

## CHAPTER 365

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**EDUCATION - PUBLIC SCHOOLS**

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**HOUSE BILL 18-1286**

BY REPRESENTATIVE(S) Roberts, Hooton, Singer, Van Winkle, Gray, Hansen, Kennedy, Lontine, Melton, Rosenthal, Winkler, Esgar, Humphrey, Ransom;  
also SENATOR(S) Aguilar and Marble, Guzman, Baumgardner, Crowder, Jahn, Jones, Kefalas, Kerr, Merrifield, Moreno, Neville T., Tate, Todd.

**AN ACT****CONCERNING ALLOWING SCHOOL PERSONNEL TO GIVE MEDICAL MARIJUANA TO A STUDENT WITH A MEDICAL MARIJUANA REGISTRY CARD WHILE AT SCHOOL.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 22-1-119.3, **add** (3)(d.5) as follows:

**22-1-119.3. Policy for student possession and administration of prescription medication - rules - definition.** (3) (d.5) (I) MEDICAL MARIJUANA IN A NONSMOKEABLE FORM SHALL NOT BE ADMINISTERED AT A SCHOOL PURSUANT TO THIS SUBSECTION (3)(d.5) UNLESS A WRITTEN PLAN FOR THE ADMINISTRATION OF MEDICAL MARIJUANA IN A NONSMOKEABLE FORM IS AGREED TO AND SIGNED BY THE SCHOOL PRINCIPAL OR HIS OR HER DESIGNEE AND A PARENT OR LEGAL GUARDIAN.

(II) PRIOR TO THE ADMINISTRATION OF MEDICAL MARIJUANA IN A NONSMOKEABLE FORM AT SCHOOL, THE STUDENT'S PARENT OR LEGAL GUARDIAN SHALL COMPLETE AND SUBMIT TO THE SCHOOL THE DOCUMENTATION REQUIRED BY RULE OF THE STATE BOARD OF EDUCATION, INCLUDING BUT NOT LIMITED TO:

(A) A WRITTEN MEDICAL MARIJUANA RECOMMENDATION THAT INCLUDES THE SIGNATURE OF ONE OF THE RECOMMENDING PHYSICIANS AND THE PURPOSE, RECOMMENDED DOSAGE, FREQUENCY, AND LENGTH OF TIME BETWEEN DOSAGES OF THE MEDICAL MARIJUANA IN A NONSMOKEABLE FORM TO BE ADMINISTERED; AND

(B) A WRITTEN STATEMENT FROM THE STUDENT'S PARENT OR LEGAL GUARDIAN RELEASING THE SCHOOL, AND EMPLOYEES AND VOLUNTEERS OF THE SCHOOL, FROM LIABILITY, EXCEPT IN CASES OF WILLFUL OR WANTON CONDUCT OR DISREGARD OF

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*Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

## THE CRITERIA OF THE TREATMENT PLAN.

(III) (A) SUBJECT TO THE REQUIREMENTS SPECIFIED IN SUBSECTIONS (3)(d.5)(I) AND (3)(d.5)(II) OF THIS SECTION, SCHOOL PERSONNEL MAY POSSESS, AND ADMINISTER TO A STUDENT WHO HOLDS A VALID RECOMMENDATION FOR MEDICAL MARIJUANA, MEDICAL MARIJUANA IN A NONSMOKEABLE FORM UPON THE GROUNDS OF THE PRESCHOOL OR PRIMARY OR SECONDARY SCHOOL IN WHICH THE STUDENT IS ENROLLED, OR UPON A SCHOOL BUS OR AT A SCHOOL-SPONSORED EVENT. THE SCHOOL PERSONNEL SHALL NOT ADMINISTER THE NONSMOKEABLE MEDICAL MARIJUANA IN A MANNER THAT CREATES DISRUPTION TO THE EDUCATIONAL ENVIRONMENT OR CAUSES EXPOSURE TO OTHER STUDENTS. IF A STUDENT WHO IS SUBJECT TO THE PROVISIONS OF THIS SUBSECTION (3)(d.5) TAKES A SCHOOL TRIP OUTSIDE OF THE STATE OF COLORADO OR PARTICIPATES IN A SCHOOL ACTIVITY OUTSIDE OF THE STATE OF COLORADO, THE PROVISIONS OF THIS SUBSECTION (3)(d.5) DO NOT APPLY FOR THE TIME DURING WHICH THE STUDENT IS ENGAGED IN THE TRIP OR ACTIVITY OUTSIDE OF THE STATE OF COLORADO.

(B) NOTHING IN THIS SUBSECTION (3)(d.5) REQUIRES ANY SCHOOL PERSONNEL TO ADMINISTER MEDICAL MARIJUANA. ADMINISTRATION OF MEDICAL MARIJUANA IN A NONSMOKEABLE FORM IS AT THE DISCRETION OF THE PARENT OR LEGAL GUARDIAN, THE SCHOOL PRINCIPAL OR HIS OR HER DESIGNEE, OR THE DESIGNATED SCHOOL PERSONNEL.

(C) IT IS AN EXCEPTION FROM THE STATE'S CRIMINAL LAWS FOR SCHOOL PERSONNEL TO POSSESS AND ADMINISTER MEDICAL MARIJUANA IN A NONSMOKEABLE FORM IN COMPLIANCE WITH THIS SUBSECTION (3)(d.5) TO A STUDENT WHO HOLDS A VALID RECOMMENDATION FOR MEDICAL MARIJUANA, EXCEPT AS OTHERWISE PROVIDED IN SECTION 18-18-406.3.

(IV) A SCHOOL MAY ADOPT POLICIES REGARDING WHO MAY ACT AS SCHOOL PERSONNEL PURSUANT TO THIS SUBSECTION (3)(d.5) AND THE REASONABLE PARAMETERS OF THE ADMINISTRATION AND USE OF MEDICAL MARIJUANA IN A NONSMOKEABLE FORM UPON THE GROUNDS OF THE PRESCHOOL OR PRIMARY OR SECONDARY SCHOOL IN WHICH THE STUDENT IS ENROLLED, OR UPON A SCHOOL BUS OR AT A SCHOOL-SPONSORED EVENT.

(V) THIS SUBSECTION (3)(d.5) DOES NOT APPLY TO A SCHOOL IF:

(A) THE SCHOOL LOSES FEDERAL FUNDING AS A RESULT OF IMPLEMENTING THIS SUBSECTION (3)(d.5);

(B) THE SCHOOL CAN REASONABLY DEMONSTRATE THAT IT LOST FEDERAL FUNDING AS A RESULT OF IMPLEMENTING THIS SUBSECTION (3)(d.5); AND

(C) THE SCHOOL POSTS ON ITS WEBSITE IN A CONSPICUOUS PLACE A STATEMENT REGARDING ITS DECISION NOT TO COMPLY WITH THIS SUBSECTION (3)(d.5).

(VI) STUDENT POSSESSION, USE, DISTRIBUTION, OR SALE, OR A STUDENT BEING UNDER THE INFLUENCE, OF A CANNABINOID PRODUCT INCONSISTENT WITH THIS SUBSECTION (3)(d.5) IS NOT PERMITTED.

(VII) THE STUDENT'S PARENT, GUARDIAN, OR DESIGNEE SHALL DELIVER THE STUDENT'S MEDICAL MARIJUANA IN A NONSMOKEABLE FORM, IN A CONTAINER THAT CONTAINS CLEARLY LABELED INSTRUCTIONS OR THE PLAN FOR ADMINISTRATION MUST CLEARLY SPECIFY INSTRUCTIONS FOR THE DOSING, TIMING, AND DELIVERY ROUTE INSTRUCTIONS FROM ONE OF THE STUDENT'S RECOMMENDING PHYSICIANS, TO THE PERSON DESIGNATED BY THE SCHOOL AS THE PERSON WHO SECURES THE MEDICAL MARIJUANA BEFORE THE STUDENT ATTENDS SCHOOL FOR THE SCHOOL DAY. THE PERSON WHO SECURES THE MEDICAL MARIJUANA IN A NONSMOKEABLE FORM SHALL PLACE THE MEDICAL MARIJUANA IN A LOCKED STORAGE CONTAINER. AFTER THE SCHOOL PERSONNEL ADMINISTERS THE MEDICAL MARIJUANA IN A NONSMOKEABLE FORM, THE SCHOOL PERSONNEL SHALL PLACE THE MEDICAL MARIJUANA IN A LOCKED MEDICAL MARIJUANA STORAGE CONTAINER DESIGNATED BY THE SCHOOL. THE PERSON WHO SECURES THE MEDICAL MARIJUANA IN A NONSMOKEABLE FORM SHALL RETURN ANY UNUSED MEDICAL MARIJUANA TO THE STUDENT'S PARENT, GUARDIAN, OR DESIGNEE AT THE END OF EACH SCHOOL DAY. THE STUDENT SHALL NOT HANDLE THE MEDICAL MARIJUANA IN A NONSMOKEABLE FORM ON THE GROUNDS OF THE SCHOOL, SCHOOL BUS, OR SCHOOL-SPONSORED EVENT.

(VIII) NEITHER THIS SECTION NOR ANY OTHER STATE OR FEDERAL LAW, INCLUDING WITHOUT LIMITATION THE "INDIVIDUALS WITH DISABILITIES EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ., AS AMENDED, AND SECTION 504 OF THE "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 794, AS AMENDED, MAY BE USED TO REQUIRE A SCHOOL OR ANY EMPLOYEE OR VOLUNTEER THEREOF TO STORE MEDICAL MARIJUANA ON THE GROUNDS OF A SCHOOL, SCHOOL BUS, OR SCHOOL-SPONSORED EVENT OR TO ADMINISTER MEDICAL MARIJUANA.

(IX) FOR PURPOSES OF THIS SUBSECTION (3)(d.5), "SCHOOL PERSONNEL" MEANS SCHOOL PERSONNEL DESIGNATED BY AGREEMENT BETWEEN THE PRINCIPAL OR HIS OR HER DESIGNEE AND A PARENT OR LEGAL GUARDIAN.

**SECTION 2. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 4, 2018