

Managing Medical Marijuana in Schools:

What Maine Schools Need to Know

Presented by

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What We Will Cover Today

- The new Maine law on medical marijuana in schools.
- What has changed and what has not.
- What schools need to do.
- Frequently asked questions about the new law and medical marijuana in schools.

What Has Changed

- Schools must allow eligible students to have nonsmokeable marijuana administered by a primary caregiver in school under specific conditions.
- Schools may not deny students the ability to attend school based solely on the fact the student □ requires medical marijuana □ as a reasonable accommodation. □
- More discussion to follow.

What Has Not Changed

- Schools are still marijuana-free zones for the most part:
 - Employees may not possess in school;
 - Students may not possess in school;
 - Visitors may not possess in school.

- The **ONLY** exception created by the new law is for:
 - Possession by the primary caregiver to administer to a child under 18 who needs to have it administered during the school day.

What are the Requirements for Minor Qualifying Patients?

- Prior to providing written certification for the medical use of marijuana by a minor qualifying patient, "the treating medical provider":
 - Shall inform the minor qualifying patient and the parent or legal guardian of the patient of the risks and benefits of the medical use of marijuana;
 - Shall consult with a qualified physician, referred to in this paragraph as "the consulting physician," from a list of physicians who may be willing to act as consulting physicians maintained by the department;

Requirements for Minor Qualifying Patients? *(Cont'd)*

- The consulting physician shall provide an advisory opinion to the treating medical provider and the parent or legal guardian concerning whether the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition;
- If no response within 10 days of receipt of the request, the treating medical provider may provide written certification for treatment without consultation with a physician.

What is a Debilitating Medical Condition?

- A. Cancer, glaucoma, HIV infection, AIDS, hepatitis C, ALS, agitation of Alzheimer's disease, nail-patella syndrome or the treatment of these conditions.
- B. Condition that produces pain that has not responded to ordinary medical or surgical measures for more than 6 months.
- C. Condition that produces one or more of the following: cachexia or wasting syndrome; severe nausea; or seizures, including but not limited to those characteristic of epilepsy.

Debilitating Medical Condition *(Cont'd)*

- D.** Any other medical condition or its treatment as provided for in section 2424, subsection 2 - designated by DHHS.
- E.** Post-traumatic stress disorder, inflammatory bowel disease, dyskinetic and spastic movement disorders and other diseases causing severe and persistent muscle spasms.

Which “Medical Providers” Can Provide the Required Certification?

- Maine’s medical marijuana law defines a “medical provider” as “a physician or a certified nurse practitioner.”
- A “physician” is a person licensed as an osteopathic physician or as a physician or surgeon under Maine law, who is in good standing and holds a valid federal DEA license to prescribe drugs.
- A “certified nurse practitioner” is a registered professional nurse licensed under Maine law who has received specific postgraduate education and has been certified in a clinical specialty by a national certifying organization acceptable to the State Board of Nursing.

What Are the Requirements for the “Written Certification”?

- A □written certification□is defined as a:
 - Document [1] on tamper-resistant paper [2] signed by a medical provider that [3] expires within one year and that [4] states that in the medical provider’s professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient’s debilitating medical condition or symptoms associated with that condition. A written certification may be made only in the course of a bona fide medical provider-patient relationship after the medical provider has completed a full assessment of the qualifying patient’s medical history.

New Requirements for Medical Marijuana in Schools

- A primary caregiver may possess and administer marijuana in a school bus and on the grounds of a school in which a minor qualifying patient is enrolled only if:
 - A medical provider has provided the minor qualifying patient with a current written certification for the medical use of marijuana; and

Medical Marijuana in Schools *(Cont'd)*

- The marijuana is possessed in nonsmokeable form for the purpose of administering it to the minor qualifying patient.
- The person administering the marijuana must be a primary caregiver of the student as that term is defined in the medical marijuana law. Title 22, Section 2423-A(1)(E) provides that a parent, guardian or legal custodian shall serve as a primary caregiver for a minor child.
- In short, this means that only the parent, guardian or legal custodian may administer medical marijuana to a minor child in school.

Medical Marijuana in Schools *(Cont'd)*

- Students may not possess or self-administer marijuana in school.
- The exception applies only to "minor" qualifying patients, meaning that students 18 years of age and older may not be administered marijuana in school or possess medical marijuana in school.

Regulation of Medical Marijuana that Schools Should Consider

- Require proof that the student holds a current certification.
- Require proof that the person administering the drug is the student's primary caregiver.
- Require proof that the student needs to have marijuana administered during the school day (as opposed to before or after school).
- State that only the primary caregiver may possess the drug in school, and that it shall not be given to or held by any school employee, student or other person in school (apart from the qualifying patient).

Regulation of Medical Marijuana in Schools *(Cont'd)*

- Specify where in the school the drug can be administered.
- State that the student shall not possess the drug at any time or place except during the time of its consumption, at the designated location for consumption, under the supervision of the caregiver.
- Limit the parent/caregiver's movements in the school while in possession of the drug.
- Require the student's medical provider to state whether the student should be restricted from participation in activities affecting the safety of the student or others, such as operation of power tools and physical education.

Policy Considerations

- The regulation of medical marijuana discussed above is best accomplished through Board policy and forms.
- May have stand-alone policy or incorporate new requirements in the Board's existing policy on administering medications to students (Policy JLCD).
- We have revised our sample medications policy/forms (provided in webinar packet).

***Please note that if you received our original drafts in December 2015, we have made some changes that are reflected in the samples you are seeing now.*

Important Policy Points

Please refer to sample policy you received in the webinar packet:

- It is important to be clear that medical marijuana has different rules than other medications and list the rules in the policy. *(See Section B in policy.)*
- Think about who should be responsible for dealing with this issue (School nurse? Principal? Joint responsibility?).
- We recommend a separate form for parents/medical providers to complete for medical marijuana administration. *(Our sample forms for medical marijuana and for other medications are provided with the policy.)*

Student Suspension and Expulsion

- LD 557 says that a student who has a medical marijuana certification □ may not be denied eligibility to attend school solely because the child requires medical marijuana in a nonsmokeable form as a reasonable accommodation necessary for the child to attend school. □
- This means that a student may not be suspended or expelled solely because he or she requires medical marijuana in order to attend school.

Student Suspension and Expulsion *(Cont'd)*

- The effect of this provision is to prevent the suspension or expulsion of a student for use or being under the influence of marijuana in school if the child requires medical marijuana as a reasonable accommodation necessary for the child to attend school.

Other Points for Discussion

- Referendum proposal.
- A mixed message?
- Research on marijuana use by youth National Institutes of Health: <http://www.nih.gov/news-events/news-releases/regular-marijuana-use-teens-continues-be-concern>

Legal References

- Public Law Chapter 369 (2015): An Act to Provide Reasonable Accommodation for School Attendance for Children Certified for the Medical Use of Marijuana
- Maine's Medical Marijuana Law: 22 MRSA § 2426 et seq.
- Education Laws Concerning Administration of Medications in School: 20-A MRSA §§ 254(5); 4009(4); 6305-6306
- MDOE Rule Chapter 40 (does not include any information on medical marijuana)

Conclusion

- Schools are still marijuana-free zones, for the most part.
- This new exception only allows possession of nonsmokeable marijuana by the primary caregiver for administration to a student under 18, if the student needs to have it administered while in school.
- Schools should revise their medication policy/forms to regulate medical marijuana.

Thank you



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