

# Administration of Medical Cannabis for Students in Schools

In accordance with New Mexico State law, students authorized as medical cannabis users may attend public school settings and be allowed administration of medical cannabis in a school setting.

Under certain circumstances where it is necessary for a student to take medical cannabis during school hours, the district will cooperate with the certifying practitioner and the parents or legal guardian, to permit the primary caregiver to administer medical cannabis in a school building, if the following requirements are met:

- The primary caregiver or parent or legal guardian must provide APS with a copy of the written certification from the New Mexico Department of Health that the student is a qualified patient under the Lynn and Erin Compassionate Use Act.
- There must be written orders from an authorized certifying practitioner for use of medical cannabis, and such orders shall include dosage and time given as well as where and how medication can be administered
- Any order or plan for administering medical cannabis shall be only valid during the school year provided and while the student is enrolled
- A written treatment plan for the administration of medical cannabis on the form on the New Mexico Department of Education's site, or approved by the district, is prepared in consultation with the primary caregiver, parent or legal guardian, and agreed to by the school administration, and revised annually in the student records
- The primary caregiver and parent or guardian (if not the primary caregiver) must work with site team to create an administration plan for administration in a school building. The administration plan outlines time, place, and manner of administration for the student. The site team shall include a principal or designee and a school nurse and must address off-site activities and extracurricular activities
- The primary caregiver must carry medical cannabis in a prescription container, or in the original authorized dispensary container, with all warnings and directions intact and with clearly labeled identifiers including the qualified student's name, date of birth, and dosage allotment that matches the agreed written treatment plan.
- Medical cannabis may not be stored at school
- Students using medical cannabis at school buildings must not drive a personal vehicle or park a vehicle on school or district property
- The student's parent or legal guardian must submit a written release of liability on a form approved by the district that:

\_\_\_\_\_ (a) releases from civil liability the following persons and entities for acting in accordance with the provisions of Chapter 261, Laws of 2019

and this rule, as well as the Lynn and Erin Compassionate Use Act and applicable Department of Health rules, to include school districts, school district personnel and volunteers, schools, school personnel and volunteers, local school boards, and local school board members;

(b) releases school districts, school district personnel and volunteers, schools, school personnel and volunteers, local school boards, and local school board members from any liability and reimbursement claims for costs associated with accidental spillage or waste of medical cannabis;

(c) acknowledges that the qualified student shall not be entitled to the implementation of the provisions of Chapter 261, Laws of 2019 and this rule, as well as the Lynn and Erin Compassionate Use Act and applicable Department of Health rules, outside of the school building or this state;

- The qualified student’s primary caregiver must submit to the school a signed Health Insurance Portability and Accountability Act (HIPAA) authorization, using the HIPAA authorization form posted on the New Mexico Department of Health’s website, that permits the school to obtain current information from the Department of Health regarding the enrollment status of the qualified student in the Department of Health’s medical cannabis program. The HIPAA authorization form shall be retained as a medical record; and
- The primary caregiver must administer in a way that does not create disruptions to the educational environment or cause other students to be exposed to medical cannabis.

## Definitions

“Administration plan” means the plan created at the school site with primary caregiver, school site principal, or designee, nurse and other relevant staff, to determine time, place and manner for administration of medical cannabis for student by primary caregiver. Administration plan must also address offsite events and extracurricular activities.

“Certifying practitioner” means a health care practitioner who is licensed in New Mexico to diagnose a qualified patient and recommend medical cannabis as a course of treatment

“Medical cannabis” means cannabis that is authorized for use by qualified patients in accordance with the provisions of the Lynn and Erin Compassionate Use Act and is in the form of a capsule, extract, or concentrate to be ingested through the mouth that:

- is recommended for treatment of a student’s debilitating medical condition as defined in the Lynn and Erin Compassionate Use Act, in a written certification by a certified practitioner;
- is dispensed by a cannabis producer that has received approval from the New Mexico Department of Health to conduct sales of medical cannabis; may be safely divided into measurable doses;
- is not an aerosol product, consumable through smoking, or in particulate form as a vapor or by burning;

- is not a food or beverage product;
- is not a salve, balm or other topical product;
- does not require refrigerated storage; and
- is in a package or container clearly labeled with:
  - the student’s name and date of birth; and
  - the dosage allotment.

**“Primary caregiver”** means a parent, guardian or other person designated by a certifying practitioner as taking responsibility for managing the well-being of a qualified student authorized as a qualified patient with respect to the medical use of cannabis pursuant to the provisions of the Lynn and Erin Compassionate Use Act.

**“Qualified student”** means a student who demonstrates evidence to the school district that the student is authorized as a qualified patient pursuant to the Lynn and Erin Compassionate Use Act to use medical cannabis.

**“School building”** means a public building owned or leased by Albuquerque Public Schools in which school activities take place.

**“Written certification”** means a statement in a qualified student’s medical records or a statement signed by a qualified student’s certifying practitioner that, in the certifying practitioner’s professional opinion, the qualified student has a debilitating medical condition and the certifying practitioner believes that the potential health benefits of this medical use of cannabis would likely outweigh the health risks for the qualified student.

**“Written treatment plan”** means a document developed by the parent or primary caregiver in collaboration with the certifying practitioner that:

- describes the qualified student’s and the certifying practitioner’s diagnosis of a debilitating medical condition per the Lynn and Erin Compassionate Use Act
- describes the plan for recommended treatment with medical cannabis, including:
  - the recommended dosage allotment;
  - the recommended frequency of administration of medical cannabis in a school setting; and
  - is signed by the primary caregiver and the certifying practitioner

## Restrictions, Limitations, and Liability

Students are banned from possession, use, distribution, sale or being under the influence of a cannabis product in any manner that is inconsistent with the provisions of this procedural directive for qualified use for medical cannabis or the Lynn and Erin Compassionate Use Act. A student who makes a fraudulent representation to a school or law enforcement officer about the person’s participation in a medical use of cannabis program may be denied permission for future access to medical cannabis in a school setting. Participation in the use of medical cannabis does not relieve the qualified student from disciplinary action for activities not authorized in the Lynn and Erin Compassionate Use Act.

A school or the district may not discipline a student who is a qualified student solely on the basis that the student requires medical cannabis as a reasonable accommodation necessary for the student to attend school.

Albuquerque Public Schools shall not require any employee to store or administer medical cannabis. School nurses and health assistants may consult on site administration plans and shall be made aware of all qualified students with medical cannabis treatment and administration plans at a school site but shall not be required to store or administer medical cannabis.

### Disclaimer

The district reserves the right, in accordance with procedures and policies established by the superintendent and Board of Education, to circumscribe or disallow the use or administration of any medication or medical cannabis on school premises if the threat of abuse or misuse of the medicine may pose a risk or harm to a member or members of the student population or school personnel.

**Administrative Position:** Associate Superintendent of Equity, Instruction, Innovation, and Support

**Department Director:** Executive Director of Student, Family and Community Supports

### **References:**

#### Legal Cross Ref:

- Lynn and Erin Compassionate Use Act (§26-2B-1 NMSA 1978)
- §22-33-5 NMSA 1978 (Medical cannabis in schools)
- 6.12.2 NMAC
- New Mexico Nursing Practice Act

#### Board Policy Cross Ref:

- JL Student and Staff Wellness and Welfare

#### Procedural Directive Cross Ref:

- Administration of Medications at School

#### Forms:

- Release Form

**NSBA/NEPN Classification: JL**

Introduced: September 11, 2019

Adopted: