assist students in obtaining or using medical marijuana;
- b. Store medical marijuana for students;
- c. Take and/or use a student's medical marijuana;
- d. Serve as a student's designated caregiver, unless the student is the child or in the legal custody of the employee.

The district reserves the right to discipline employees or students who fail to adhere to Oklahoma law and/or the requirements of this policy. Such disciplinary action will be addressed in accordance with the student discipline code and/or the standards of conduct for employees. Employees may be subject to termination or nonreemployment.

If a student has specific procedures regarding medical marijuana that are written into the student's Individualized Education Program (IEP) and such procedures are consistent with state and federal law, those provisions will take precedent over this policy.

If the federal government declares that the District's federal funds are jeopardized by this policy or asks the District to cease and desist the implementation of this policy, this policy shall be suspended immediately and the District will comply with any federal guidance and/or directives related to this policy.

Adoption Date: January 14, 2019”

<http://z2policy.ctspublish.com/ossba/Z2Browser2.html?showset=okcset>

Oklahoma Department of Health Medical Cannabis Program-Rules (Definitions):

"Public School" means an elementary, middle, or high school established under state law, regulated by the local state authorities in the various political subdivisions, funded and maintained by public taxation, and open and free to all children of the particular district where the school is located.

"Private School" means an elementary, middle, or high school maintained by private individuals, religious organizations, or corporations, funded, at least in part, by fees or tuition, and open only to pupils selected and admitted based on religious affiliations or other particular qualifications.

<http://omma.ok.gov/Websites/ddeer/images/documents/310-681%20Emergency%20Rules%20from%20FSSB%20and%20August%20Medical%20Marijuana%20Rules%20FORWEB%201-4-2019.pdf>

Oklahoma State Department of Education FAQ on Medical Cannabis in Schools:

“The Oklahoma State Department of Education (OSDE) has received a number of questions about how State Question 788 (now codified at 63 O.S. § 420A, et seq.) relates to public schools. This document is non-binding, does not create or impose a legal requirement and is not intended to serve as legal advice or to replace or supplement the advice of a school district’s retained legal counsel. Rather, it is general in nature in response to questions that the OSDE has received as of September 10, 2018. School districts, and their personnel, are urged to seek the legal advice of their respective licensed school attorney with regard to any legal issue(s) encountered, including the matters set forth below.

Best regards,
Joy Hofmeister”

“Student License Holder Services (Oklahoma)

9. Can a student self-administer medical marijuana on school property?

No. There is not a current Oklahoma law authorizing a student to use, possess and/or self-administer medical marijuana on school property. Oklahoma laws authorizing students to self-administer medication are limited to sunscreen, inhaled asthma medication and anaphylaxis medication. See 70 O.S. §§ 1-116.2 - 1-116.3.

10. Can school personnel, including but not limited to a school nurse, possess (on behalf of) and/or administer medical marijuana to a student?

No. Some states, such as Colorado and Illinois, have enacted statutes specifically authorizing school personnel, including school nurses, to store, possess and administer medical marijuana to a license holder. However, in Oklahoma, there is not a current law authorizing school personnel to administer medical marijuana. Oklahoma laws authorizing a school nurse, or other designated school employee in absence of a school nurse, to administer are limited to a filled prescription medicine (defined by 59 O.S. § 353.1), assisting in the application of sunscreen and administering a nonprescription medicine. See 70 O.S. § 1-116.2.

11. Can a parent/guardian administer medical marijuana treatments to a student license holder while on school property?

Marijuana (in any form) remains a controlled illegal substance under federal law, and federal program assurances that are signed in exchange for the receipt of federal funds remain unchanged and continue to require that districts assure that they are compliant with the Safe and Drug Free Schools Act and the Drug Free Workplace Act. As such, a district authorizing the possession, use or administration of medical marijuana is at risk of losing (and having to repay) federal funds. It should be noted, however, that we are not aware of a state with a marijuana authorization law (medical or otherwise), or a

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school district in such a state, that has lost or been required to repay federal funds as a result of its authorizing the possession, use or administration of marijuana on school property consistent with that state's law.

As clear as the prohibition in federal law is, equally clear is that as a part of State Question 788, Oklahomans affirmatively put in state law that if an individual meets the requirements to have a license, that individual, including qualifying minors, shall have access to medical marijuana. Further, neither in State Question 788 nor in the Department of Health's administrative rules are there limitations on a patient license holder having access to and/or receiving treatments on school property. Notably, State Question 788 and the Department of Health's rules contain limitations on medical marijuana dispensaries being located within a certain distance (1,000 feet) of school property. This absence of a restriction in one part of the provisions, and affirmative placement of a restriction on dispensaries in another part (see Question 4 above), indicates Oklahomans' intent that there are not to be restrictions on a patient license holder's access to medical marijuana on school property.

In light of the foregoing, school districts may adopt a policy authorizing a student license holder to have access to his or her medical treatment on school property. If a district adopts such a policy, a student's parent(s), legal guardian and/or caregiver should be permitted to bring an appropriate dosage of a student's recommended medical marijuana product(s) to the school for the parent/legal guardian/caregiver (as applicable) to administer to the student.

Additionally, if a district adopts such a policy, the school should establish a place for a parent/legal guardian/caregiver to meet the student and administer the student's dosage of medical marijuana product(s). In the same manner, schools must provide an appropriate space for the administration of insulin injections or space for a student to nurse or express milk for an infant. (This could be one designated space for all such student medical needs, or separate spaces, depending on the school's available space and any relevant scheduling or privacy considerations.) Further, a school district policy should require that a record be kept of the name of the student to whom the medicine was administered, the date the medicine was administered, the dosage administered and the name of the person who administered the medicine.

12. If a district adopts a policy authorizing the administration of medical marijuana on school property, what should be included in the policy?

As a part of any policy, schools should require a parent/legal guardian/caregiver (as applicable) to provide the current and valid license for the student, any caregiver license(s) associated with the student, and a written authorization form, to include the following as applicable:

Copy of the student's current and valid medical marijuana license and any associated caregiver's license;
Purpose of the medication;
Time to be administered;
Dosage to be administered;
Termination date for the administration of the medicine;
Side effects to be observed, if any, the management of such effects and student allergies to food and/or medicine;
Emergency instructions, as appropriate;
Written acknowledgement assuming all responsibility for the provision, administration, maintenance and use of medical marijuana under state law, and release of liability for any injury, personal or otherwise, to a student which results from the acts or omissions of the parent/guardian/other licensed caretaker in administering or possessing the medical marijuana; and,
Other appropriate information.

13. Are there barriers to enrollment or access to instructional services based on the qualification for a medical marijuana license or use of medical marijuana by a student patient license holder?

No. Students may not be denied enrollment or services by a public school district or charter school based on their holding of a license. In fact, State Question 788 expressly provides that a school shall not refuse to enroll and may not otherwise penalize a person solely for his or her status as a medical marijuana license holder, unless failing to do so would imminently cause the school to lose a monetary benefit under federal law or regulations.

14. Are there restrictions on smokable medical marijuana and medical marijuana products?

Yes. All smokable, vaporized, vappable and e-cigarette medical marijuana and medical marijuana products ingested, smoked or consumed by a patient license holder are subject to the same restrictions for tobacco under 63 O.S. § 1-1521 et. seq., (i.e., the Smoking in Public Places and Indoor Workplaces Act.)

15. What do these restrictions mean as they relate to school and/or school property?

The same prohibitions that exist relating to the use of tobacco in schools and/or on school property now also extend to all smokable, vaporized, vappable and e-cigarette medical marijuana on such property. As such, and because the Smoking in Public Places and Indoor Workplaces Act and the 24/7 Tobacco-free Schools Act (70 O.S. § 1210.213) prohibit the use of tobacco (now inclusive of all smokable, vaporized, vappable and e-cigarette medical marijuana), these forms of medical marijuana may not in any instance be used or consumed by a patient license holder (adult or minor) on school

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property.* School property includes, but is not limited to, buildings, physical grounds, motor vehicles and any school-sponsored or school-sanctioned event or activity. See 70 O.S. § 1210.212.

*Note: Notably, this prohibition does not extend to other forms of medical marijuana, such as edible.

16. Are there restrictions on a minor's use of medical marijuana?

Yes. In addition to the aforementioned prohibitions on the smoking or vaping of medical marijuana in a public place (including a public school), under no circumstance shall a minor patient license holder be authorized to consume, smoke or inhale any smokable or vappable medical marijuana or smokable or vappable medical marijuana products, unless both recommending physicians agree it is medically necessary. See OAC 310:681-2-2(c).

17. Can a school district conduct a random drug testing program of students participating in interscholastic competitions and extra-curricular activities?

Yes. Consistent with the U.S. Supreme Court ruling in Board of Education of Independent School District No. 92 of Pottawatomie County et al v. Earls et al, 536 U.S. 822 (2002) and other court decisions, a school district may implement and conduct a random drug testing program of students participating in interscholastic competitions and extra-curricular activities requiring registration with the Oklahoma Secondary Schools Athletic Association (OSSAA).

A school district conducting a random drug testing program for such students should adopt a policy relating to the scope of such drug testing program, the activities within the scope of the random selection method, what substance(s) are included as being in violation of the policy and any consequences of violation(s). Importantly, any adopted policy should be provided to students and parents/guardians/caregivers.*

*Note: A school district conducting a random drug testing program may adopt a policy providing that a student with a medical marijuana license will not be subject to penalties or loss of privileges associated with testing positive for medical marijuana or its components, other than eligibility restrictions imposed by an outside organization that are beyond the control of the school district. See also Question 18.

18. What policies can school districts put in place relating to a student patient license holder participating in interscholastic athletics and/or extra-curricular activities?

The OSDE does not regulate or oversee secondary interscholastic school activities in the state; rather, this is done through the OSSAA and other associations charged with overseeing such activities (i.e., FFA, FCCLA, etc.). As such, any questions relating to medical marijuana and its relation and/or effects on interscholastic school activity participation should be directed to the OSSAA or the respective organization charged with overseeing such activity.*

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A school district may establish its own policies regarding district- or school-specific activities that do not involve competition between schools and do not fall under the authority of OSSAA or other organization (as applicable).

*Note: Marijuana is on the banned substances list for the NCAA, and there is not yet an exemption for medical use – some student-athletes at the college level have lost eligibility through recommended use under medical oversight. It may be advisable for any school district policies that permit student-athletes to compete while testing positive for cannabinoids due to recommended medical use to include language in their policy putting students on notice of NCAA's total prohibition.

Employment & Human Resources

19. Can employers discriminate against a person in hiring, termination, or other employment matters?

No. State Question 788 provides:

Unless a failure to do so would cause an employer to imminently lose a monetary or licensing related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, terminating or imposing any term or condition of employment or otherwise penalize a person based upon the person's status as a medical marijuana license holder. See State Question 788.

20. What if an employee exhibits reasonable suspicion of being under the influence of drugs in the workplace? Can an employer take action then?

Yes. State Question 788 further provides:

Employers may take action against a holder of a medical marijuana license if the holder uses or possesses marijuana while in the holder's place of employment or during the hours of employment. Employers may not take action against the holder of a medical marijuana license solely based upon the status of an employee as a medical marijuana license holder or the results of a drug test showing positive for marijuana or its components.

School districts may adopt policies prohibiting any and all employees – medical marijuana license holder or otherwise – from using, possessing or being under the influence of marijuana while on school district property or while performing duties for the district. Further, districts may adopt policies for medical marijuana similar to those that may already be in existence prohibiting an individual from being under the influence of alcohol or a controlled dangerous substance as defined in 63 O.S. § 2-101. To the extent an employer implements a drug-testing program of potential and/or current employees, school districts are encouraged to adopt a policy prohibiting the

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taking of any action against such applicant or employee based on their status as a medical marijuana license holder. Should an individual test positive for cannabinoids, districts should allow the individual an opportunity to provide evidence of a current and valid medical marijuana license.

21. How, if at all, might State Question 788 impact school district decisions relating to employment of bus drivers?

An individual must possess a Commercial Driver License (“CDL”) in order to legally drive and operate a school bus. CDL holders are regulated by state and federal law. While medical marijuana has been legalized in Oklahoma, federal law does not make an exception for possession or use of medicinal marijuana by an individual with a CDL. In fact, CDL holders are prohibited from failing a drug and alcohol test due to the fact they are in a “safety-sensitive” position. The U.S. Department of Transportation’s drug and alcohol testing regulations do not authorize medical marijuana use under a state law to be a valid medical explanation for a transportation employee’s positive drug test result. Further, while Oklahoma employers may not make adverse hiring decisions based solely on an individual’s status as a medical marijuana license holder, an employer may make a hiring decision based on the fact that an applicant is not qualified for a certain position (i.e., school bus drivers must possess a valid CDL and provide a negative drug screening in order to be qualified). Finally, bus drivers and bus maintenance employees who are required to have a CDL could be subject to random drug testing.

22. How will SQ 788 affect drug testing employees, including bus drivers?

Random drug testing of a school employee, other than those in a “safety-sensitive” position, has been held to be unconstitutional by several courts. However, for those in a “safety-sensitive” position, such as a bus driver, bus maintenance employee or one required to have a CDL, that employee may be subject to random testing.

Cannabidiol (CBD)

23. Is cannabidiol (CBD) the same thing as medical marijuana?

No. Cannabidiol or “CBD” is a derivative of the cannabis plant that also has therapeutic uses, but is not included in Oklahoma’s state definition of “marijuana.” It is therefore not subject to the same restrictions as medical marijuana. By definition, CBD can contain only up to a trace amount of tetrahydrocannabinol (THC), the main psychoactive component of marijuana, so CBD products have no psychoactive effects. This is Oklahoma’s statutory definition for cannabidiol:

“‘Cannabidiol’ means a nonpsychoactive cannabinoid found in the plant *Cannabis sativa* L. or any other preparation thereof, that has a tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid” (63 O.S. § 2-801(3)).

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Under state law, only specific uses are authorized for CBD with a detectable THC content (though it must always be below 0.03%). CBD that contains no detectable THC content, however, is commonly sold and used in Oklahoma with few restrictions. In general, the cannabidiol products sold in Oklahoma’s “CBD shops” do not contain detectable THC.

Under federal law, cannabidiol does not have a separate status from other marijuana derivatives, and so is still classified as a Schedule I controlled substance – even when it contains no THC. While legalization of CBD at the federal level has been discussed as a likely possibility, at this time it is still only explicitly legal at the state level under the conditions of state law.

24. Can school districts have different policies for CBD and medical marijuana?

Yes, but separate policies are not necessary. While students may not be restricted from enrolling in or attending public school due to their use of either category of cannabis-derived treatments, because they are classified differently under Oklahoma law, it is permissible for school districts to have different policies addressing CBD and medical marijuana. It is, however, not required for a school district to have a different policy governing CBD, and a district may adopt one policy that applies to both medical marijuana and CBD as long as the policy appropriately protects a student’s access to both school district services and recommended medical treatments.

25. Could CBD products be included in a school district’s general policy on the storage and administration of prescription and non-prescription drugs?

This determination must be made by a school district. There are no provisions of state law that would either require a school district to treat CBD as equivalent to other non-prescription medications, nor prohibit a district from doing so. For CBD, which is not classified as “marijuana” in Oklahoma, this appears to be a local decision. School districts should be aware that cannabidiol has not yet been clearly excluded from the Controlled Substances Act at the federal level, although drug enforcement action involving CBD is unlikely, and clarification of its status is expected to occur in the coming years.

If a school district chooses to consider CBD a non-prescription medication parents/legal guardians may authorize a school to store and administer, the requirements of 70 O.S. § 1-116.2 would apply in addition to any specific policies adopted by the district. Because of the uncertain federal status of cannabidiol, a school district should not compel a school nurse to administer CBD if the school nurse is not comfortable administering it. In such a case, a district that chooses to consider cannabidiol a non-prescription medication should ensure that a parent/guardian’s written authorization for the school to administer CBD gives explicit permission to an administrator or a non-nurse school

designee to administer the student’s CBD dosage. All directions for use must be included in the parent/guardian’s written authorization.

If a school district does not choose to consider CBD a non-prescription medication subject to 70 O.S. § 1-116.2 and associated policies, and does not adopt a specific policy addressing how students may access their CBD treatments, then students who are treated using cannabidiol should be permitted to access their CBD treatments in the same manner as the district provides for access to medical marijuana treatments for qualifying students.

If you have additional questions, please contact OSDE's Office of Legal Services at (405) 521-4906.”

<https://sde.ok.gov/newsblog/2018-09-10/faqs-medical-marijuana>

Maine

Kittery School District / Kittery School Committee for Kittery School

(Kittery, MA)

Current Rules used by a School District in Maine:

“CODE: JLCDA

ADMINISTERING MEDICAL MARIJUANA IN SCHOOLS

The Kittery School Committee recognizes that there may be some students in the Kittery School District who rely on the use of medical marijuana to manage a medical condition and who may be unable to effectively function at school without it.

A. ADMINISTRATION OF MEDICAL MARIJUANA

The Maine Medical Use of Marijuana Act governs administration of medical marijuana in schools in Maine. The Department of Administration and Financial Services (“DAFS”) is the regulatory agency charged with implementing the Maine Medical Use of Marijuana Act. The Maine Medical Use of Marijuana Program, located within DAFS, is charged with the Administrative duties associated with implementation, such as issuance of registration cards. The following procedure must be followed for the administration of medical marijuana to students at school.

1. The student’s parent/legal guardian/legal custodian shall obtain a copy of the Kittery School District’s Request to Administer Medical Marijuana in School Form and School Committee Policy JLCD from the school nurse.
2. The parent/legal guardian/legal custodian and the student’s authorized medical provider (physician, certified nurse practitioner or physician assistant) shall complete and sign the Request Form, and attach a copy of the student’s current written certification for the use of medical marijuana. The original certification must be shown to the school employee processing the request. A copy will be retained by the school.

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3. The parent/legal guardian/legal custodian must designate the caregiver who will administer medical marijuana to the student in school (including for students over the age of 18). The designated caregiver must be registered with the Maine Medical Marijuana Program. The original registry identification card and caregiver designation form must be shown to the school employee processing the request. Copies will be retained by the school.
4. If the designated caregiver is not a parent/legal guardian/legal custodian of the student, the designated caregiver must also submit verification that he/she is authorized by the State to administer marijuana to the student on school grounds.
5. Arrangements will be made between the school administration and the designated caregiver to schedule the administration of medical marijuana in a manner that will minimize disruption to school operations and the student's educational program, and that will not impact other students or employees. The designated caregiver must comply with all School Committee policies and school rules while on school premises to administer medical marijuana to a student.
6. Medical marijuana must be brought to school by the caregiver, and may not be held, possessed or administered by anyone other than the caregiver. The student may only possess the medical marijuana during the actual administration process. Medical marijuana administered in school must be in nonsmokeable form (vaporizers are not permitted).
7. The designated caregiver must check-in at the school office upon arrival for the administration of medical marijuana. Medical marijuana may only be administered in a private, designated area and must be observed by a school designee.
8. The designated caregiver must check-out at the school office following administration of the medical marijuana and transport any remaining medical marijuana with him/her off school premises.

A student who holds written certification for the medical use of marijuana may not be excluded (suspended or expelled) from school because he/she requires medical marijuana to attend school.

Cross Reference: JLCD - Administration of Medication to Students

JLCDA-E - Administering Medical Marijuana in Schools Form

Legal Reference: Maine 2015 P.L. Ch. 369

Adopted: March 15, 2016

Revised: March 19, 2019

CODE: JLCDA-E ([ADMINISTERING MEDICAL MARIJUANA IN SCHOOLS FORM](#))”

Law passed in Maine:

http://lldc.mainelegislature.org/Open/Laws/2015/2015_PL_c369.pdf

Illinois

Illinois State Board of Education

<https://www.isbe.net/Pages/School-Health-Issues.aspx>

“ Use of Medicinal Marijuana

[Public Act 98-0122](#), an amendment to the Compassionate Use of Medical Cannabis Pilot Program Act, allows a student to use medicinal cannabis under certain conditions. For more information, go to the [Illinois Department of Public Health](#).

[<http://dph.illinois.gov/topics-services/prevention-wellness/medical-cannabis/minorqualifyingpatients>]

Ashley’s Law – Ensuring Access to Medical Cannabis for Registered Patients Under Age 18

Effective August 1, 2018, Public Act 100-0660, also known as Ashley’s Law, amends the School Code to allow students registered with the Illinois Medical Cannabis Pilot Program access to medical cannabis-infused products at school or on the school bus. A parent or guardian with a designated caregiver registry identification card issued by IDPH may administer the product to the student. After the student is given the medical cannabis-infused product, it must be removed from the school premises or school bus. Registered qualifying patients under age 18 cannot smoke or vape medical cannabis. Medical cannabis-infused products include oils, ointments, foods, and other products that contain usable cannabis but are not smoked or vaped.

Only students who are registered qualifying patients under the Compassionate Use of Medical Cannabis Pilot Program are eligible to use these products, and both the student and the designated caregiver must have a registry identification card. Minors are eligible to register with the program if a physician has diagnosed them with a qualifying debilitating medical condition. A medical cannabis registered patient under age 18 is

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required to have a designated caregiver; usually a parent or guardian. The designated caregiver must be at least 21 years old and meet other requirements under the law:

A parent or guardian or other individual may not administer a medical cannabis infused product under this Section in a manner that, in the opinion of the school district or school, would create a disruption to the school's educational environment or would cause exposure of the product to other students.

A school district or school may not discipline a student who is administered a medical cannabis infused product by a parent or guardian or other individual under this Section and may not deny the student's eligibility to attend school solely because the student requires the administration of the product.

A school district, public school, charter school, or nonpublic school may not authorize the use of a medical cannabis infused product under this Section if the school district or school would lose federal funding as a result of having such a policy.

A school district, public school, charter school, or nonpublic school shall adopt a policy to implement these requirements.”

<http://dph.illinois.gov/topics-services/prevention-wellness/medical-cannabis/minorqualifyingpatients>

New Jersey

New Jersey Department of Children and Families Policy Manual

[https://www.state.nj.us/dcf/policy_manuals/OOE-I-A-1-57_issuance.shtml]

“A. OBJECTIVE

To provide Department of Children and Families (DCF) Regional Schools with a policy and procedures for implementing P.L. 2015 c. 158, which supplements the New Jersey Compassionate Use Medical Marijuana Act.

B. STANDARDS

The use of medical marijuana shall be permitted on school grounds, on a school bus, on a field trip and at a school-sponsored function to authorized students enrolled in Department of Children and Families (DCF) Regional Schools.

A parent, guardian or primary caregiver as defined in this policy, shall be the only individuals who may administer medical marijuana to his/her child.

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16

A student who is 18 years of age or older may self-administer medical marijuana according to the conditions of this policy.

Medical marijuana shall be in a nonsmokable and non-inhalation form for students.

C. DEFINITIONS

Authorized student: means a student who is a qualifying patient for medical marijuana in a nonsmokable, non-inhalation form, issued by his/her primary care physician.

Bona fide physician-patient relationship: means a relationship in which the physician has ongoing responsibility for the assessment, care and treatment of a patient's debilitating medical condition.

Certification: means a statement signed by a physician with whom a qualifying patient has a bona fide physician-patient relationship, which attests to the physician's authorization for the patient to apply for registration for the medical use of marijuana.

Medical use of marijuana: means the acquisition, possession, transport, or use of marijuana or paraphernalia by a registered qualifying patient as authorized by the New Jersey Compassionate Use Medical Marijuana Act, except that for school students, the marijuana shall be in a nonsmokable, non-inhalation form.

Physician: means a person licensed to practice medicine and surgery pursuant to Title 45 of the Revised Statutes with whom the patient has a bona fide physician-patient relationship and who is the primary care physician, hospice physician, or physician responsible for the ongoing treatment of a patient's debilitating medical condition, provided, however, that such ongoing treatment shall not be limited to the provision of authorization for a patient to use medical marijuana or consultation solely for that purpose.

Primary caregiver: means a resident of the State who:

- a. is at least 18 years old;
- b. has agreed to assist with a registered qualifying patient's medical use of marijuana, is not currently serving as primary caregiver for another qualifying patient, and is not the qualifying patient's physician;
- c. has never been convicted of possession or sale of a controlled dangerous substance, unless such conviction occurred after the effective date of this act and was for a

violation of federal law related to possession or sale of marijuana that is authorized under this act;

d. has registered with the New Jersey Department of Health pursuant to section four of the New Jersey Compassionate Use Medical Marijuana Act, and has satisfied the criminal history record background check requirement of section four of that act; and

e. has been designated as primary caregiver on the qualifying patient's application or renewal for a registry identification card or in other written notification to the New Jersey Department of Health.

Qualifying patient: means a resident of the State who has been provided with a certification by a physician pursuant to a bona fide physician-patient relationship.

Registry Identification Card: means a document issued by the New Jersey Department of Health that identifies a person as a registered qualifying patient or primary caregiver.

D. PROCEDURES

1. Establishing the status of a student as an “authorized student”:

a. The student shall be a qualifying patient for medical marijuana in a nonsmokable, non-inhalation form, issued by his/her primary care physician, pursuant to a bona fide physician-patient relationship.

b. The student's parent/guardian shall provide to the Regional School's nurse and Education Supervisor (ES) a copy of the certification statement for both the student and herself/himself or other authorized primary caregiver as a person authorized to administer the medication. The certifications shall have been signed by the student's physician. The nurse shall retain the copies of the certifications in the student's medical record. A student who is 18 years of age or older may also provide the certification statement when he/she has been issued this.

c. The parent/guardian shall present the Registry Identification Cards for the student and the parent, guardian, other authorized primary caregiver to the school's nurse. The nurse shall make a photocopy of the Cards and retain them in the student's medical record. A student who is 18 years of age or older may also provide the Registry Identification Card when he/she has been issued this.

d. The parent/guardian shall provide a copy of the prescription for the medical marijuana to the school's nurse since the dispensing agent is required to retain the

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original prescription. The nurse shall retain a copy of the current prescription in the student's medical record. A student who is 18 years of age or older may also provide the prescription when he/she has been issued this.

e. The nurse shall verify the registration status of the student and the parent/guardian/primary caregiver by visually checking the dates listed on the student and the parent/guardian/primary caregiver's Registry Identification Card.

f. The nurse shall verify the registration status and ongoing authorization of the student and parent, guardian and authorized primary caregiver to ensure the Registry Identification Cards, certifications and prescriptions are current and valid by conferring with the physician's office and the New Jersey Department of Health, as necessary.

2. Administering medical marijuana to an authorized student in school, on a school bus, on a field trip or at a school-sponsored function:

a. The student's parent, guardian, or authorized primary caregiver or a student who is 18 years of age or older shall administer the medical marijuana in the nurse's office if the medication is given at a time when the student is in the school building. The parent, guardian or authorized primary caregiver shall sign a log book maintained by the nurse, for each visit to the school building.

b. Prior to the parent, guardian or authorized caregiver or a student who is 18 years of age or older administering any dose of medical marijuana, the school's nurse shall review all Administration of Medication/Treatment Record information and any "Record of Medical Marijuana Administered in Locations Outside of the Regional School Building" (Attachment 1) to ensure the dosage(s) being given is within the guidelines of the physician's orders.

c. The school's nurse shall witness the administration of the medical marijuana and note that the parent or student who is 18 years of age or older administered the medication and write this remark within the Administration of Medication/Treatment Record.

d. If the medical marijuana is given by the parent, guardian, or authorized primary caregiver or a student who is 18 years of age or older in a location other than the Regional School building, the following procedures shall be implemented.

- i. On a school bus, the parent, guardian, or authorized primary caregiver or a student who is 18 years of age or older shall discreetly give the prescribed dose while the bus is stopped/parked. A regional school staff member shall witness the medication being given. The date, time and other designated information shall be recorded on the “Record of Medical Marijuana Administered in Locations Outside of the Regional School Building” (Attachment 1) by the staff member.
 - ii. On a field trip, the parent, guardian, or authorized primary caregiver or a student who is 18 years of age or older shall discreetly give the prescribed dose in an area that is outside of the view of other students but within the view of a regional school staff member who shall witness the medication being given. The date, time and other designated information shall be recorded by the staff member on Attachment 1.
 - iii. At a school-sponsored function, the parent, guardian, or authorized primary caregiver or a student who is 18 years of age or older shall discreetly give the prescribed dose in an area outside of the view of other students but within the view of a regional school staff member who shall witness the medication being given. The date, time and other designated information shall be recorded by the staff member on Attachment 1.
 - iv. The Regional School staff member who witnesses the administration of the medication in locations outside of the school building shall provide the school’s nurse with the written record Attachment 1 as soon as practically possible. The nurse shall retain this copy in the section of the Administration of Medication/Treatment Record in the student’s health record.
3. The designation of a DCF Regional School nurse or any other employee, contracted person, volunteer or intern as a primary caregiver for administering medical marijuana is expressly prohibited.
 4. The school’s nurse shall routinely inform the ES of the ongoing status of any student who is authorized for the use of medical marijuana.
 5. The parent/guardian of a student who is an authorized student with a valid prescription for medical marijuana shall be provided with a copy of this policy.
 6. A student who is 18 years of age or older who is an authorized student with a valid prescription for medical marijuana shall be provided with a copy of this policy.

_____/s/_____

Kelley Michalowski
Director

Attachment For Field Trips and School Functions of Campus: [A-1 Record of Medical Marijuana Administered in Locations Outside of the Regional School Building](#)”

Printable PDF of the New Jersey Issuance:

https://www.state.nj.us/dcf/policy_manuals/OOE-I-A-1-57.pdf

Pennsylvania

Pennsylvania Department of Health

Guidance for Schools and School Districts

The Pennsylvania Departments of Health and Education support the administration of medical marijuana under a [Safe Harbor Letter](#) to students with serious medical conditions and the maintenance of a safe environment for other students while on school property. The below guidance provides information to school administrators to assist them in developing policies for the administration of medical marijuana on school property.

Recommended Guidance: A parent, legal guardian or caregiver may administer medical marijuana to their child/student on school premises provided that the parent, legal guardian or caregiver: (1) provides the school principal with a copy of the Safe Harbor Letter; and (2) notifies the school principal, in advance, of each instance in which the parent or caregiver will administer the medical marijuana to the child/student. The school principal shall provide notification to the school nurse in each instance a parent or caregiver will be administering medical marijuana to the child/student as well. The parent/caregiver shall follow all school protocols applicable to visitors to the school during the school day. A parent, legal guardian or caregiver shall bring to the school and administer the medical marijuana to their child/student without creating a distraction, and shall promptly remove any excess medical marijuana and related materials from the school premises after the administration of medical marijuana is complete. The school shall provide a secure and private location for the parent/legal guardian/caregiver to administer the medical marijuana to the student. Students themselves shall not be permitted to possess any form of medical marijuana at any time on school property or during any school activities on school property.

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Expiration: The recommended guidance will remain in effect until the Pennsylvania Department of Education promulgates regulations regarding the possession and use of medical marijuana in the commonwealth's schools.

<https://www.health.pa.gov/topics/programs/Medical%20Marijuana/Pages/School.aspx>

Florida

Broward County Public Schools Policy (6th Largest Public School System in the US)

Medical Marijuana/Low THC Cannabis Use To Qualified Students In Schools
Policy 6305.1 (23 Page Slide Presentation)

[http://bcpsagenda.browardschools.com/agenda/01518/Item%201C%20\(47386\)/SUPP_DOCS/Exhibits/Doc1.pdf](http://bcpsagenda.browardschools.com/agenda/01518/Item%201C%20(47386)/SUPP_DOCS/Exhibits/Doc1.pdf)

Policy Resources (<https://www.safeaccessnow.org/staff>)

David Mangone Esq., Director of Government Affairs | Legislative Counsel

email: david@safeaccessnow.org phone: (202) 857-4272 x. 5

David Mangone brings both congressional and professional legal experience to his role at Americans for Safe Access. Having served as a Legislative Fellow on Capitol Hill and as an attorney in both South Carolina and D.C., he has appreciation for the conflict of federal and state laws that patients struggle with every day. Focusing on statutory interpretation and Congressional advocacy, David believes the best way to help patients in need of treatment is engage lawmakers and encourage robust regulatory change.

Sean Khalepari, Regulatory Affairs Coordinator

email: sean@safeaccessnow.org phone: (202) 857-4272 x. 2

Sean Khalepari is a strategic thinker and problem solver with experience in public health and a deep appreciation of the therapeutic value of medical cannabis. He began his career at an international non-governmental organization where he became integral

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to the success of NIH- and CDC-funded health campaigns. He then worked under contract to the U.S. Department of State, where he assisted with the development of a unit within the Office of the U.S. Global AIDS Coordinator and Health Diplomacy (OGAC) to advocate for vulnerable populations and improve OGAC's relationships with, and responsiveness to, civil society organizations. Sean brings program oversight and reporting experience, leadership skills, cannabis expertise, and a keen eye for detail to the team.

Sean received his master's degree in International Law and the Settlement of Disputes from the United Nations-mandated University for Peace and his bachelor's degree in International Development Studies from McGill University.

Americans For Safe Access: <https://www.safeaccessnow.org/>

[EXT] Medical Cannabis Rule

Cathy McDonald <cmcdonald@fms.k12.nm.us>

Fri 7/26/2019 11:15 AM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

Cc:Schmidt, Eugene <eschmidt@fms.k12.nm.us>; ckulidge@fms.k12.nm.us <ckulidge@fms.k12.nm.us>; Valdez, Phil <pvaldez@fms.k12.nm.us>; cdiehl@fms.k12.nm.us <cdiehl@fms.k12.nm.us>; nlambson@fms.k12.nm.us <nlambson@fms.k12.nm.us>;

 1 attachment

Medical cannabis rule.pdf;

Greetings:

Please find my public comment on The Medical Cannabis Rule in Schools.

Thank you for your consideration in this matter.

Cathy McDonald BSN, RN
Farmington Municipal Schools

This is a staff email account managed by Farmington Municipal Schools. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the sender.

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Greetings:

My name is Cathy McDonald, and I am the Nursing/Health Services Coordinator for Farmington Municipal Schools. Our district's priority is to ensure the health and safety of our staff and students. This includes the administration of medications that are beneficial to student educational success. On behalf of our school nurses, I would like to outline our concerns regarding the administration of medical cannabis in our schools:

- 1) Medical cannabis has been classified as a Schedule 1 , non-FDA approved substance/medication. Licensed school nurses cannot administer any medication that is not prescribed by a licensed medical provider. Medical cannabis cannot be prescribed by medical providers. Nurses cannot delegate the administration, nor train personnel in the administration of medications that are not FDA regulated.
- 2) Administration of medical cannabis is in violation of the NM Nurse Practice Act. The NM Board of Nursing has remained silent on the Rule, and has made no revision to the Nursing law.
- 3) School nurse's licenses and livelihood would be in jeopardy should we participate in this Rule as it is written.
- 4) The American Psychological Association has researched and published concerns about the long-term effects on the developing brain.
- 5) The new Rule needs to align with the law. Currently the Rule exceeds the law as it was written in SB 204 and SB 406. Parents no longer have the right to administer their child's medical cannabis at school. School districts are required to assign personnel to administer the medication.

Our school nurses support the use of medical cannabis as long as the law is defined clearly, parental involvement is allowed in administration, and nurses are not required to violate the laws that govern their practice

Respectfully submitted,
Cathy McDonald BSN, RN
Farmington Municipal Schools.

[EXT] Santa Fe Public Schools comments for proposed rule, Title 6, Chapter 12, Part 10 Medical Cannabis in Schools

JOSHUA GRANATA <jgranata@sfps.k12.nm.us>

Fri 7/26/2019 12:06 PM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

 1 attachment

Comments for proposed new rule signed.pdf;

To whom it may concern:

Attached are the comments from SFPS regarding the proposed new rule regarding medical cannabis in schools. Thank you.

Best regards,

--

Joshua R. Granata
General Counsel
Santa Fe Public School District
610 Alta Vista Street
Santa Fe, NM 87505
(505) 467-2051

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July 26, 2019

Policy Division
New Mexico Public Education Department
300 Don Gaspar Avenue, Room 101
Santa Fe, New Mexico 87501

Re: Comments for proposed new rule, Title 6, Chapter 12, Part 10, NMAC, Medical Cannabis in Schools

Submitted via email

Madame Interim Secretary Designate,

Below are the comments submitted on behalf of the Santa Fe Public Schools for the proposed rule Title 6, Chapter 12, Part 10, NMAC, Medical Cannabis in Schools:

1. Complying with the proposed rule will result in violating federal law.

Under the federal Controlled Substances Act, cannabis (or marijuana) is defined as a schedule I drug and the possession or use of it is prohibited. Thus, lawful possession or use of cannabis under New Mexico law is still prohibited under federal law.

2. Complying with the proposed rule will expose school nurses to criminal and civil liability.

Assuming that a school nurse is a “designated school personnel,” as defined under the proposed rule, compliance with the proposed rule could expose the nurse to professional licensure discipline under New Mexico law. Nurses licensed under the Nurse Practice Act can be disciplined for not following federal laws regarding “the prescription and distribution of dangerous drugs including controlled substances.” NMAC 16.12.1.9 C(2)(p). Therefore, nurses who store or administer medical cannabis lawfully under New Mexico law are violating federal law which could lead to suspension or revocation of their license to practice as a nurse. *See* NMSA 1978, § 61-3-28 (June 16, 2017).

3. The proposed rule conflicts with the Lynn and Erin Compassionate Use Act.

While the proposed rule allows for a “designated school personnel” to administer medical cannabis, the Lynn

and Erin Compassionate Use Act does not appear to allow for a “designated school personnel” to be exempt from criminal or civil liability for administering medical cannabis. *See e.g.* NMSA 1978, § 26-2B-4 (A) (expressly exempting a qualified patient and a qualified patient’s primary caregiver from criminal prosecution).

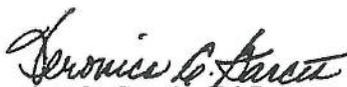
4. The proposed rule narrows the ability of school district to be exempt to only one circumstance contrary to the intent of the law.

The Public School Code allows for a school district to be exempt from the provisions related to medical cannabis if the school district “reasonably determines that it would lose, or has lost, federal funding as a result of implementing the [legislation].” The proposed rule, however, requires a school district to seek an exemption through PED under very limited circumstances—only if the school district “receives written communication from the federal government that implementation would result in federal education funding being withdrawn.”

5. The proposed rule distorts the appeals process for a District’s determination that it is exempt from implementing the law.

The Public School Code provides that the determination made by the school district (that it would or could lose federal funding for implementing the legislation) is appealable to the PED secretary, but the proposed rule seems to require PED approval of the determination made by the District prior to receiving an exemption from PED. The Public Code does not require PED approval for an exemption, but only allows for the determination to be appealable to the PED Secretary.

Sincerely,



Veronica C. Garcia, Ed.D.
Superintendent of Schools

cc: Kate I. Noble, Board President
Lorraine Price, Vice President
Rudy N. Garcia, Secretary
Steven J. Carrillo, Member
Maureen Cashmon, Member
Joshua R. Granata, General Counsel
Sue O’Brian, Director of Student Wellness
Anita Hett, Nurse Supervisor

[EXT] Comments on rule 6.12.10 NMAC, Medical Cannabis In Schools

Marissa Novel <marissa@ultrahealth.com>

Fri 7/26/2019 1:15 PM

To:FeedBack, Rule, PED <Rule.FeedBack@state.nm.us>;

Cc:Duke Rodriguez <duke@ultrahealth.com>; Kylie Safa <kylie@ultrahealth.com>;

 1 attachment

CannabisinSchoolsUHComments.pdf;

Please see the attached written comments regarding 6.12.10 NMAC, Medical Cannabis In Schools.

--

Marissa Novel

Chief Marketing Officer

16624 N 90th Street

Suite 200

Scottsdale, AZ 85260

phone [480.404.6699](tel:480.404.6699)



Ultra Health[®]

Ultra Health
Marissa Novel
16624 N 90th St, Suite 200,
Scottsdale, AZ 85260

July 26, 2019

Policy Division, Public Education Department
300 Don Gaspar Ave.,
Santa Fe, NM 87501

Re: Written comments on 6.12.10 NMAC, Medical Cannabis In Schools:

When the Legislature amended the Lynn and Erin Compassionate Use Act in the last Legislative session, lawmakers also amended the Public School Code for medical cannabis to be administered to qualified patients on school grounds. Under current state law, the administration of medical cannabis to qualified patients who are schoolchildren should be treated with the same protocol as any other medication nurses or parents administer to their children on school grounds.

Lawmakers explicitly included an update to the Family Services Act that equates the use of medical cannabis as the equivalent of any other medical care. "For the purposes of medical care, including an organ transplant, **a qualified patient's use of cannabis pursuant to the Lynn and Erin Compassionate Use Act shall be considered the equivalent of the use of any other medication under the direction of a physician and shall not be considered to constitute the use of an illicit substance or otherwise disqualify a qualified patient from medical care,**" [Emphasis added] the Act states.

Therefore, school children who are qualified to use medical cannabis under the Lynn and Erin Compassionate Use Act should receive the same rights and privileges as school children who suffer from any other condition which requires the continuity of care during school hours in the form of the administration of medication. Medical cannabis products come in discreet forms such as tablets, oils, and pastilles, and can be administered to children in the same way as any other medication. Although some nurses may feel their licenses are in jeopardy by administering medical cannabis, they are not violating any state law by providing medical cannabis care to children during school hours. Keep in mind, nursing licenses are issued by the State of New Mexico and conduct under such licenses are subject to New Mexico laws.

Nursing licenses are in no way in jeopardy for administering medical cannabis. In fact, nurses and school personnel have the most protection, besides that of the qualified student and their primary caregiver, to possess and administer medical cannabis on school grounds. These

state law protections will not cause nurses to be violating any multi-state nursing compacts, either. The administration of medical cannabis on school grounds can only occur in the state of New Mexico and is an activity supported by the Public School Code, the Lynn and Erin Compassionate Use Act, and the Family Services Act.

In addition, parents/guardians should have the right to administer medical cannabis to qualified students on school grounds. The law does not state parents cannot administer medical cannabis. Parents and guardians are the people who understand their child's condition most. They see how their child responds to the symptoms of their debilitating condition, and therefore how medical cannabis helps their child lead a normal life. Because parents and guardians have spent the most time observing their child and what medicine their child needs, they should also be allowed to train and inform school personnel on how to administer medical cannabis in the ways their child receives adequate relief.

Finally, there is no tangible threat of federal intervention for the administration on school grounds. The federal Rohrabacher-Farr amendment bars the Department of Justice from using any federal funds to prevent medical cannabis use in New Mexico and other states. The specific section 538 states: "SEC. 538. None of the funds made available in this Act to the Department of Justice may be used, with respect to the State of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Indiana, Iowa Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, or with respect to the District of Columbia, Guam, or Puerto Rico, to prevent any of them from implementing their own laws that authorize the use, distribution, possession, or cultivation of medical marijuana." Several other states have implemented their own laws for the administration of medical cannabis to students on school grounds and have not incurred any threat from the federal government for the withdrawal of funding nor any other threat. These include New Mexico, New Jersey, Maine, Washington Colorado, Pennsylvania, Florida, Illinois, Virginia, and Oklahoma City School District.

For this reason, schools should be proactive and opt-in to medical cannabis care to allow their students to lead healthy, normal lives, like all other children who receive medical care while in school. There is no threat of federal intervention. There is no threat of nurses losing their licensing. Medical cannabis care has been deemed the equivalent of any other medical care by statute in the State of New Mexico and should be treated as such.

1 "MEDICAL CANNABIS PROGRAM--REMOVAL OF CHILDREN--FAMILY
2 SERVICES INTERVENTION--SCHOOL ENROLLMENT--MEDICAL CARE.--

3 A. An individual's participation in the state's
4 medical cannabis program established pursuant to the Lynn and
5 Erin Compassionate Use Act shall not in itself constitute
6 grounds for:

7 (1) intervention, removal or placement into
8 state custody of a child in that individual's care pursuant
9 to the Abuse and Neglect Act; or

10 (2) the provision of state prevention,
11 diversion or intervention services to that individual's
12 family pursuant to the Family Services Act.

13 B. A person shall not be denied custody of or
14 visitation or parenting time with a child, and there is no
15 presumption of neglect or child endangerment, for conduct
16 allowed under the Lynn and Erin Compassionate Use Act.

17 C. A school shall not refuse to enroll or
18 otherwise penalize a person solely for conduct allowed
19 pursuant to the Lynn and Erin Compassionate Use Act, unless
20 failing to do so would cause the school to lose a monetary or
21 licensing-related benefit under federal law or regulation.

22 D. For the purposes of medical care, including an
23 organ transplant, a qualified patient's use of cannabis
24 pursuant to the Lynn and Erin Compassionate Use Act shall be
25 considered the equivalent of the use of any other medication

1 under the direction of a physician and shall not be
2 considered to constitute the use of an illicit substance or
3 otherwise disqualify a qualified patient from medical care."

4 SECTION 15. TEMPORARY PROVISION--LICENSED PRODUCERS.--

5 A licensed producer, as defined in the Lynn and Erin
6 Compassionate Use Act prior to the enactment of this 2019 act,
7 that is licensed as of the effective date of this 2019 act
8 shall be considered to be a cannabis producer, as defined by
9 this 2019 act.

SPAC/SB 406
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ESTANCIA MUNICIPAL SCHOOLS

P.O. Box 68 / Estancia, NM 87016



NM

LEA 80

Cindy L. Sims, PhD
Superintendent

Phone (505) 384-2006
Fax (505)384-2015

Mr. John Sena
New Mexico Public Education Department
Policy Division
300 Don Gaspar Ave.
Santa Fe, NM 87501
Submitted via Email: rule.feedback@state.nm.us

Dear Mr. Sena:

Thank you for allowing feedback on proposed rule change, 6.12. 10 NMAC, Medical Cannabis in Schools, from the New Mexico Public Education Department. The Estancia Municipal School District strives to ensure a safe and healthy environment for students and all our staff. The District is concerned that the possession, storage, and administration of cannabis remains illegal under federal law, and the Rule proposed by PED places burdens on school districts that exceed those imposed by Senate Bills 204 and 406. These increased burdens will increase the potential liability for district employees and are likely to result in an increase in litigation.

There are four primary areas of concern: conflict with federal laws; administration and storage by school personnel; dosing and written treatment plans; and possession/administration off-school grounds.

Conflict with Federal Laws

With the exception of Epidiolex, Medical Cannabis and cannabis products remain illegal under the Controlled Substance Act. Violation of the CSA could result in criminal prosecution. Estancia Municipal Schools does not feel that it is in a position to ask school personnel to violate federal law.

Loss of funding is also a concern. As you are aware, the federal Drug-Free Workplace Act prohibits any entity from receiving grants from federal agencies if they do not provide a drug-free workplace. 41 U.S.C. § 8103(a)(1). The Drug-Free Workplace Act specifically applies to a "recipient of an assistance award from the Department of Education." 34 C.F.R. § 84.105. Violators of the Act can have their payments suspended, and their award can be suspended or terminated. 34 C.F.R. § 84.510. The Rohrabacher-Farr Amendment, an appropriations rider tacked onto a federal spending bill in December 2014 prevented the DOJ from using funds to prosecute individuals in states that have implemented their own medical

Estancia Municipal Schools Board of Education:
Randol Riley – President, Elaine Darnell – Vice President, Lee Widner – Secretary,
Kendra Otis – Member, Ken Lujan - Member
"Good Schools Make Fine Communities Better"

marijuana laws. However, the Ninth Circuit ruled on the application of the Amendment, holding that individuals who are not in compliance with state law regarding the use, distribution, possession, and cultivation of marijuana are subject to federal prosecution with the use of federal funds. *United States v. McIntosh*, 833 F.3d 1163 (9th Cir. 2016). Additionally, in a January 4, 2018 memo, Attorney General Jeff Sessions rescinded the prior guidance that directed the DOJ to prioritize the enforcement of certain marijuana laws over others. For these reasons, it is critical that the Rule adopted by PED be narrowly tailored so that it does not exceed the rights, duties and protections provided by SB 204 and 406.

SB 204 and 406 provide that the requirements under those bills “do not apply” if the district “reasonably determines that it would lose, or has lost, federal funding as a result of implementing the provisions” thereof. The proposed Rule requires a district to seek an exemption before it is relieved from the requirements of the law and restricts the ability to gain an exemption to circumstances in which the district has already received “written communication from the federal government that implementation would result in federal education funding being withheld or withdrawn”. Thus, the proposed Rule is more restrictive than either SB 204 or 406 and subjects school districts to increased risk of the loss of federal funding.

Administration and Storage by School Personnel

With the exception of cannabis, school districts are not required to store (or allow for the storage or possession of) any medication or other health product that has not been approved by the Food and Drug Administration. Estancia Municipal Schools, like many other districts across New Mexico, does allow for the storage and administration of prescription and over-the-counter medications approved by the FDA. District policy does not allow for the storage or administration of any non-FDA approved medication or health product. To protect our students, as well as our school personnel, Board policy and regulation require that all medications be in their original container and be administered in compliance with a written prescription or according to the original product label (with parent authorization and a release). Medical providers do not “prescribe” cannabis (they can only “certify” or “recommend” its use), and there are no FDA or manufacturer-approved dosing levels. This creates concern among school personnel regarding whether they can safely administer cannabis. Licensed employees are also concerned about sanctions they may face as a result of possessing, storing and administering cannabis. Estancia MS is also concerned that the proposed Rule does not require the cannabis be provided to districts in its original container with a product label that indicates the level of delta-9-tetrahydrocannabinol (THC) and cannabidiol (CBD) in the product and that matches the written Treatment Plan.

SB 204 and 406 provide districts with the *option* to adopt a Board policy that provides for the possession, storage and administration of cannabis by school personnel (see Section 1.A. SB 204, requiring a policy that permits administration by parents and legal guardians, “*or* by designated school personnel”). The proposed Rule appears to *require* Boards to adopt such a policy (“Each local school board....*shall* identify the school personnel who will serve as designated school personnel....”). Possession and administration of cannabis by school personnel would subject those individuals to possible civil and criminal penalties under both State and federal law. Although the proposed Rule attempts to remove State civil and criminal penalties, those penalties are not removed by SB 204 or 406. Additionally, neither bill permits the administration of cannabis by designated

school personnel. Legislative action is required to address those issues at the State level. Congressional action is required to remove penalties at the federal level. If school personnel refuse to administer medical cannabis, which is their right under both State and federal law, the requirement that districts designate school personnel to administer cannabis could leave many districts with a policy that cannot be implemented. If the school nurse and campus administrators decline to administer cannabis, for instance, would a district be required to designate other staff? Estancia MS suggests that districts should have discretion to not allow for the storage, possession, and administration by school personnel. In the alternative, Estancia MS requests that the Rule clarify the positions the district is required to designate.

The proposed Rule also requires storage in a locked container that is only accessible to school personnel. SB 204 and 406 would permit storage of cannabis in a locked container that is only accessible by the Primary Caregiver. This would reduce the exposure of school personnel and the District for possession of a substance that is illegal under federal law. Estancia MS suggests the Rule permit for the Primary Caregiver to have access to cannabis stored in a school setting.

Dosing and Written Treatment Plans

Although the proposed Rule does require the Primary Caregiver supply the district with a written treatment plan that includes the recommended dosage allotment (as well as the recommended frequency of administration of medical cannabis in a school setting), as noted above, there is no FDA approval of medical cannabis (and thus no approved dosage allotment). SB 204 and 406 provide that the written treatment plan must be “agreed to and signed by the principal or principal’s designee.” The proposed Rule is silent as to this requirement. Estancia MS suggests that the proposed Rule include this requirement and that the proposed Rule require the cannabis be provided to districts in its original container with a product label that indicates the level of THC and CBD in the product and that matches the written Treatment Plan.

Possession off-campus

SB 406 specifically provides that the Lynn and Erin Compassionate Use Act does not relieve the qualified patient or primary caregiver from “criminal prosecution or civil penalty for possession or use of cannabis...at a public park, recreation center, youth center, or other public place.” A qualified patient/student may be in one of those locations while on a school field trip or other school-sponsored activity. The proposed Rule does not address how storage, possession and administration of cannabis should be handled in those instances. Estancia MS suggests that the Rule provide clarification on this issue.

If you have any questions or concerns, please contact Dr. Sims at 505-384-2006.

Sincerely,



Randol Riley
Estancia Municipal Schools
Board President

PED Statement 7/26/19 - Marijuana and Public Schools

Thank you to PED for having us here to discuss Marijuana and Public Schools. My name is Shanon Jaramillo, I am the CEO and Founder of Cannabis NM Staffing, LLC. It's a company with a Cannabis Training Center dedicated to cannabis and hemp education in New Mexico. I am here with a team of Nurses, 2 of them are with me today, Gina Lucero, and Marisa Cecco who are both Registered Nurses and Cynthia Rienhardt who is an CFNP and our Nurse Planner. We have worked together on cannabis education for the past 2.5 years together.

My statement today is in support of Department of Health and the Public Education Department and the following sections NMAC 6.12.10.8 The designation of school personnel and training sections is in B and C. See below.

The question is: How are we going to train the School Nurses and Administration, quickly enough, who are designated with possessing, storing and administering cannabis when they may not feel comfortable with the learning curve yet? Who is going to do that? What are the concerns of the community and the Nurses in the Schools, the Patients, etc?

I understand that the stopping point for everything around cannabis and hemp right now is the gaps of education and information. And for this reason we are conducting a Nurse Survey around cannabis education and their concerns and needs around education. Here is a quick run down:

Out of a sampling of 36 Nurses, 64% say they've worked with a medical cannabis patients, while 94% say they were not provided with education before working with patients and cannabis, and 86% say that their employer does not provide cannabis education, 64% say that they are concerned that they don't have enough accredited studies around cannabis, 56% are concerned with state and federal law, 53% say that they are concerned that the state has little support for Nurses and cannabis ed, and 28% say they are afraid to be fired by their employer. We are shooting for a sampling of 100 Nurses and will provide more information as we get it.

Strategies to help PED and DOH with the challenges and work ahead:

- 1. Nurse Education - a continuous higher education CE and CNE programs on cannabis**
- 2. More transparency in the Lynn and Erin Compassionate Use Act and those "designated", likely School Nurses and Administration around their rights for helping the kids with their medicine.**
- 3. A campaign to educate the public and de-stigmatize around cannabis... providing data, statistics on who it's helping, demographics of actual patients**

We know that there is a 12-24 month learning curve and if there is no access to cannabis educators then the delays around "how to proceed and what to do" will be even longer. I've identified the most important groups to educate first as:

1. School Administrators
2. School Nurses
3. School Parents (the public)

We have started by working on a Nursing Cannabis CE Curricula. We are in the application stages with the New Mexico Nurses Association, who seem very supportive, to produce our curricula by Sept of 2019. I think if we look at this type of education and getting the Nurses and schools protected in the regulations with more protective language and also in the Lynn and Erin Compassionate Use Act immediately then

we can help PED and DOH to move quicker. Essentially you folks would be the only in the country with a Nurse Cannabis Program or a designated group to do that for you under Governor Michelle Lujan Grisham. That's huge. Here is the list of courses we are accrediting, set to launch October 1st 2019:

Marijuana and Pediatrics in Schools in New Mexico

1. *Benefits and Science of Medical Cannabis*
2. *Qualifying Conditions in New Mexico*
3. *Storage and Administration*
4. *Planning Storage and Records*
5. *Adverse Reactions and Dosing*

We have 5 more classes for Nurses not listed here that will roll out in October.

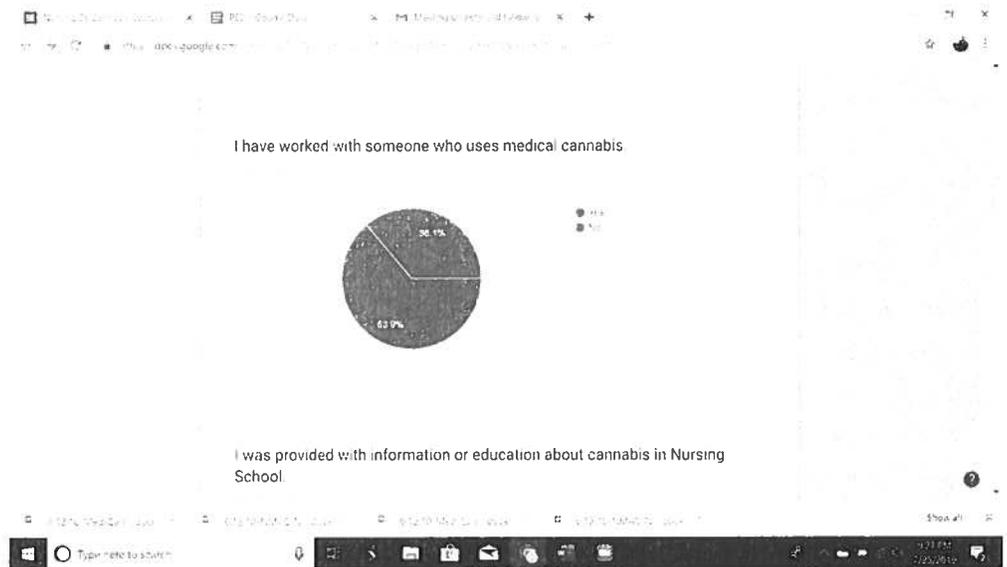
Each course is 45-60 minutes, has a pre-and-post test to collect data and provide information on the measurable outcomes of the courses.

I am confident that with the right folks in place, which we absolutely have, and some intensive capacity building and educational long term planning that we can create a truly supportive environment for the kids and caregivers who need that medicine in schools. Just like someone who needs an inhaler. We have to view it that way and start to really talk about it. Thank you for letting me comment.

I'd love to have your feedback on my comments and the comments made here if and when you can provide that, that's helpful. My email is shanon@cannaNMstaff.com

Supporting Materials

Survey Nurses and Cannabis Education (currently underway, closes on 8/31/2019)



TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 12 PUBLIC SCHOOL ADMINISTRATION - HEALTH AND SAFETY
PART 10 MEDICAL CANNABIS IN SCHOOLS

B. **Designated school personnel.** Each local school board or governing body shall identify the school personnel who will serve as designated school personnel and will perform any or all of the following functions to implement the Lynn and Erin Compassionate Use Act.

- (1) **possess** medical cannabis on behalf of a qualified student;
- (2) **store** medical cannabis on behalf of a qualified student; and
- (3) **administer** medical cannabis to a qualified student.

C. **Training.** Each local school board or governing body shall provide training to designated school personnel on the possession, storage, and administration of medical cannabis to a qualified student in accordance with the provisions of this rule.
[6.12.10.8 NMAC –N, 8/27/2019]