

## Medical Cannabis in Schools

New Mexico Public Education Department (NMPED)

Dean Hopper, Safe & Healthy Schools Bureau

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Legislative Health and Human Services Committee Hearing

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## Overview

- National Trends
- New Mexico's Statute and Rule
- School Policies and Processes
- Other Considerations
- Resources



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- New Mexico joins Colorado, Delaware, Florida, Illinois, Maine, New Jersey, Pennsylvania, Washington and California (California's law effective 1/1/2020) in having passed legislation allowing medical cannabis in the school setting.
- There are variances in how each of these states has implemented their laws and rules regarding medical cannabis in schools.

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### New Mexico's Statute and Rule

- Senate Bill 204, Medical Marijuana in Schools (Senators Candace Gould and Gail Armstrong and Jacob R. Candelaria), and Senate Bill 406, Medical Marijuana Changes (Senator Gerald Ortiz y Pino), passed during the 2019 New Mexico Legislature and were signed by Governor Michelle Lujan Grisham on April 4<sup>th</sup>, 2019. This legislation amended the Public School Code through the provision of parameters for the possession, storage, and administration of medical cannabis to qualified students for use in school settings § 22-33-5 NMSA, 1978.
- The New Mexico Public Education Department (NMPED), through the rulemaking process, developed New Mexico Administrative Code (NMAC) 6.12.10 in response to this new law.

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### New Mexico's Statute and Rule

- The changes to the Public School Code, allowing the use of medical cannabis for qualified students in a school setting, require each local school board or governing body to establish policies and procedures for the possession, storage, and administration of medical cannabis.
- A "qualified student" is a student who demonstrates evidence to the school that the student is authorized as a qualified patient pursuant to the Lynn and Erin Compassionate Use Act to carry and use medical cannabis.

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### New Mexico Statute and Rule

In New Mexico, at any given time, there are approximately 225 individuals under the age of 18 who are authorized as a qualified patient able to carry and use medical cannabis.



Source: NMDOH Medical Cannabis Program

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### New Mexico's Statute and Rule

- Medical cannabis in schools may only be in the form of a capsule, extract, or concentrate that may be safely divided into measurable doses and ingested through the mouth.
- Individuals authorized to possess, store and administer medical cannabis to a qualified student may be primary caregivers (parents/legal guardians) *and/or* designated school personnel, excluding school nurses under current law.

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### School Policies and Processes

- Policies and procedures established by local school boards or governing bodies shall also establish the responsibilities of the qualified student's primary caregiver in order for a qualified student to be administered medical cannabis in the school setting.
- These responsibilities include providing:
  - A copy of the qualified student's written certification signed by a certifying practitioner
  - A copy of the patient's New Mexico Department of Health's (NMDOH) issued ID card, which includes the name of the primary caregiver
  - A written treatment plan including dosage allotment and frequency

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### School Policies and Processes

- Policies and procedures regarding medical cannabis in schools, compliant with NMAC 6.12.10, must allow the administration of medical cannabis, in accordance with the qualified student's required treatment plan, by primary caregivers *and/or* designated school personnel.
- Policies and procedures must address the requirement that the administration of medical cannabis not disrupt the education environment and not cause medical cannabis exposure to other students
  - Schools may wish to designate a specific location for the safe administration of medical cannabis)

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### School Policies and Processes

- Self-administration by the qualified student, without the presence of the primary caregiver or designated school personnel, is to be prohibited.
- Policies prohibit the disciplining of any school employee who refuses to administer the medical cannabis to the qualified student.

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### Other Considerations

- As federal law classifies cannabis as a Schedule I Controlled Substance, and as medical cannabis is not currently approved as a medication by the Food and Drug Administration (FDA), New Mexico school nurses, through the parameters of their state license, are unable to administer or delegate any cannabis containing products that are not FDA approved.
- A school district or charter school may seek an exemption from developing a policy on medical cannabis, compliant with NMAC 6.12.10, with the submission to the NMPED of electronic communication from the federal government that implementation of NMAC 6.12.10 would result in federal funding being withheld from the school district or charter school.

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### Resources

The NMPED Safe and Healthy Schools Bureau website regularly updates training opportunities and other resources related to medical cannabis in the school setting.

Resources include:

- Final Rule (6.12.10)
- Medical Cannabis Policy Framework
- Guidance for School Nurses Regarding Medical Cannabis
- Sample Medical Cannabis Treatment Plan
- HIPAA Authorization Form

<https://webnew.ped.state.nm.us/bureaus/safe-healthy-schools/medical-cannabis-in-schools/>

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**Contact Information**

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