

MEDICAL MARIJUANA

The board of education recognizes that physical discomfort associated with certain debilitating medical conditions can negatively impact a student's ability to benefit from educational services provided by the school district. The board of education also recognizes that a student diagnosed with a debilitating medical condition may, through the legally prescribed use of medical marijuana, alleviate physical symptoms associated with the debilitating condition that occur during school hours, potentially increasing the student's availability to receive instruction. Therefore in accordance with law (P.L. 2015, c.158), a student who is legally prescribed medical marijuana and who possesses a current registry identification card from the New Jersey Department of Health (NJDOH), may be administered prescribed marijuana by a NJDOH registered primary caregiver.

The New Jersey Compassionate Use Medical Marijuana Act (N.J.S.A. 24:6I-3) provides that medical marijuana may be prescribed for the following debilitating medical conditions:

- A. Seizure disorder, including epilepsy; intractable skeletal muscular spasticity; or glaucoma if any of these conditions are resistant to conventional medical therapy;
- B. Positive status for human immunodeficiency virus; acquired immune deficiency syndrome; or cancer; if any treatment of these conditions cause severe or chronic pain, severe nausea or vomiting, cachexia, or wasting syndrome;
- C. Amyotrophic lateral sclerosis, multiple sclerosis, terminal cancer, muscular dystrophy, or inflammatory bowel disease, including Crohn's disease;
- D. Terminal illness, if the student's physician has determined a prognosis of less than 12 months of life; or
- E. Any other medical condition or its treatment that is approved by the NJDOH by regulation.

New Jersey Department of Health Medical Marijuana Program Authorization

Students authorized to use medical marijuana, including adult students, are not authorized by law to self-administer the medication on school grounds, on the school bus or at school sponsored activities. In all cases, a primary caregiver shall be required to assist with the administration of the prescribed medical marijuana on school grounds, on the school bus, or at school sponsored activities subject to law and this board policy.

In order for the prescribed medical marijuana to be legally administered, the student and primary caregiver shall possess a current registry identification card. The NJDOH shall issue a registry identification card only upon certification from a licensed physician in the State with whom a qualifying patient has a bona fide physician-patient relationship. The physician must be registered with the New Jersey Medical Marijuana Program to legally prescribe medical marijuana.

According to the Medical Marijuana Program the primary caregiver:

- A. Shall be a resident of New Jersey who 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 July 19, 2010 and was for a violation of federal law related to possession or sale of marijuana that is authorized under the Compassionate Use Medical Marijuana Act;
- D. Has registered with the NJDOH, and has satisfied the criminal history record background check requirement; 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 NJDOH.

Verification of Registration Status

The chief school administrator shall submit a written request to the NJDOH Medical Marijuana Program seeking verification of the registration status of the student and the caregiver.

Verification of the registration status of the student and the caregiver shall be requested not less than annually. Documentation of the request made to the NJDOH and any response the district receives from the NJDOH shall be kept in the student's confidential medical records and maintained in the office of the school nurse.

Administration of the Prescribed Medical Marijuana

While on school grounds, the primary caregiver shall be permitted to administer the prescribed medical marijuana in the office of the school nurse. The school nurse may designate other locations on school grounds. When an alternate location on school grounds other than the nurse's office is requested or required for the administration of the prescribed medical marijuana, the school nurse shall document the designated location in the appropriate student record (i.e. confidential medical record, individualized health care plan).

No student shall be permitted to carry the prescribed marijuana medication on school grounds, on school buses or at school sponsored activities. The prescribed medical marijuana shall not be stored on school grounds. It shall be the sole responsibility of the primary caregiver to maintain and administer the medication.

A primary caregiver shall bring the medication to school to administer the medication in the school nurse's office and shall leave school grounds with any remaining medication. Any packaging, containers or other materials associated with the caregiver's administration of the prescribed medical marijuana to the student shall be disposed of in the appropriate receptacle for hazardous materials in the nurse's office and at no other location on school property.

Any form of medical marijuana that is smoked is prohibited on school grounds, on school buses or at school sponsored events.

Liability

Any person in possession of prescribed medical marijuana or using prescribed medical marijuana and acting within the provisions of N.J.S.A. 2C:35-18 Exemption, Burden of Proof and in accordance with the Compassionate Use of Medical Marijuana Act (N.J.S.A. 24:61-1) shall be immune from criminal liability and professional disciplinary action.

Possession of, or application for, a registry identification card shall not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or his/her property to inspection.

Approved: March 23, 2016

Legal Reference

<u> </u>	Monitored
<u> X </u>	Mandated
<u> X </u>	Other Reasons

Mandated:

P.L. 2015, c.158 requires that a policy be adopted that applies to students, including students with developmental disabilities, that shall at a minimum:

1. Require that qualified students be authorized to engage in the medical use of marijuana pursuant to New Jersey Compassionate Use of Medical Marijuana Act (N.J.S.A. 24:6I-1 et seq.) and that the parent, guardian, or primary caregiver be authorized to assist the student with the medical use of marijuana also pursuant to N.J.S.A. 24:6I-1 et seq.
2. Establish protocols for verifying the registration status and ongoing authorization concerning the medical use of marijuana for the student and the parent, guardian, or primary caregiver pursuant to N.J.S.A. 24:6I-1 et seq.
3. Expressly authorize parents, guardians, and primary caregivers of students who have been properly authorized by the New Jersey Department of Health (NJDOH) to assist a student's medical use of marijuana while the student is on school grounds, aboard a school bus, or attending a school-sponsored event;
4. Identify locations on school grounds where medical marijuana may be administered; and
5. Prohibit the administration of medical marijuana to a student by smoking while the student is on school grounds, aboard a school bus, or attending a school-sponsored event.

Medical marijuana may be administered to a student while the student is on school grounds, aboard a school bus, or attending school-sponsored events, provided that such administration is consistent with the requirements of the policy adopted pursuant to law.

Other Reasons

In P.L. 2009 c. 307, the New Jersey Legislature found that modern medical research has discovered a beneficial use for marijuana in treating or alleviating the pain or other symptoms associated with certain debilitating medical conditions. N.J.S.A. 24:6I-1 et seq., the New Jersey Compassionate Use of Medical Marijuana Act, permits qualifying patients to use marijuana to alleviate suffering from statutorily delineated "debilitating medical conditions". P.L. 2015 c. 158 required schools to adopt policies and procedures providing for authorized primary caregivers to administer medicinal marijuana to qualified students while on school grounds, on a school bus, and while attending a school-sponsored event.

N.J.S.A. 24:6I-4 requires the New Jersey Department of Health (NJDOH) to establish a registry of qualifying patients and their primary caregivers and to issue a registry identification card, which shall be valid for two years, to a qualifying patient and primary caregiver, if applicable, who submits the following in accordance with regulations adopted by the department:

- A. A certification from a physician licensed and in good standing to practice in the State. A patient who is a minor shall not qualify unless the custodial parent, guardian, or person who has legal custody of the minor receives from the physician an explanation of the potential risks and benefits of the medical use of marijuana and consents in writing that the minor patient has that person's permission for the medical use of marijuana and that the person will control the acquisition and possession of the medical marijuana and any related paraphernalia from the alternative treatment center. The physician shall document the explanation of the potential risks and benefits in the minor patient's medical record;
- B. An application or renewal fee, which may be based on a sliding scale as determined by the commissioner;

- C. The name, address and date of birth of the patient and caregiver, as applicable; and
- D. The name, address and telephone number of the patient's physician.

P.L. 2015, c.158 requires that any person in possession of medical marijuana or using medical marijuana and acting within the provisions of N.J.S.A. 2C:35-18 and in accordance with the Compassionate Use of Medical Marijuana Act (N.J.S.A. 24:6I-1) shall be immune from criminal liability and professional disciplinary action.

P.L. 2015, c.158 states that possession of, or application for, a registry identification card shall not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or his/her property to inspection.

Recommendations:

N.J.A.C. 8:64-4.4 states that Department of Health shall maintain a confidential list of the persons to whom it issues registry identification cards. Individual names and other identifying information on the list, and information contained in any application form, or accompanying or supporting document shall not be disclosed except to authorized employees of the Department and the Division of Consumer Affairs in the Department of Law and Public Safety as necessary to perform official duties of the Department and the Division, as applicable; and authorized employees of State or law enforcement agencies, only as necessary to verify that a person who is engaged in the suspected or alleged medical use of marijuana is lawfully in possession of a registry identification card.

P.L. 2015, c.158 requires that the school district establish protocols for verifying the registration status and ongoing authorization concerning the medical use of marijuana for the student and the parent, guardian, or primary caregiver pursuant to N.J.S.A. 24:6I-1 et seq., New Jersey Compassionate Use of Medical Marijuana Act. Despite the above directive, school districts are not authorized by the law or supporting regulations (N.J.A.C. 8:64-1.1 et seq.) to receive verification of the registration status from the NJDOH for the student authorized to use medical marijuana or the primary caregivers authorized to assist in the administration of medical marijuana. Therefore, it is unclear whether or not the NJDOH will verify the registration status of the student and/or the primary caregiver upon district request. Accordingly, it is recommended that the district obtain consent from the parents and primary caregiver for the release of medical marijuana registry information.

It is within the authority of the board to ensure controlled and dangerous substances are not used illegally on school grounds, on school buses or at school sponsored activities. P.L. 2015 c. 158 grants boards of education the ability to authorize the medicinal use of marijuana on school grounds, on a school bus, or during a board-approved event, provided that such use is consistent with law and board policy. Accordingly, the board may create protocols to verify the registration status and ongoing authorization of the student and primary caregiver and prohibit medicinal marijuana use that is not in compliance with board policy.

The district:

- A. Should have a policy that covers the minimum requirements as detailed in the law including:
 1. Requiring student and the parent or primary caregiver be authorized by the New Jersey Department of Health Services (NJDOH) Medical Marijuana Program;
 2. Establishing protocols for verifying the registration and ongoing authorization status of the student and the parent or primary caregiver from NJDOH;
 3. Authorizing the parent or primary caregiver of students who have been authorized for the medical use of marijuana to administer medical marijuana to the student while the student is on school grounds, aboard a school bus, or attending a school-sponsored event;
 4. Identifying locations on school grounds where medical marijuana may be administered; and
 5. Prohibiting the administration of medical marijuana to a student by smoking while the student is on school grounds, aboard a school bus, or attending a school-sponsored event.

- B. May include content that is in addition to the minimum legal requirements in order to monitor the parent or primary caregiver’s legitimate administration of medical marijuana to a registered student such as:
1. Protocols to regularly check that the registry cards of the primary caregiver authorized for the administration of medical marijuana and the student authorized to use medical marijuana are current and document the expiration date of the authorized period; and
 2. Encouraging the development of an individualized health care plan that includes information to facilitate the administration of the medication, designate locations for the primary caregiver to assist with the administration of the medication, and consider any necessary accommodations related to the student’s medical condition.

Legal References:

<u>N.J.S.A. 2C:35-18</u>	Exemption, burden of proof
<u>N.J.S.A. 24:6I-1 et seq.</u>	New Jersey Compassionate Use of Medical Marijuana Act
<u>See particularly</u>	
<u>N.J.S.A. 24:6I-4, -5</u>	
<u>N.J.S.A. 26:3D-55 et seq.</u>	New Jersey Smoke-Free Air Act
<u>N.J.A.C. 8:64-1.1 et seq.</u>	Medical Marijuana Program rules
<u>See particularly</u>	
<u>N.J.S.A. 8:64-1.1</u>	Confidentiality

P.L. 2015, c.158 concerning medical marijuana

Cross References:

5131.6	Drugs, alcohol, tobacco (substance abuse)
5141	Health
5141.1	Accidents
5141.2	Illness
5141.3	Health examinations and immunizations
5141.21	Administration of medication
6153	Field trips