

CASN position on HB18-1286

HB18-1286, “concerning allowing school personnel to give medical marijuana to a student with medical marijuana registry card while at school” was signed in to law on June 4, 2018 (https://www.colorado.gov/governor/sites/default/files/1286_letter.pdf)

We are recommending that all school nurses read the text of the bill. https://leg.colorado.gov/sites/default/files/documents/2018A/bills/2018a_1286_signed.pdf

Of importance in the bill:

- Marijuana must be in a non-smokable form
- There must be a written plan signed by the principal or designee and the parent
- There must be a written recommendation signed by the recommending physician to include purpose, dose, frequency, delivery route, and dosing interval
- There must be a signed release of liability
- This law does not apply to trips or activities out of state
- The law does not require any school personnel to administer medical marijuana
- The law provides for an exception to the state’s criminal laws
- A school may adopt policies for reasonable parameters around the administration and use on school grounds
- The law does not apply to a school if they lose federal funding as a result of implementing the law; the school can demonstrate it lost federal funding; the school posts on their website in a conspicuous place it’s decision not to comply
- The medical marijuana must be brought to school, stored in a locked container, and returned each day. Students may not handle medical marijuana.
- Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 may not be used to require a school or any employee or volunteer to store or administer medical marijuana

A school nurse should consider the following highlighted points when deciding whether to administer medical marijuana or how to respond to a family requesting the administration of medical marijuana for their student.

Federal Law: Marijuana is classified by the DEA as Schedule I. Schedule I drugs, substances, or chemicals are defined as drugs with no currently accepted medical use and a high potential for abuse. <https://www.dea.gov/druginfo/ds.shtml>

Colorado state website on the federal implications of marijuana: <https://www.colorado.gov/pacific/marijuana/federal-implications>

Colorado Nurse Practice Act: The following statement is from the Colorado Department of Regulatory Agencies website: https://www.colorado.gov/pacific/dora/Nursing_Laws

“The Board of Nursing has been working to empower Colorado nurses to determine their own scopes of practice. Using the following guidelines, a nurse may decide what is within scope, and to make certain the task or practice is documented in facility or institution policies and procedures.

Ask the following question: Is this task/practice within my scope of practice?

- Was the skill/task taught in your basic nursing program?
- If it was not included in your basic nursing education, have you since completed a comprehensive training program that included clinical experience?
- Has this task become so routine in the nursing literature and in nursing practice (e.g. sharp wound debridement), it can be reasonably and prudently assumed within scope?
- Is the skill/task in your hiring agency policy and procedure manual?
- Does carrying out the duty pass the "Reasonable and Prudent" standard for nursing?

Also consider Chapter XIII rules on delegation: <https://www.cde.state.co.us/healthandwellness/chapter13rulesandregulationsregardingdelegationofnursingtasks>

School District Policy: Determining your scope of practice requires knowing if a task is in your hiring agency’s policy and procedure manual. It is important that you are familiar with your district’s or school’s specific policies on medication.

Other professional organizations: Just as the Colorado Association of School Nurses is here to help school nurses navigate this new law, your principal, superintendent and school board have professional organizations they can consult for help with this law as it pertains to their role (Colorado Association of School Executives (CASE) and Colorado Association of School Boards (CASB) are examples.

Legal: Consult with your district’s legal counsel.

Malpractice Insurance: Consult with your malpractice insurance carrier or with your district’s insurance carrier to see if administration of medical marijuana is a covered practice. Some multi-state insurance carriers do not want to cover this because of federal laws, or cannot say if this is covered because the practice is novel. Colorado is the first state to allow nurses to administer medical marijuana.