



November 2018

Governance Brief

The Impact of Marijuana Legalization on K-12

Use of Medical Marijuana in Schools

By Virginia Adams Simon

Introduction

At the May 2018 Delegate Assembly, CSBA conducted focus groups with its Delegates about how the Adult Use of Marijuana Act (AUMA),¹ which took effect in January 2018, was affecting their schools. Board members expressed the need for information about a variety of issues related to marijuana legalization and K-12 schools. In response, CSBA is releasing a series of briefs designed to provide the answers to some of the pressing questions raised by members and provide examples from both inside and outside California about how school boards are tackling these new and complex challenges.

A principal area of concern and confusion voiced by board members in the focus groups was the use of medical marijuana in K-12 schools. This brief, the second in CSBA's series on marijuana, provides information on the Compassionate Use Act (Proposition 215)² and the use of medical marijuana by staff and students.

Background

The first brief in this series, "The Impact of Marijuana Legalization on K-12: Current Status and Future Expectations,"³ outlined the history of marijuana legalization in California beginning with Proposition 215, the Compassionate Use Act (CUA) of 1996. With the CUA, California became the first state in the U.S. to legalize the use of marijuana for medicinal purposes. Today, 30 states and the District of Columbia have laws that legalize the use of medical marijuana. However, the federal government classifies marijuana as a Schedule I illegal substance under the Controlled Substances Act of 1970. Schedule I drugs are deemed to have a high potential for abuse and no proven medical benefits. In 2003, with the passage of Senate Bill 240, California adopted specific language to codify medical

In this brief you will find:

- » Definition of medical marijuana
- » Details regarding the Compassionate Use Act and how it applies to children
- » School district and LEA rights and restrictions regarding medical marijuana use by students and staff
- » Recently vetoed legislation (SB 1127) on medical marijuana in schools
- » Pharmaceutical advances

marijuana use and establish the Medical Marijuana Program (MMP)⁴ and state ID card system [HSC 11362.7].⁵ This legislation extends to children and youth who qualify for the MMP and have parental permission.

Medical Marijuana

The main chemical associated with marijuana's high is called Tetrahydrocannabinol, or THC. THC is derived from the resin of the female marijuana plant's leaves and buds. Depending on the concentration of THC in a dosage of marijuana and whether it is inhaled or ingested, the psychoactive effects can be immediate or delayed, short or longer lasting. Over 100 chemical compounds can also be produced by the plant that are chemically related to THC. These are called cannabinoids.⁶

A commonly used compound of the marijuana plant is cannabidiol, or CBD. This is the main ingredient in many medical marijuana treatments. In medical marijuana, CBD is often used in higher concentrations than THC and in some cases, the THC in medical marijuana treatments is negligible. Nonetheless, CBD and THC have many of the same medical benefits and there is evidence that they can relieve some of the same symptoms, including inflammation, nausea related to chemotherapy, and stimulate the appetite of those with cancer or AIDS.⁷

CBD can also be derived from the hemp plant, a plant that is often confused with marijuana. Hemp is in the same family of cannabis plants as marijuana but contains less than 0.3 percent THC. Hemp is also considered a Schedule I illegal substance by the federal government. CBD oils and food products made from marijuana (not hemp) by licensed medical marijuana cultivators and distributors are regulated by the Manufactured Cannabis Safety Branch (MCSB) of the California Department of Public Safety (CDPS), Food and Drug Branch (FDB). Industrial hemp is not regulated; therefore, it is not a legal source of CBD in California except for research purposes.⁸

The Problem

The Adult Use of Marijuana Act (Proposition 64) provisions did not change California Education Code (48900 and 48915),⁹ meaning that it remains illegal to possess or consume controlled substances on a school campus. Therefore, students of any age are unable to use medical marijuana while at school. Existing law allows schools to legally administer any pharmaceutical drug, including opioids, that a child has been prescribed.¹⁰ There are, nonetheless, medical conditions pharmaceuticals do not address, and these conditions often have debilitating symptoms. Medical marijuana has been found to help lessen some of these challenging symptoms. Parents across the nation have had success treating their children with medical marijuana when no pharmaceutical has worked for them. For example, a randomized, double-blind, placebo-controlled trial found medical marijuana to be effective for treating seizures associated with Lennox-Gastaut Syndrome, a type of epilepsy.¹¹

The federal Individuals with Disabilities Education Act (IDEA) requires schools to provide accommodations for all children to attend school. Since it is illegal for students to take their medical marijuana on campus at public schools or for school staff to administer this medication, school districts and county offices of education (collectively known as local educational agencies or LEAs) have limited options to accommodate students who use medical marijuana. One option is to allow parents to take students off campus to administer the medication themselves, thus interrupting the child's education.

In a recent well-publicized case in Illinois, a child required a marijuana patch and drops to be administered throughout the school day to stave off seizures caused by leukemia treatments. Under Illinois education code, as in California, it is illegal for students to use these treatments on a school campus and for school staff to administer them. The 11-year-old was unable to attend school under those conditions and the parents sued the district, citing IDEA. Ultimately, the Illinois Attorney General agreed not to prosecute the school district staff for administering the treatments and the federal judge involved in the case issued an emergency order allowing the student to return to school. The emergency ruling only applies to this specific case and does not cover other children or school districts in the state.¹²

California Senate Bill 1127—Jojo's Act

In California, similar cases have emerged. Jojo, a San Francisco high school student, has a severe form of epilepsy that was causing up to 50 seizures a day. He was being treated successfully with medical marijuana, but his mother had to interrupt his school day by taking him off campus to administer the drug. Her efforts to change this led to the introduction of SB 1127 by Senator Jerry Hill (D-San Mateo) in February 2018.¹³ In addition, a September 21, 2018 order from the Office of Administrative Hearings (OAH) in *Student v. Rincon Valley Union Elementary School District* ruled that the school district must allow a student's nurse to administer medical marijuana on campus as needed for the student's seizures. The decision is not binding on other school districts.¹⁴

SB 1127 would have enabled (but not required) school boards to create policies that would allow parents to administer their child's treatment on campus. The states of Washington, Florida, Colorado, New Jersey, and Maine have recently passed legislation similar to that proposed in SB 1127. After the California Senate and Assembly passed the bill earlier this summer, it was vetoed by Governor Jerry Brown on September 28, 2018. His veto memo stated that he felt the bill was not specific enough regarding requirements for medically qualified students and went "too far" in allowing marijuana on school campuses.¹⁵ Senator Hill has indicated that he will reintroduce the bill.

New Drug to Watch

A promising development in the pharmaceutical industry may bring relief to students with some forms of severe seizure disorders without requiring medical marijuana. A new drug was approved by the U.S. Food and Drug Administration (FDA) in June 2018 for the treatment of severe seizures. This drug, called Epidiolex, contains a synthetic form of CBD. In September 2018 the Drug Enforcement Agency changed the classification of Epidiolex from a Schedule I drug—the

most restrictive of the Controlled Substances Act (CSA), to a schedule V, the least restrictive of the CSA, thus allowing pharmaceutical companies to begin to sell it legally.¹⁶ This will mean that according to California Education Code if doctors are able to prescribe the drug to patients who qualify, then school personnel would be allowed to administer it.¹⁷

Frequently Asked Questions

Question: Will students who are taking medical marijuana before coming to school be “high”?

Answer: As stated above, THC is the component of the marijuana plant that creates the relaxed sensations and other physical and psychological effects that we call high. Most medical marijuana compounds contain extremely low levels of THC and higher levels of CBD. Students should not exhibit signs of intoxication or a high.

Question: What if a family requests that medical marijuana be part of a student’s Individualized Education Program (IEP) or 504 plan?

Answer: Since medical marijuana is a not an intervention that schools can administer legally at this time, it should not be made part of a student’s IEP or 504 plan.

Question: Some students need to carry oil with them to use throughout the day for seizures. Is this allowed?

Answer: No. Under current law, students are not permitted to possess medical marijuana on campus in any form.

Questions for Board Members to Consider

1. Has your governance team considered how it will respond with a unified voice to questions from the community about medical marijuana?
2. What is your LEA’s policy regarding current employees who use marijuana for a documented medical condition?
3. What is your LEA’s policy for hiring new employees who use marijuana for a documented medical condition?
4. How does your LEA document and handle the absences of students who leave campus to be administered medical marijuana?

The next brief in this series will explore in more detail the effects of marijuana on the brain. It will examine the current research findings about both harmful and helpful effects on children and adults.

Resources

The National Institute of Health (NIH) offers extensive information on medical marijuana with current research and resources here: nccih.nih.gov/health/marijuana

Harvard Medical School offers this overview of medical marijuana facts: www.health.harvard.edu/staying-healthy/medical-marijuana-know-the-facts

California’s Department of Health maintains facts and resources regarding California’s medical marijuana program: www.cdph.ca.gov/Programs/CHSI/Pages/MMP-FAQS.aspx

The National Conference of State Legislatures (NCSL) website tracks policy trends, updates and research on marijuana legalization across the country: www.ncsl.org/bookstore/state-legislatures-magazine/marijuana-deep-dive.aspx

Sample school district policies from outside California

Cherry Creek School District, Colorado: [Administering Medical Marijuana to Students on School Property](https://bit.ly/2R5DKUi) <https://bit.ly/2R5DKUi>

Springfield NJ: [Administering Medical Marijuana to Students on School Property](https://bit.ly/2D51gxQ) <https://bit.ly/2D51gxQ>

Regional School Unit 40, Union, Maine: [Administering Medical Marijuana to Students on School Property Union, Maine. Policy for Administering Medical Marijuana to Students on Campus:](https://bit.ly/2AovZmO) <https://bit.ly/2AovZmO>

Administrative School District Unit 49, Maine: [Administering Medical Marijuana to Students on School Property](https://bit.ly/2yy5Pgb) <https://bit.ly/2yy5Pgb>

CSBA new sample policy BP 3513.4 - Drug and Alcohol Free Schools and recently updated policy BP 5131.6 - Alcohol and Other Drugs are available to GAMUT subscribers at www.csba.org/gamutonline.

Dr. Virginia Adams Simon is an independent education consultant who has more than 18 years of experience in education policy and school reform.

Endnotes

- 1 Adult Medical Use of Marijuana Act of 2016: leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB64
- 2 Compassionate Use Act of 1996: leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11362.5.&lawCode=HSC
- 3 The Impact of the Legalization of Marijuana on K-12: Current Status and Future Expectations: www.csba.org/GovernanceAndPolicyResources/ResearchAndPolicyBriefs
- 4 California's Medical Marijuana Program legislation: leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11362.7&lawCode=HSC
- 5 California Medical Marijuana Card information: www.cdph.ca.gov/Programs/CHSI/Pages/Medical-Marijuana-Identification-Card.aspx
- 6 NIDA Drug Facts www.drugabuse.gov/publications/research-reports/marijuana/what-marijuana
- 7 Medical Marijuana FAQ Retrieved from www.webmd.com/a-to-z-guides/medical-marijuana-faq
- 8 California Department of Public Safety policy on industrial hemp: www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/FDB/FoodSafetyProgram/HEMP/Web%20template%20for%20FSS%20Rounded%20-%20Final.pdf
- 9 CA Ed Code 48900-48915: Pupil Rights and Responsibilities leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC§ionNum=48900.
- 10 A physician cannot write a prescription for medical marijuana because of its Federal Schedule I status but can write a letter for recommended use which enables a minor to obtain a medical marijuana card and for their parent or guardian to purchase or grow marijuana in their home for their use.
- 11 Thiele, Elizabeth A, et al. "Cannabidiol in patients with seizures associated with Lennox-Gastaut syndrome." *The Lancet*, 26 Jan. 2018, www.sciencedirect.com/science/article/pii/S0140673618301363.
- 12 Illinois Medical Marijuana Case: www.cnn.com/2018/01/22/health/medical-marijuana-school-illinois/index.html
- 13 See Senate Bill 1127: leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1127
- 14 Decision of the Office of Administrative Hearings State of California, *Parent on Behalf of Student v. Rincon Valley Elementary School District*. Retrieved from www.documents.dgs.ca.gov/oah/seho_decisions/2018050651.pdf
- 15 See Governor's Veto Memo on SB 1127: www.gov.ca.gov/wp-content/uploads/2018/09/SB-1127-Veto.pdf
- 16 See FDA press release at: www.fda.gov/newsevents/newsroom/pressannouncements/ucm611046.htm
- 17 See California Education Code Section 49423 Article 2. Employment of Medical Personnel Retrieved from leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC§ionNum=49423.