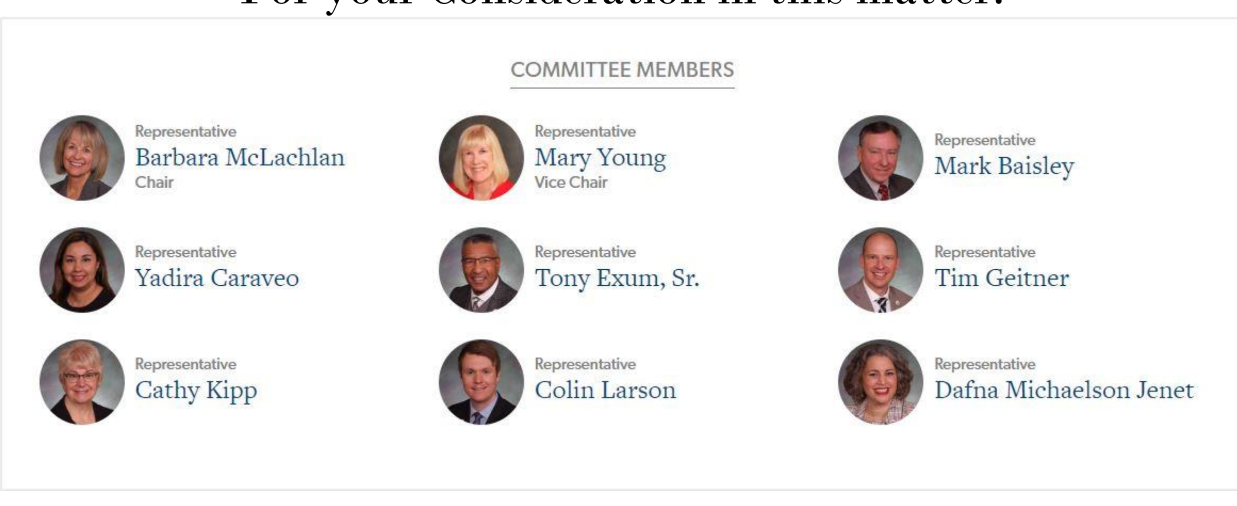
Attachment A

Passed Senate Education Committee 7-0
Passed Senate Appropriations Committee 7-0
Passed Senate 33-1 (1 excused)

EXPAND CANNABIS-BASED MEDICINE AT SCHOOLS

Senate Bill 21-056

A Special Thank You!
For your Consideration in this matter.



SPONSORSHIP

SENATOR HOLBERT AND SENATOR GONZALES
REPRESENTATIVE VAN WINKLE AND REPRESENTATIVE GRAY

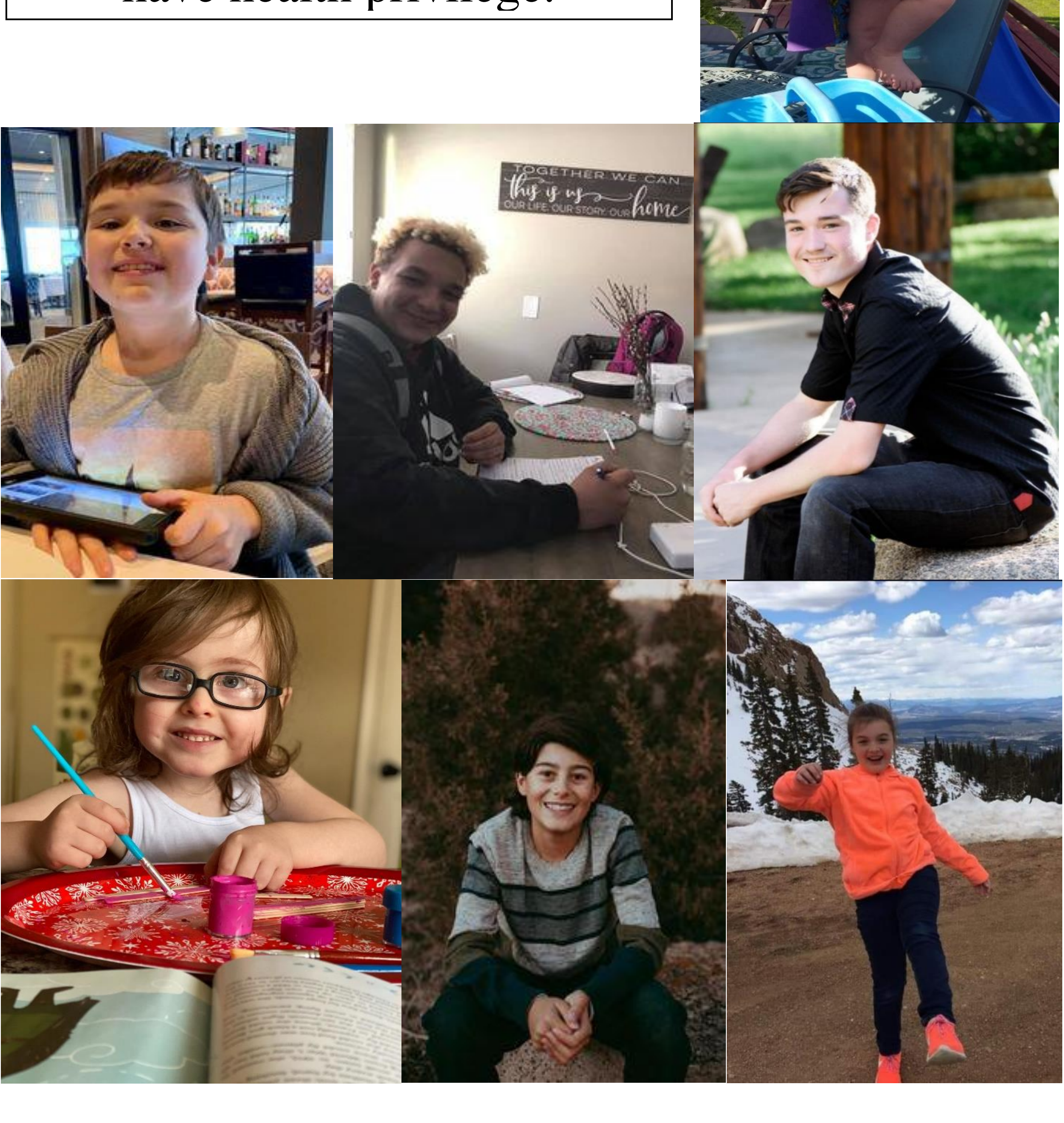
WHERE IT BEGAN…. JACK SPLITT

2015 JACK'S ADMENDMENT
2016 JACK'S LAW

Jack, who has cerebral palsy, was not allowed by the school district to wear a skin patch delivering a cannabis-derived treatment on campus. A bipartisan bill would take discretion over medical marijuana use at schools, which is legal thanks to the 2016 "Jacks Law" inspired by Splitt, and require districts to hammer out specific policies on storage and administration.

Our efferts are to expand what Jack started… RIP - 2016

These are the faces of a few, among the millions that are medically fragile and do not have health privilege.



This is about them, having the same medical freedoms as other children.

Benjamin Wann was diagnosed with Epilepsy at three years old, after multiple seizure types set him back he had to learn to walk again. The seizure types would change over the years, and a battle over pharmaceutical side-effects made learning extra difficult. Eventually, Grand Mal seizures would once again lead to non-convulsive status epilepticus stealing Ben's ability to speak overnight at nine years old! After lots of speech therapy he learned to speak again! By age 13, Ben would be diagnosed with a point gene mutation called GRIN2A which gave the cause to his epilepsy mystery.

After a nine month break from all the negative pharmaceutical side-effects to give Ben's system a rest and see if his learning would improve, the Grand Mal seizures returned lasting longer and stronger. By 14 years old Ben started Charlotte's Web with much success that he just became five years seizure-free on Charlotte's Web only, as of December 2020! Today Ben is currently attending an after high school Bridge Program in Douglas County though his latest EEG still shows he is "at risk" for having a breakthrough seizure, he isn't going to let that stop him! His future is bright thanks to his medical cannabis, but it should be able to be with him as he goes to his school district program allowing it be accessible at school when he's there!

Fact Sheet on SB21-056

Expand Cannabis-Based Medicine at Schools

"Concerning measures related to assisting students who have a valid recommendation for medical marijuana with administration of cannabis-based medicine at school, and, in connection therewith, requiring cannabis-based medicine to be stored at a school if a student needs cannabis-based medicine to treat a life-threatening condition."

Thirty-three states and Washington D.C. have decriminalized marijuana for medical purposes. Before medicinal marijuana was permitted, hundreds of children with intractable medical conditions were suffering because pharmaceutical medicine was failing them. Now they are alive and thriving because of their success with medical marijuana (MMJ) treatment. In many cases, marijuana (also known as cannabis) is the only option for treatment—there are no other medicines that can be substituted. It is only because of their successful treatment with medical cannabis that these children are well enough to attend school and be more fully engaged in their education.

To ensure that children who require medical cannabis treatment can access to public education, the Colorado Legislature passed **Jack's Law** (HB 16-1373) in 2016. Jack's Law requires school districts to create a policy allowing a parent or caregiver to come to the child's school and administer medical marijuana in a non-smokable form. Jack's Law has allowed hundreds of children to attend school and safely receive the medical cannabis that has afforded them the ability to be there. But many students are still at risk.

Why are students who are medical cannabis patients still at risk?

There are many circumstances which prevent a parent or caregiver from getting to school to administer medical cannabis to their child, creating an undue burden on already over-taxed parents or in cases of emergency access when a parent cannot get there in time to administer a rescue dose.

1. Many parents cannot leave work (or leave siblings at home) and go to school to administer medicine.
2. Parents raising special needs children bear innumerous burdensome medical costs and they cannot afford to hire a caregiver to go to school for them.
3. Special needs children often thrive in routines and are often so disrupted by seeing their parents at school that they can no longer engage the rest of the school day.
4. In case of an emergency, children need access to rescue medication because unexpected and sudden breakthrough symptoms can occur at any time, regardless of successful and ongoing management. In many cases, such as seizures, this can be life threatening and cannot wait for treatment. Waiting for a parent or caregiver to get to the school endangers the child's life and increases the risk they will end up in the emergency room or die.
5. In order to control symptoms during the day, a child who takes cannabis may need to keep a steady level of medication in their system at all times—just like any other medication—otherwise they risk severe medical complications. This often requires dosing in the middle of the school day.
6. During the recent pandemic, parents and caregivers were not allowed to administer medical cannabis to their student on school ground, putting the student at extreme risk, if the student was even able to attend.

Without allowing school nurses or personnel to administer medical cannabis at school, families still must decide between access to life-saving medicine and education for their child. A change to the law must be made to ensure adequate avenues for student access to lifesaving and necessary medication.

Why is this an issue?

Schools are refusing to allow the administration of marijuana under the authority granted to them by the 2018 amendment to Jack's law; however, administration of cannabis-based medicines by nurses or school personnel is protected by the following rules, laws, policies, and guidelines at the state and federal level:

State:

1. Jack's Law and subsequent amendments requires school districts to create a policy for a personal caregiver of child to safely administer medical marijuana, and allows for principals to permit school personnel to administer medicine. Children already use cannabis at school.
2. Jack's Law includes a clause to address the risk of losing federal funding under the Drug-Free Schools and Communities Act, which refers to "unlawful possession or distribution of illicit drugs... by personnel and employees on its properties." If a school is federally notified and can prove to the community that they are at imminent risk of losing federal funding because of cannabis on campus, then they can opt out of the policy. In the 5 years since Jack's Law passed, there has not been any federal interference.
3. The Colorado Good Samaritan Act "protects people from legal liability if they act in an emergency situation to give aid to a person who is injured."
4. The Colorado Department of Education has stated that a teacher cannot lose their license for administering medical marijuana to a qualifying student.
5. Pinnacol Assurance has stated that a school employee cannot lose their workman's compensation insurance for administering medical marijuana.
6. Clear Creek County has passed a policy to allow school personnel to administer medical marijuana to students according to HB 18-1286, which allows but does not require school personnel to administer and carries the same protections as Jack's Law. Almost all other districts still refuse to allow school personnel to administer.

Federal:

1. The Rohrabacher-Farr appropriations rider states that the DOJ shall not use funds to prevent states from implementing medical marijuana laws or to prosecute medical marijuana patients following the medical marijuana laws of the state.
2. The National Council of State Boards of Nursing provides evidence-based nursing guidelines for caring with patients who use medical cannabis.
3. School personnel and school nurses have volunteered to administer medical marijuana to students based on the above protections.

What is the solution?

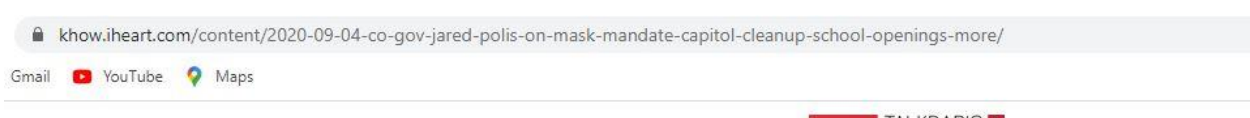
<u>Vote YES on SB21-056</u>

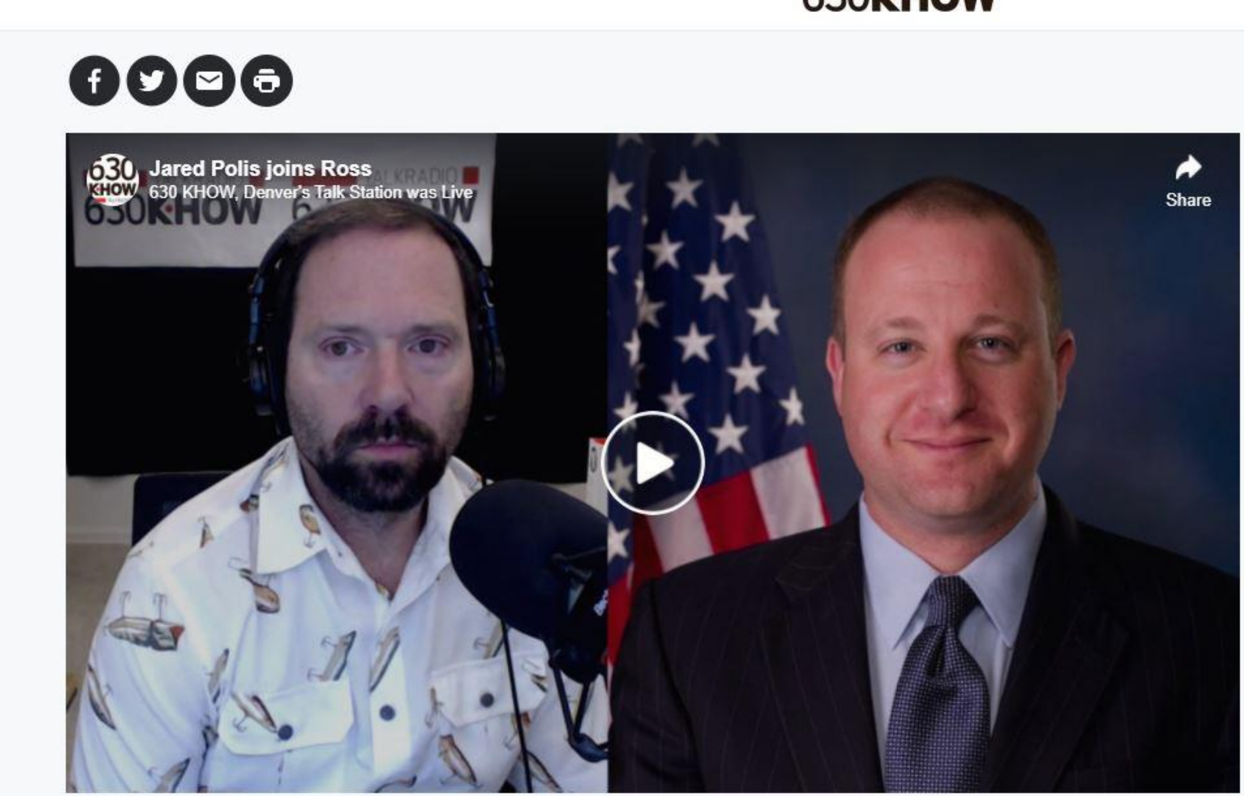
Senate Bill 21-056 will allow school nurses, volunteers, or school personnel to administer medical cannabis in a non-smokable form. This key amendment to Jack's Law will ensure there are adequate avenues for children to receive vital, lifesaving medication in order to attend school and stay healthy. It will relieve the enormous burden on families that are struggling to persuade schools to administer life-saving medicine, and it will allow more children to attend school who currently do not have a parent or caregiver who can reach school to administer medicine. Please vote yes on SB21-056.

Colorado Governor Jared Polis

"It is not right obviously, if it makes a difference of a kid going to school to prevent seizures. Obviously, the school should not be withholding medication!" Governor Polis September 4, 2020

At 4:50 Governor Jared Polis comments on the issue of rescue MMJ in schools.
https://khow.iheart.com/content/2020-09-04-co-gov-jared-polis-on-mask-mandate-capitol-cleanup-school-openings-more/





Congressional Letter to DOJ & DOE

Congress of the United States
Washington, DC 20515

January 28, 2020

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

The Honorable Uttam Dhillon
Acting Administrator
Drug Enforcement Administration
8701 Morrissette Drive
Springfield, VA 22152

Dear Secretary DeVos and Acting Administrator Dhillon,

We write to draw your attention to concerns raised by Brad and Amber Wann from Douglas County, Colorado, regarding federal drug enforcement and the administration of medical marijuana to primary or secondary students in schools from states where such use is legal.

In November 2000, Colorado voted to legalize the use of limited amounts of medical marijuana for patients and their primary caregivers. Additionally, since December 2014, federal law has prohibited the Department of Justice (DOJ) and Drug Enforcement Agency (DEA) from enforcing federal law when the use of medical marijuana is consistent with state law. Furthermore, in *USA vs. Marin Alliance for Medical Marijuana*, the Ninth Circuit Court of Appeals upheld the intent of this amendment, requiring the federal government to respect state marijuana laws.

However, key questions remain as to how federal agencies, including the Department of Education (DOE), will treat school districts in states where medical marijuana is legal, specifically in terms of continued federal funding. This lack of clarity is hurting families, especially children who rely on medical marijuana to treat serious health conditions such as epilepsy.

We are enclosing a copy of a letter from the Wanns outlining concerns relating to their son and, on their behalf, we would request that DOE and DEA provide our offices with answers to the enclosed policy questions. These answers will provide families and school districts with much-

needed guidance as to how DOE and DEA will respond to the legal use and administration of medical marijuana in primary and secondary schools.

Thank you for full and careful consideration of our request. Your prompt response is appreciated.

Sincerely,

JASON CROW
Member of Congress

KEN BUCK
Member of Congress

MICHAEL F. BENNET
United States Senator

CORY GARDNER
United States Senator

Brad and Amber Wann's Letter to DOE & DOJ

January 28, 2020

Dear Secretary DeVos and Acting Administrator Dhillon,

Good day and I hope this letter finds you well. Fifteen years ago, this past Thanksgiving, our son had his first seizure during our family Thanksgiving gathering (he was three years old at the time) and within a day lost his ability to walk. We have been on a roller coaster ride ever since with our son learning to walk and talk again over the years. Our son's name is Benjamin, he has had different types of seizures that would lead to status (a constant seizure) by age nine that stole his ability to speak. He has used various types of pharmaceuticals over the years. Eventually the pharmaceuticals stopped working or the side-effects outweighed the benefits of not having seizures. Five years ago, our son was finally diagnosed with a gene mutation called GRIN2A. This gene mutation is extremely rare and researchers at Boston's Children's hospital found recently the reasons why our son's gene does not respond to pharmaceuticals designed for traditional seizure control. With options running out we turned to medical cannabis, a considerable leap for us because we are a very conservative household. Four years ago, after a snowstorm here in Colorado, my wife Amber drove down to Colorado Springs to pick up our first bottle of Charlotte's Web (CBD). From the moment my son took it, he has been seizure-free. Not only has he been without any epileptic episodes in four years to date, he started growing, he started learning, and at age 14, he sang his first song.

In 2015 we were reported to Child Protective Services for giving our child a hemp-based CBD oil by the school nurse. We had merely told her what we were doing at home. We were able to educate Child Protective Services about the Colorado Constitution Article 18 section 16. This portion of the Constitution protects our rights to administer, and our son's right to use cannabis derived medications. As a result of this treatment, we became active in a community we were extremely unfamiliar with. In 2016, we rolled up our sleeves and helped pass Jack's Law, HB16-1373, in Colorado. This law allows a parent or caregiver to go onto school grounds and administer medical cannabis to a student who has a medical cannabis license under the state's jurisdiction.

We were ecstatic when Jack's Law passed, but we soon realized that someone had to be basically unemployed to be a full-time caregiver for their child in public schools. So, we worked to pass an amendment HB18-1286 in 2018. This amendment allows for medical cannabis to be stored on school grounds and administered by a school staff volunteer of the principle's choosing; however, this law was permissive and allows school districts to opt out. This permissiveness allows a school district to freely discriminate against children who cannot use traditionally prescribed and administered pharmaceutical drugs.

Although we are grateful for years of Benjamin being seizure free, the reality is, his seizures could come back at any time. Benjamin's clinical brainwaves testing via EEG displays what's called "Epileptiform Activity," according to Children's Hospital, essentially keeping Benjamin "at risk" for having a breakthrough seizure unexpectedly, anytime. Our big concern is SUDEP, or sudden unexpected death in epilepsy. This phenomenon is most prevalent during the ages of 16 and 26 and a seizure rescue dose should always be nearby. Unfortunately, our son is allergic to Versed (which is in a nasal form of pharmaceutical rescue) and Benjamin does not have another option for a prescribed pharmaceutical to use as a rescue medication. Our doctors and the Douglas County School District know that our son is using CBD, and his rescue nasal spray is a marijuana product, which has been recommended by a physician specializing in cannabis.

Currently, the school district's policy is just to call 911. That does not help our son. According to the South Metro District Fire Manager, it could take them up to 13 minutes to arrive, and when they get there, the medication is not what our son needs. Brain damage from a seizure can happen within five minutes. The rescue on most ambulances is Versed which, again, our son is allergic to. Having his medical

cannabis nasal spray rescue medication on hand at school is the best chance Benjamin has to staying alive if he has a breakthrough seizure at school. We are currently in negotiations with Douglas County School District here in Colorado. We are asking them to adopt HB18-1286 as a policy for our district.

We kindly ask the United States Department of Education (DOE) and the Drug Enforcement Administration (DEA) to jointly answer the following questions:

1) **Nurses at Benjamin's school hold Colorado licenses and follow the Colorado Nurse Practice Act. Would the DEA provide the DOE with information that would lead to cutting federal funds for a school district where a school nurse administers medical marijuana?** Note in the link in the footnotes starting on page S19 the NCSBN set forth Six Principles of Essential Knowledge regarding nurses administering MMJ. https://www.ncsbn.org/marijuana-guidelines.htm

2) Since May 2014, the Rohrabacher-Farr Amendment has prohibited the Department of Justice from using funds to interfere with state medical marijuana laws. **If a Colorado medical cannabis patient, their school, and medical team, including school nurses, are following all the Colorado jurisdictional laws, are they protected from prosecution of the federal government?**

Benjamin is a wonderful kid who deserves to go to school without worrying that he could lose his life because his seizure rescue medication is not nearby. Your clarification of the above issues could go a long way in protecting, and potentially saving, our son's life.

Sincerely,

Brad and Amber Wann
9426 Wickerdale Ct.
Highlands Ranch Co. 80130
303-906-2269
303-906-1535

Department of Education’s Response

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

January 14, 2020

Brad and Amber Wann
9426 Wickerdale Ct
Highlands Ranch, CO 80130

Dear Mr. and Mrs. Wann:

Thank you for your letter to Secretary Betsy advocating for HB18-1286 to be adopted as policy in the school district that your child attends. Your letter was referred to the Office of Elementary and Secondary Education for review, and I am pleased to respond.

I have read your letter, and I empathize with your situation. However, this matter is not within the purview of the U.S. Department of Education (the Department). The Department does not have the authority to determine state or local education policies or practices, unless these matters are specifically required in federal education statutes. Indeed, because education is primarily the responsibility of the state and local governments, the Department is specifically prohibited by law from exercising any direction, supervision, or control over such matters as curriculum, the teaching of particular subjects and graduation requirements, local administration and personnel issues, and allocation of state or local resources. If you have not done so already, you may wish to share your thoughts with your state department of education.

Thank you for your interest in improving public education.

Sincerely,

Brittney Lovitt
Management & Program Analyst
Control Correspondence & Communications Unit
Executive Office

400 MARYLAND AVE. SW, WASHINGTON, DC 20202
www.ed.gov

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access

Department of Justice Response

U. S. Department of Justice
Drug Enforcement Administration
8701 Morrissette Drive
Springfield, Virginia 22152

www.dea.gov

Brad and Amber Wann
9426 Wickerdale Court
Highlands Ranch, Colorado 80130

Dear Mr. and Mrs. Wann:

This is in response to your letter dated January 3, 2020, to the Drug Enforcement Administration (DEA) and the Department of Education (DOE). Thank you for sharing your story about your son Benjamin's health issues and your efforts in changing laws in the State of Colorado. We empathize with your concerns and appreciate your willingness to share his story.

This letter only addresses the issues that fall under the purview of DEA. DEA must defer to DOE as to any policies and regulations that fall within DOE's authority.

Based on your letter, it appears that your son is being given a product that contains cannabidiol (CBD) derived from the cannabis plant. More specifically, it appears from your letter that the CBD material about which you are inquiring contains a very low percentage of tetrahydrocannabinols (THC). Please be advised that under current federal law, cannabis-derived extracts that contain no more than 0.3 percent delta-9 THC on a dry weight basis fall within the definition of "hemp" and are *not controlled substances*. 7 U.S.C. 1639***o***; 21 U.S.C. 802(16)(B)(i). In other words, assuming the material about which you are asking falls within the definition of "hemp," it is not a controlled substance and DEA has no authority to take any action to restrict its use.

As for your inquiry about the Rohrabacher-Farr Amendment, please be assured that DEA faithfully adheres to all federal laws, including the Rohrabacher-Farr Amendment (and any acts of Congress extending the effective date thereof).

I trust this letter adequately addresses your inquiry. For information regarding DEA's Diversion Control Division, please visit www.DEAdiversion.usdoj.gov. If you have any additional questions on this issue, or any other, please contact DEA's Diversion Control Division Policy Section at (571) 362-3260.

Sincerely,

THOMAS PREVOZNIK — Digitally signed by THOMAS PREVOZNIK Date: 2020.09.25 10:44:11 -04'00'

Thomas W. Prevoznik
Deputy Assistant Administrator
Diversion Control Division

DEA Response

From: Martin, Anastasia T.
To: "bmwfurniture"
Subject: FW: CannatolRx
Date: Tuesday, November 17, 2020 11:23:00 AM
Attachments: AIA IFR 8-21-20.pdf

Hello Mr. Wann,
I was asked to provide a response to your e-mail below. It is my understanding that you are inquiring about a product used medicinally that contains THC (with above 0.3% THC concentration), that you have indicated can be used per your state's medical marihuana laws. Mr. Miller below provided that the product would appear to fall under the legal definition of marihuana. This would be due to the concentration amount of THC, in excess of 0.3%.

I have attached a recent DEA Interim Final Rule (8/21/2020), which discusses implementation of the Agriculture Improvement Act of 2018. This document provides the modified legal definition of marihuana as a result of the passage of the Act. The information in this document may clarify for you, with the current legal definition of marihuana (in excess of 0.3% THC concentration), how the substance defined as such currently remains controlled under the Controlled Substances Act.

The concerns you have expressed about whether your son's school district will assist in dispensing the THC product to your son appears to be a state and local issue that would need attention at that level. DEA does not have purview over the internal policy decisions of a school district, other educational agency or institution that has authority or oversight in this area.

I hope this information is helpful. Regards, Anastasia Martin

Anastasia Martin | Staff Coordinator | DEA HQRS Policy Section

---

-------- Original message --------
From: "Miller, Loren T." <Loren.T.Miller@usdoj.gov>
Date: 10/6/20 9:55 AM (GMT-07:00)
To: "'bmwfurniture@aol.com'" <bmwfurniture@aol.com>
Cc: "Brennan, Claire M." <Claire.M.Brennan@usdoj.gov>
Subject: CannatolRx

Mr. Wann,

Ms. Brennan passed to me your email regarding your son Benjamin and the product you mentioned. The letter you sent to DEA was about the use of a CBD product. Therefore, our response addressed products that contain CBD. We receive questions frequently regarding the legal use of CBD products. The answer you received was in line with how DEA has previously addressed questions about CBD. I apologize if this did not adequately address your letter. From the information contained in this email it now seems clear that you are asking about the use of a nasal spray that contains THC at a greater concentration than 0.3% per dry weight. This would seem to place this product under the Federal definition of marijuana. Marijuana is a schedule I controlled substance under Federal law.

As noted in our letter, DEA must defer to DOE as to any policies and regulations that fall within DOE's authority. As further stated in that letter, with regards to the Rohrabacher-Farr Amendment, please be assured that DEA faithfully adheres to all federal laws, including the Rohrabacher-Farr Amendment (and any acts of Congress extending the effective date thereof).

I am happy to discuss this issue with you further if you wish. However, please be aware that as a general matter, it has been DEA's longstanding policy not to provide legal advice to private parties.

OFFICE OF LEGISLATIVE LEGAL SERVICES

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MEMORANDUM

TO: Committee on Legal Services

FROM: Michael Dohr, Office of Legislative Legal Services

DATE: December 10, 2019

SUBJECT: Rules of the State Board of Education, Department of Education, concerning administration of medical marijuana by school personnel, 1 CCR 301-68 (LLS Docket No. 190111; SOS Tracking No. 2018-00489).[1]

Summary of Problem Identified and Recommendation

No statute authorizes the state board of education (state board) to promulgate rules giving the local school boards authority over school personnel administering medical marijuana. But Rule 8.01 authorizes local school boards to adopt policies regarding school personnel administration of medical marijuana. **Because the state board lacks statutory authority to promulgate Rule 8.01, we recommend that Rule 8.01 of the state board concerning administration of medical marijuana by school personnel not be extended.**

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[1] Under § 24-4-103, C.R.S., the Office of Legislative Legal Services reviews rules to determine whether they are within the promulgating agency's rule-making authority. Under § 24-4-103 (8)(c)(I), C.R.S., the rules discussed in this memorandum will expire on May 15, 2020, unless the general assembly acts by bill to postpone such expiration.

Analysis

1. **School principals, not local school boards, have authority over school personnel administration of medical marijuana.**

Section 22-1-119.3, C.R.S., addresses the administration of medical marijuana to a student while at school, on a school bus, or at a school-sponsored event. There are two relevant provisions within section 22-1-119.3, C.R.S. Subsection (3)(d) relates to administration of medical marijuana by the student's primary caregiver, and subsection (3)(d.5) relates to administration of medical marijuana by school personnel. Subsection (3)(d) gives a school district or charter school the ability to adopt policies related to administration of medical marijuana by a primary caregiver in subsection (3)(d)(III), but subsection (3)(d.5) does not provide similar authority. Instead, subsection (3)(d.5) gives a school the authority to adopt policies related to who may act as school personnel to administer medical marijuana in subsection (3)(d.5)(IV). Also, subsection (3)(d.5)(I) gives the school principal the authority to decide whether to enter into an agreement allowing school personnel to administer medical marijuana. There is a significant difference between subsections (3)(d) and (3)(d.5): Subsection (3)(d) gives authority to school boards, but subsection (3)(d.5) gives the authority to the school and principal.

> **22-1-119.3. Policy for student possession and administration of prescription medication - rules - definition.** (3) (d) (I) (A) A primary caregiver 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 primary caregiver shall not administer the nonsmokeable medical marijuana in a manner that creates disruption to the educational environment or causes exposure to other students.
>
> (III) A **school district board of education or charter school may adopt policies** regarding who may act as a primary caregiver pursuant to this paragraph (d) 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. **(Emphasis added)**
>
> (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**. **(Emphasis added)**

> (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. **(Emphasis added)**

Rule 8.01 gives local school boards the authority to adopt policies related to the administration of medical marijuana by school personnel.

> 8.01 **If consistent with local school board policy**, 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 subject to the requirements outlined in section 22-1-119.3 (3)(d.5), C.R.S. **Nothing in this section shall require a local school board to adopt a policy permitting school personnel to possess and administer medical marijuana. (Emphasis added)**

Rule 8.01 limits school personnel's ability to administer medical marijuana by requiring that it be consistent with local school board policy. But there is no statutory authority for local school boards to adopt policy related to medical marijuana administration by school personnel. The statutes are very specific when it comes to medical marijuana administration: Local school boards can adopt policies for primary caregivers, but when it comes to administration by school personnel, the schools themselves have the authority to adopt policies. If the general assembly had intended for local school boards to be able to adopt policies for administration by school personnel, it certainly could have done so and obviously knows how since it did so for primary caregivers.

Section 22-1-119.3 (4), C.R.S., gives the state board of education rule-making authority related to the administration of medical marijuana at schools.

> **22-1-119.3. Policy for student possession and administration of prescription medication - rules - definition.** (4) The state board of education may promulgate rules for the implementation of this section.

But that authority does not give the state board the ability to effectively change the statute by giving local boards of education the policy-making authority that was statutorily provided to local schools. There is no other statutory authority to allow local school board policy to limit school personnel administering medical marijuana.

Recommendation

We therefore recommend that Rule 8.01 of the rules of the state board of education concerning administration of medical marijuana by school personnel not be extended because Rule 8.01 lacks statutory authority.

Colorado Department of Education Response

From: Maramba, Angela [mailto:Maramba_A@cde.state.co.us]
Sent: Friday, February 28, 2020 1:43 PM
To: Colorado School District Superintendents
Subject: Update on rule 1 CCR 301-68, Rules for Administration of Medications

This is an update about State Board rule 1 CCR 301-68, Rules for Administration of Medications. We want to make you aware of a recent ruling by the Committee on Legal Services about one of the rules related to administration of medical marijuana by school personnel.

A Colorado statute enacted in 2018 allows school personnel to administer medical marijuana to students. The statute required the State Board to adopt rules regarding documentation that a parent or legal guardian must submit to their student's school prior to school personnel administration. The State Board adopted these rules. They're found in rules 8.00 – 8.03 of 1 CCR 301-68.

After the State Board adopted these rules, the Office of Legislative Legal Services (OLLS) took issue with Rule 8.01. OLLS maintained that the underlying statute—§ 22-1-119.3, C.R.S.—gave school principals, rather than local school boards, the authority to decide whether to allow school personnel to administer marijuana. OLLS believed Rule 8.01 conflicted with the statute because the rule gave local school boards, as opposed to principals, the authority to adopt policies about school personnel administration of marijuana.

The State Board disagreed with OLLS's position. As a result, the Committee on Legal Services resolved the dispute at a rule review hearing. The Committee ruled in favor of OLLS. The Committee's decision means that Rule 8.01 will expire on May 15, 2020, unless the State Board decides to reopen the rules and strike Rule 8.01 before it expires. The State Board could potentially adopt a new rule or let the medication rules stand "as is" without Rule 8.01.

This ruling by the Committee did not change the underlying statute about medical marijuana in schools, § 22-1-119.3, C.R.S. The State Board's role under this statute is limited. For specific questions regarding your school or your district's medical marijuana policy, we encourage you to contact your district's legal counsel.

Please forward this email to all interested parties.

Angela Maramba
Director of State Board Relations

State Board of Education

P 303.866.6809
201 East Colfax Avenue, Room 500, Denver, CO 80203
Maramba_A@cde.state.co.us | www.cde.state.co.us

Civil Rights Discrimination Case

Charge No. P2000007027x

Benjamin Wann
9426 Wickerdale Ct.
Highlands Ranch, CO 80130

Complainant

Douglas County School District
620 Wilcox St.
Castle Rock, CO 80104

Respondent

DETERMINATION

Jurisdiction

Under the authority vested in me by C.R.S. § 24-34-306(2), I conclude from our investigation that there is sufficient evidence to support the Complainant's claim of discriminatory denial of full and equal enjoyment of a Place of Public Accommodation. As such, a **Probable Cause** determination is hereby issued. Under the authority vested in me by C.R.S. 24-34-306(2), I conclude from our investigation that there is insufficient evidence to support the Complainant's claim of discriminatory retaliation. As such, a **No Probable Cause** determination is hereby issued.

The Respondent is a place of public accommodation within the meaning of C.R.S. § 24-34-601(1), as re-enacted, and the timeliness and all other jurisdictional requirements pursuant to Title 24, Article 34, Parts 3 and 6 have been met.

The Respondent is a public school district in the State of Colorado, and oversees numerous public schools, K-12, within its district, including Mountain Vista High School, (hereinafter, referred to as "the school"), which the Complainant attends.

Allegations and Defenses

The Complainant alleges that in or about August 2019, and thereafter, he was denied full and equal enjoyment of a place of public accommodation when the Respondent prohibited his school from engaging in the interactive process with him, based on his

disability (Pseudo-Lennox Syndrome) and/or in retaliation for engaging in protected activity.

The Respondent denies the Complainant's allegations of discrimination and avers that it was not obliaged to engage in the interactive process with the Complainant, as it does not permit schools within its district to store or administer to students marijuana-based medication.

Relevant Policies and Comparative Data

The Respondent maintains an anti-discrimination policy that prohibits discrimination based on protected class, specifically including disability.

The Respondent adopted a policy on July 19, 2016, called "Administering Medical Marijuana, Hemp Oils and/or Cannabinoid Products," which allows parents or guardians to come to a child's school to administer medical marijuana or marijuana-based medication pursuant to C.R.S. § 22-1-119.3(3)(d) ("Jack's Law"). The policy also states: "The school or school personnel shall not administer, hold or store any medical marijuana, hemp oils, or cannabinoid products in any form."

In or about 2018, the Colorado legislature passed C.R.S. § 22-1-119.3(3)(d.5) ("Quintin's Amendment"), which allows schools to store and administer medical marijuana to qualified students.

Legal Framework

In this case, the Complainant has the burden to prove each element of each claim ("prima facie case") by a preponderance of the evidence. Preponderance of the evidence means evidence that is more convincing (even if minimally) than the evidence presented by the other party. If the Complainant meets this initial burden of proof, then the burden shifts to Respondent to provide a legitimate, non-discriminatory reason for the action taken. If the Respondent offers a legitimate, non-discriminatory reason for its action, the burden shifts back to the Complainant to prove that the reason asserted by the Respondent is a pretext or coverup for a discriminatory action. Colorado Civil Rights Commission v. Big O Tires, Inc., 940 P.2d 397 (Colo. 1997), and Ahmad Bodaghi and State Board of Personnel, State of Colorado v. Department of Natural Resources, 995 P.2d 288 (Colo. 2000).

Analysis

Denial of Full and Equal Enjoyment of a Place of Public Accommodation:

To prevail on a claim of discriminatory denial of the full and equal enjoyment of goods, services, benefits or privileges of a place of public accommodation, the evidence must show:

1. The Complainant is a member of a protected class;

2. The Respondent is a place of public accommodation;
3. The Complainant sought goods, services, benefits or privileges from the Respondent;
4. The Respondent provides the goods, services, benefits or privileges sought by the Complainant to other persons;
5. The Respondent refused to provide Complainant the goods, services, benefits or privileges sought by Complainant; and
6. The circumstances give rise to an inference of unlawful discrimination based on a protected class.

The Complainant has provided medical documentation demonstrating that he is a member of a protected class based on his disability (Pseudo-Lennox Syndrome/Epilepsy), which affects the electrical activity within the brain, causing seizures. The Respondent is a place of public accommodation that provides public education to children living within its district, including the Complainant.

The evidence shows that the Complainant was diagnosed with Pseudo-Lennox Syndrome in or about November 2004, at the age of three, and periodically experienced Tonic-Clonic seizures, in addition to less serious types of seizures. In or about December 2015, the Complainant began a course of CBD oil recommended by his physician to treat his disability, which was administered at home. Since then, the Complainant has not experienced a seizure. However, because Pseudo-Lennox Syndrome/Epilepsy has no known cure, there is still a risk of a seizure at any time.

In or about May 2019, the Complainant provided his school administration with two doctor's notes regarding his license to use medical marijuana as an underaged minor.[1] His physicians recommended the use of a THC-based nasal spray in the event of a seizure, as the Complainant was allergic to benzodiazepines, the standard ingredient found in medication used for the rapid treatment of seizures by emergency rescue services. The school was informed of this in or about July 2019. On or about August 8, 2019, the Complainant's parents provided the medication to school personnel for storage and administration to the Complainant in the event of an emergency. The Complainant also requested that the school create a plan of action in case of such an emergency, pursuant to C.R.S. § 22-1-119.3(3)(d.5). The Respondent, however, prohibited the Complainant from either storing his medication at the school, and/or allowing school personnel to administer it in the event of an emergency.

The Complainant's current Seizure Health Care Plan states that the school will call 911 at the onset of seizure activity, and will inform paramedics of the Complainant's allergy. The Complainant avers that South West Fire Rescue estimates that it would take 10 to 13 minutes for paramedics to arrive at his school, and even then, would not have the appropriate medication given his allergy. The Complainant avers that his parents would require even more time to arrive at the school with his medication in

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[1] The Complainant was 17 years old at this time. Minors are permitted medical majiruana cards if: 1) the minor and primary parent are Colorado residents; and 2) the minor has a qualifying medical condition.

order to administer it. Both circumstances could result in brain damage or death if the Complainant has a Tonic-Clonic seizure. The Complainant seeks to engage with his school in the interactive process to implement a reasonable accommodation, as merely calling 911 or calling his parents to come to school to administer his medication at the onset of a seizure is not only impractical, but places his health and life at risk.

The Respondent argues that federal disability discrimination statutes cannot be interpreted to require a school district to violate another federal law regarding the illegality of marijuana. Specifically, it cites Albuquerque Public Schools v. Sledge, Civ. No. 19-1029, 2019 WL 3759469 (D.N.M. Aug 8. 2019), wherein the court found that the Individuals with Disabilities Education Act ("IDEA"), 20 U.S. Code §1412, which makes available free and public education to children with disabilities, may not be used to require a school district to administer medical cannabis to a student, because marijuana is illegal under federal law. However, the Complainant does not seek to use federal law, such as the IDEA, to compel the Respondent or its schools to violate a different federal law. Unlike the State of New Mexico, in which the legislature merely opted to extend immunity from prosecution to qualified patients utilizing medical marijuana, Colorado law specifically allows schools to create policies allowing the storage and administration of medical marijuana on school grounds.

The Respondent also argues that the Colorado Anti-Discrimination Act cannot be used to force it to allow schools to store and/or administer marijuana-based medication. Here, however, the Complainant is only seeking to engage in the interactive process with the school, with a conscientious awareness that the school is lawfully permitted to determine whether it will store and administer marijuana-based medication pursuant to C.R.S. § 22-1-119.3(3)(d.5). In this case, the Respondent created an absolute prohibition on allowing schools within its district to opt-in to a policy allowing a student to store his or her marijuana-based medication on school grounds, as well as to receive administration of said medication by school personnel if needed. Policies that place an absolute prohibition on a specific type of accommodation for a disability are suspect, as every disability-related request for accommodation warrants a case-by-case analysis to determine if other options exist that will allow a student with a disability the full and equal enjoyment of a Respondent's services, benefits and privileges. Here, the Complainant's request for an accommodation for his disability obligated the Respondent to engage in an interactive process to discuss the Complainant's needs and determine available options. The evidence is sufficient to substantiate a claim of discriminatory denial of full and equal enjoyment of a place of public accommodation.

Retaliation:

To prevail on a claim of discriminatory retaliation, the evidence must show that:

1. The Complainant (or an individual within the Complainant's zone of interest) engaged in protected activity, i.e., opposed unlawful discrimination or participated in an investigation thereof;

2. The Complainant was subjected to adverse treatment that would dissuade a reasonable person from engaging in protected activity; and
3. The Complainant was subjected to the adverse treatment because of the protected activity.

The evidence shows that on or about August 8, 2019, the Complainant engaged in protected activity when he requested an accommodation for his disability. The Complainant alleges that he was subjected to adverse treatment in or about August 2019, and thereafter, when the Respondent refused to allow him to engage in the interactive process with his school. Such treatment would dissuade a reasonable person from engaging in protected activity. However, the Respondent has shown that it prohibited the Complainant from engaging in the interactive process with his school based on its policy prohibiting schools from storing and administering medical marijuana, not based on his engagement in protected activity. The evidence does not support a claim of discriminatory retaliation.

<u>Conciliation, Appeal, and Dismissal Information</u>

Based on the evidence contained above, I determine that the Respondent has violated C.R.S. § 24-34-402, *et seq.*, as re-enacted, with respect to the Complainant's claims of discriminatory harassment and constructive discharge. In accordance with C.R.S. § 24-34-306(2)(b)(II), as re-enacted, the Parties hereby are ordered by the Director to proceed to attempt amicable resolution of those claims by compulsory mediation. The Parties will be contacted by the Agency to schedule this process.

Based on the evidence contained above, I determine that the Respondent has not violated C.R.S. § 24-34-402, *et seq.*, as re-enacted, with respect to the Complainant's claim of retaliation. In accordance with C.R.S. § 24-34-306(2)(b)(I)(A) and Rule 10.6(A)(1) of the Commission's Rules of Practice and Procedure, the Complainant may appeal the dismissal of this claim to the Commission within ten (10) days, as set forth in the enclosed form.

If the Complainant wishes to file a civil action in a district court in this state, which action is based on the alleged discriminatory or unfair practice that was the subject of the charge filed with the Division, such must be done:

a. Within ninety (90) days of the mailing of this notice if no appeal is filed with the Colorado Civil Rights Commission; or

b. Within ninety (90) days of the mailing of the final notice of the Commission dismissing the appeal.

If the Complainant does not file an action within the time limits specified above, such action will be barred and no State District Court shall have jurisdiction to hear such action. C.R.S. § 24-34-306(2)(b)(I)(C).

DORA on the CCRD Complaint

Sent via email.

September 28, 2020

Benjamin Wann
3900 E Mexico Ave, Suite 300
Denver, CO 80113

RE: Complaint No P2000007027x
Benjamin Wann v. Douglas County School District

Dear Benjamin Wann:

Efforts to resolve the above-captioned charge by conciliation were unsuccessful. Upon further review a decision has been made not to set this matter for hearing. Your case is being dismissed on the date shown above.

If the Charging Party wishes to file a civil action in a district court in this state, which action is based on the alleged discriminatory or unfair practice that was the subject of the charge filed with the Commission he must do so within ninety days of the mailing of this notice.

If Charging Party does not file an action within the time limits specified above, such action will be barred and no State District Court shall have jurisdiction to hear such action [CRS 24-34-306(I)].

If you have any questions or comments, please contact our office at (303) 894-2997.

Sincerely,

Aubrey L. Elenis, Esq.
Director

CC: Alexander Buscher, alex@buscherlaw.com
Douglas County School District, Wendy Jacobs, wjacobs@dcsdk12.org

1560 Broadway, Suite 825, Denver, CO 80202 P 303.894.2997 1-800.866.7675 www.colorado.gov/dora

Our Response to the CCRD Complaint

September 1, 2020
Press Release
For Immediate Release

CCRD Issues Finding of Probable Cause of Discrimination by Douglas County School District Against Student; School District Refuses to Change Policy to Conform to State Law.

On our son's first day of school in 2019, he was unlawfully separated from his doctor recommended cannabis-based epilepsy medicine at school, placing him in significant danger if a seizure were to occur. The Colorado Civil Rights Division (CCRD) has now issued a probable cause finding of discrimination against Douglas County School District (DCSD) for this conduct; it is time for DCSD to do what's right and change school district policy to conform to Colorado Law.

In 2016, the Douglas County School District adopted a policy prohibiting the administration of any medical marijuana-based medications by school personnel in response to Jack's Law, which allowed parents to administer cannabis-based medicines on school grounds. In 2018, a second law was passed, allowing school principals individually to decide to allow volunteer administration of medical marijuana on school grounds by school personnel, only after a written plan of administration has been completed. Following the passage of the amendment, we made multiple attempts at school board meetings to get the 2016 policy of non-administration updated; however, the district has refused to change the unlawful policy.

In October of last year, we submitted a complaint to the CCRD against DCSD on behalf of our son Ben in response to the discrimination Ben has faced at his school with respect to his life-saving medication for epilepsy. In July, the CCRD issued a letter of determination concluding that on the evidence provided, there was probable cause of discrimination because the policy violates state law and Ben has not been provided a reasonable accommodation by DCSD.

In addition to the CCRD finding, the district's policy has also received scrutiny from the Colorado General Assembly. In December of last year, at the urging of the Office of Legislative Legal Services, the General Assembly concluded that the state board of education rule providing authority to school boards to adopt a policy of administration was contrary to the law. The General Assembly reiterated it was school principals who had authority, and the rule granting authority to school boards was vacated.

In short, the CCRD has determined DCSD's policy to be discriminatory and the General Assembly has determined that the policy is invalid because the school district never had the authority to adopt it in the first place. Yet, despite being aware of these issues for several months, DCSD has taken no action to change its policy and has instead continued to enforce it. At this point, we have exhausted all low-cost means to effectuate change. DCSD has lost at both the Colorado Civil Rights Division and in the General Assembly, but they still refuse to change their unlawful policy on cannabinoid-based therapeutics to conform to state law and potentially save our son's life.

Up until now, legal costs have been minimal as the CCRD suit is an administrative proceeding investigated by the state, but if a lawsuit has to be filed, DCSD legal fees will significantly increase, taking needed funds from Douglas County teachers and students during a pandemic, all because the elected school board refuses to follow the law. This would be an incredibly unfortunate situation if we were forced to take this action, but it is a step we are willing to take to protect our son.

Please contact the Douglas County School Board members and demand a change to policy so that continued unlawful policies don't cost students districtwide and our son potentially his life.

Douglas County School District said they could get to Mountain Vista High School in 3 minutes. So, we asked for a Report. Please keep in mind that brain damage starts in Epilepsy in 5 minutes.

Mr. Wann,

I spoke to MetCom, our dispatch center, and discovered the best case scenario with regard to response times to Mountain Vista High School. The closest SMFR station is Station 18, being 2.28 miles away. With the appropriate apparatus in quarters, from the time the 911 dispatcher picks up the call, it would be approx. 7 minutes and 25 seconds until we could produce an apparatus to the East side of the school. The geographical area is based on mapping and why it is mentioned. That being said, it could take an additional 1-3 minutes for crews to locate a patient, if they are not in the main office, gather equipment and make first contact. After an assessment, times will vary based on presentation, it could take an additional 1- 2 minutes to establish an IV/IO (intravenous or intra Osseous) and administer the medication which is the preferred route. Should this particular medication been given in the IN/IM (intra nasal or intra muscular) route the administration can be 30-45 seconds. This is best case scenario given that the Medic brought those medication in, which is provider recommended, but may not always happen which would add additional time if the provider has to go back to the Medic Unit to obtain the drugs which are kept in a secure safe.

If Station 18 is not available then Station 17 is next due @ 7 minutes and 45 seconds. In either case, units may not be in quarters and another unit or combination of units will respond from other locations which obviously leads to increased response times which cannot be estimated. The same goes for units closer at the time of call and responses may be quicker based on a variety of reasons.

As the provided protocol states, 2- 3 minutes is a typical onset time where the medication begins to take effect if given IV. IN or IM cannot be estimated due to several factors associated with this administration modality. It may also vary from several minutes to not having any effect at all which is based on a variety of reasons.

I have attached two separate documents. One is the Denver Metro Protocol related to how any Paramedic is expected to treat a Seizure who works under this protocol. The other is the Denver Metro Protocol for Benzodiazepines. SMFR carries, Midazolam (Versed) and the protocol also addresses Lorazepam and Diazepam. The reason for this is to give differing agencies the option to carry something they feel is more beneficial. This also exists because over the last few years, drug manufacturers have made it difficult or impossible to obtain certain medication which results in providers/agencies to have to seek alternatives to the medication they were carrying. I will let you decipher the reason a manufacturer would cause this to happen and I am sure you will be correct in your opinion.

If you have any further questions or clarifications please let me know.

Matt Rogers
EMS Operations Supervisor
South Metro Fire Rescue
720-989-2391

PINNACOL
ASSURANCE

7501 E. Lowry Blvd. / Denver, CO 80230
303.361.4000 / 800.873.7242
pinnacol.com

April 23, 2018

Senator Irene Aguilar, MD
Colorado General Assembly
200 E. Colfax Ave.
Denver, CO 80203

Senator Aguilar,

Pursuant to your request regarding HB 18-1286: administering medical marijuana to a student on school grounds would not affect a school nurse's benefits as an employee, nor would it impact a school district's ability to obtain coverage. Workers' compensation coverage is sold to employers to cover all their employees; employers cannot exclude employees from coverage by their workers' compensation policies.

Please do not hesitate to contact us with any further questions.

Sincerely,

Mark Isakson
Senior Vice President,
Insurance Operations

Harvey Flewelling
Associate General Counsel

Response for Douglas County Under Sheriff about MMJ at school

RE: Medical cannabis at Douglas County Schools

Holly Nicholson-Kluth HKluth@dcsheriff.net Hide — Fri, Sep 20, 2019 2:18 pm

To **bmwfurniture** bmwfurniture@aol.com

Cc **redhothealthnut@aol.com** redhothealthnut@aol.com, **Todd Tucker** ttucker@dcsheriff.net, **Tony Spurlock** TSpurloc@dcsheriff.net

Brad and Amber,

From our conversation and from those you have had with Sgt. Todd Tucker, we have no intention of confiscating your son's medication, nor charging you or he with a crime for possessing it. The issue of your request to have the Douglas County School District keep or administer your son's medication is between you and the school district. While the DEA still regards possessing Marijuana possessing a controlled substance and against Federal Law , they have advised us they would not initiate a prosecution for this circumstance. Medical Marijuana is legal in Colorado and it appears to us, you and your son have the documents necessary to possess it, however, whether or not the school wants to keep or administer it, is again, up to them.

Thanks,
Holly

From: bmwfurniture <bmwfurniture@aol.com>

Link : https://www.ncsbn.org/marijuana-guidelines.htm

Supplement

The NCSBN National Nursing Guidelines for Medical Marijuana

TABLE 5

Cost of Cannabinoids (U.S. Dollars)*

Drug Name	Price Averages
Sativex	A vial with 15 sprays costs $22 dollars/vial. Average dose of 5 sprays per day yields $7/day and $51/week. This price was derived from the 2005 Patented Medicine Prices Review Board of Canada (www.pm-prb-cepmb.gc.ca) report on Sativex. *Available in Canada. Not available in the United States (undergoing FDA Fast Track trials).*
Cesamet (nabilone) Schedule II Controlled Substance	~$2,000 for 50/1-mg capsules. Wide variance in effective dose per day (2mg to 10mg). Average dose of 2mg/day yields $80/day. *FDA approved. Not covered by Medicare.*
Marinol (dronabinol) Schedule III Controlled Substance	$140–$271.05 for 60/2.5-mg capsules, $150–$281.95 for 30/5-mg capsules, $500–$1,019.40 for 60/10-mg capsules. Average dose of 5mg–10mg/day yields $8–$16/day without insurance. *FDA approved. Covered by Medicare. Insurance may cover 3%–99% of costs.*
Medical cannabis	~$150–$200 for 28g as the low end of possible dispensary prices in the United States. (Colorado Department of Revenue, 2015; Hickey, 2014; "Is it Cheaper to Buy," 2016) A starting dose of 5% THC per cannabis cigarette and the goal of 2.5mg absorbed THC requires 0.60g–1g of cannabis per dose. For pain, this may require four or more doses per day. This regimen could result in $600/month for management of pain using smoked cannabis. Patient cultivation regulations may reduce this cost. (This price estimate is approximate for all products sold at U.S. medical dispensaries.)

*Price ranges collated from www.goodrx.com, www.webmd.com, and www.wellrx.com

Nursing Implications

Nurses need practical information to care for the increasing number of patients who utilize cannabis via an MMP as well as the larger population who self-administer cannabis as a treatment for various symptomatology or for recreational purposes. As noted previously, evidence for cannabis use in described conditions is limited by inadequate study and limited legal availability of cannabis for research purposes. Statutory authorization of cannabis use for certain conditions has been influenced by advocacy; as a result, some qualifying conditions are present in statutes without evidence of their effect. Regardless of existing evidence, individuals are using cannabis and nurses will care for these patients. The studies and literature in this report should inform nursing practice that represents the best interests of the patient.

Six Principles of Essential Knowledge

1. ***The nurse shall have a working knowledge of the current state of legalization of medical and recreational cannabis use.***

Critical to the care of patients who use cannabis is a working knowledge of the current state of legalization of medical and recreational cannabis use. Knowledge of the federal government prohibitions and any guidance from the federal government allows the nurse to be well informed regarding potential questions about the legality of the use of cannabis as a medical treatment.

Although the use of marijuana pursuant to authorized MMPs conflicts with federal law and regulations, at present there is no controlling case law holding that Congress intended to preempt the field of regulation of cannabis use under its supremacy powers (*Beek v. City of Wyoming*, 2014; Mikos, 2012).

2. ***The nurse shall have a working knowledge of the jurisdiction's MMP.***

Rules and statutes for the MMP include specific information for the particular jurisdiction. Each jurisdiction has widely different laws, rules, and regulations regarding medical cannabis. The jurisdiction's MMP or Department of Health will provide the specific details in each jurisdiction (NCSL, 2017). The laws regarding the MMPs are frequently changing. Safe nursing practice includes an awareness of any regulatory changes that may affect their practice.

Usually, a medication is prescribed with a specific dose, route, and frequency. A health care provider, however, cannot prescribe medical cannabis; the provider certifies that the patient has a state qualifying condition. Several jurisdictions identify an APRN as one of the health care providers who can certify that a patient has a qualifying condition. Access to medical cannabis can only be obtained once the patient visits a state-authorized cannabis dispensary with a valid registration to the MMP. The nature of the certification process is different from any other substance recommended to a patient by a health care provider. An MMP's certification process presents a special set of implications (NCSL, 2017). A medical certification is not required for FDA-approved cannabinoids (dronabinol and nabilone) and these medications may be prescribed without registration with an MMP.

Health care practitioners who certify that a patient has a qualifying condition need to consider all aspects of the patient's history, diagnostic information, and mitigating concerns. Precautions should be taken in the consideration of, and decision to cer-

tify, patients with a medical cannabis qualifying condition. Since cannabis is a known substance of abuse, sufficient consideration for the potential for addiction must be included in the assessment process. Other safe practice considerations include certification for patients who show a resistance to conventional treatments or for those who may benefit from cannabis as an adjunctive, and continued monitoring of the patient after certification and treatment with cannabis.

Additionally, because medical cannabis is not covered by insurance or Medicare, use of medical cannabis may impose a significant financial burden on the patient and due consideration must be given to this potential impact.

Patients that utilize MMPs are frequently debilitated by their condition. Cannabis is most often not delivered by the traditional pill route. For some patients, delivery and administration of cannabis may be an unfamiliar and complicated process that is not possible for the debilitated patient to perform. Therefore, state law and rules may also provide for administration by designated caregivers (i.e., those specifically authorized to assist with the patient's medical use of cannabis). A few states allow an employee of a hospice provider or nursing or medical facility or a visiting nurse, personal care attendant, or home health aide to assist in the qualifying patient's medical use of cannabis (including, but not limited to, California, Massachusetts, Minnesota, and New Hampshire) (NCSL, 2017). These designated caregivers must generally be registered with the state and meet the qualifications and limits of the caregiving statute.

3. ***The nurse shall have an understanding of the endocannabinoid system, cannabinoid receptors, cannabinoids, and the interactions between them.***

The endocannabinoid system consists of endocannabinoids, cannabinoid receptors, and the enzymes responsible for synthesis and degradation of endocannabinoids (Mackie, 2008). Discovered in 1973, this system includes a series of cannabinoid receptors throughout the body embedded in cell membranes thought to promote homeostasis. Endocannabinoids are naturally occurring substances within the body, while phytocannabinoids (plant substances that stimulate cannabinoid receptors) are found in cannabis. The most well known of these cannabinoids is THC; however CBD and CBN are gaining interest in therapeutic use (Pacher et al., 2006).

4. ***The nurse shall have an understanding of cannabis pharmacology and the research associated with the medical use of cannabis.***

Research related to cannabis use in humans is limited due to government restrictions on research involving cannabis. Therefore, information regarding medicinal use of cannabis must be derived from credible research using randomized placebo-controlled studies. These particular studies are the most likely to elucidate causality in treatments and are the only trusted source of evidence for cannabis as a clinical intervention.

Present available scientific evidence exists for the use of cannabis in specific qualifying conditions. Moderate- to high-quality evidence exists for the following:

- Cachexia
- Chemotherapy-induced nausea and vomiting
- Pain (resulting from cancer or rheumatoid arthritis)
- Chronic pain (resulting from fibromyalgia),
- Neuropathies (resulting from HIV/AIDS, MS, or diabetes)
- Spasticity (from MS or spinal cord injury)

Other important considerations are the adverse effects of cannabis, specifically the risks to various patient groups; concerns regarding abuse, dependence, overdose, and withdrawal; and drug-to-drug interactions.

Most cannabis preparations are not included in FDA drug resources (except nabilone and dronabinol). Patients do not receive a prescription for medical cannabis noting the route and dosage. Nurses must be aware of the general information regarding various methods of administration and the principles of self-titration dosing. The state-authorized cannabis dispensary often gives the patient advice regarding route and dosage, following the self-titration method of dosing.

5. ***The nurse shall be able to identify the safety considerations for patient use of cannabis.***

Administration of medical cannabis can only be carried out by the certified patient, or the designated caregivers registered to care for the patient according to the MMP. Health care professionals may administer medical cannabis according to the MMP and facility policy (NCSL, 2017).

Storage considerations include keeping cannabis out of the reach of children, minors, and nonregistered individuals; storing all cannabis products in a locked area; keeping cannabis in the child-resistant packaging from the store; and storing raw cannabis in a cool, dry, place.

Disposal of unused cannabis products should be completed according to the DEA's Disposal Act (DEA, 2014). Generally, one can locate a collection receptacle via the DEA Registration Call Center (800-882-9539).

6. ***The nurse shall approach the patient without judgment regarding the patient's choice of treatment or preferences in managing pain and other distressing symptoms.***

The care of patients by nurses in any capacity is grounded in ethical practice, that is, the moral principles that guide one's conduct. Beneficence, nonmaleficence, autonomy, fairness, and loyalty are some of the more common moral principles that guide one's conduct. In addition to personal ethics, nurses are also guided by standards of practice, which are based on professional values, and/or a code of ethics. Awareness of one's own beliefs and attitudes about any therapeutic intervention is vital, as nurses are expected to provide patient care without personal judgment of patients.

Although medical cannabis legislation is evolving and more jurisdictions are adopting MMPs, social acceptance may not be evolving at the same pace. In addition, scientific evidence for cannabis use exists for some but not all conditions. The evolution of legislation, social acceptance, and scientific evidence creates ethically challenging patient care situations. Ethical decision making regarding a patient's care must include the patient as well as the family, caregivers, and other practitioners involved in the patient's care.

Necessary ethical considerations regarding a patient's treatment with cannabis include, but are not limited to:

- Clinical indications, such as diagnosis, history, goals for use of medical marijuana, probability of success, other options for care
- Patient's personal preferences based on information of benefits and risks
- Attention to decision making by the patient's proxy, parent, or guardian, if the patient is incapacitated in decision making or is a minor
- Quality of life based on the patient's subjective viewpoint
- Situational context, such as family and other important relationships, economic factors, access to care, and potential harm to others.

Conclusion

Available moderate- to high-quality research, along with state and federal laws regarding the use of cannabis, is a necessary component of knowledge in the nursing care of a patient using cannabis. Without the usual FDA approval of cannabis that identifies precise indications, dosage, and efficacy for medications, nurses must have a much more nuanced knowledge while caring for the patient using cannabis. The six principles of essential knowledge listed above create a strong foundation for safe and knowledgeable nursing care of patients using medical or recreational cannabis.

These principles are the foundation for the NCSBN National Nursing Guidelines for Medical Marijuana that follow in Part II of this report:

- Nursing Care of the Patient Using Medical Marijuana
- Medical Marijuana Education in Pre-Licensure Nursing Programs
- Medical Marijuana Education in APRN Nursing Programs
- APRN Certifying a Medical Marijuana Qualifying Condition.

References

See Appendix C for Part I references.

Script Example

DR. NADINE ST ARNAULT

276 Galapago St
Denver, CO 80223
303-892-6436 office
303-648-5791 fax

DEA : FS7590715
EXPIRES: 02-28-2021
COLORADO LICENSE NUMBER: 32531

DATE 8·21·2020

PATIENT NAME [redacted] DOB [redacted] 2008

ADDRESS [redacted]

PHONE [redacted]

Rx HALEIGH'S HOPE EXTRA STRENGTH
1.2 ML PER DAY
FOR EPILEPSY/SEIZURES

DOSAGE INSTRUCTIONS .4 ML 3x PER DAY (7 AM, LUNCH, 7 PM)

REFILL Ø

SIGNATURE M Nadine St Arnault

Script Example

DR. NADINE ST ARNAULT
276 Galapago St
Denver, CO 80223
303-892-6436 office
303-648-5791 fax

DEA : FS7590715
EXPIRES: 02-28-2021
COLORADO LICENSE NUMBER: 32531

DATE 8·21·2020

PATIENT NAME [redacted] DOB [redacted] 08

ADDRESS [redacted]

PHONE [redacted]

Rx CANNATOL RESCUE NASAL SPRAY
DELTA 9 TETRAHYDRO CANNABINOL 5%
.1ML PER SPRAY

DOSAGE INSTRUCTIONS for seizures lasting more than two minutes or reoccuring seizures one spray in either nostril, wait one minute for results and an additional spray in the other nostril if needed.

REFILL Ø

SIGNATURE M Nadine St Arnault, MD

Example of Release Agreement

Superintendent File: JLCD-E-1

Student Medication Request and Release Agreement

Student: Benjamin M. Wann **DOB:** 8/26/01 **School Year** 19/20

Name of Medication	Reason for Medication	Medication Dosage in MG	Route	Time(s) Medication to be Given
☐ Albuterol ☐ Xopenex ☐ _______	Asthma *Symptoms-(list): 1. 2. 3. 4. 5.	☐ 2 Puffs ☐ Other: _______	☐ Inhaled ☐ With Spacer	☐ Every 4 hours as needed for *symptoms ☐ May repeat in _______ minutes ☐ Prior to exercise
☐ Epinephrine Auto Injector* *If Colorado State Anaphylaxis Health Care Plan is signed & completed by physician this form does not have to be completed*	Life threatening Allergies-(list): 1. 2. 3. 4. 5.	☐ 0.15 mg ☐ 0.3 mg	Intra-muscular (IM)	☐ Upon Exposure ☐ Severe Reaction: Short of breath, wheeze, cough, pale, faint, dizzy, confused, tight throat, hoarse ☐ Repeat if no improvement in 10 minutes
☐ Diphenhydramine (Benadryl) ☐ Other Antihistamine		☐ 12.5 mg ☐ 18.75 mg ☐ 25 mg ☐ 37.5 mg ☐ 50 mg ☐ Other: _____mg	By Mouth (PO)	☐ Upon Exposure ☐ For MILD reaction: Itchy mouth, a few hives around mouth/face, mild itching, mild nausea/discomfort
Cannatol Nasal Spray	Seizure Rescue	5 mg	Nasal	At the Start of a Seizure.
		_______ mg		

Physician's Signature: [signature] **Date:** 8-7-2019

Prescribing Physician Name: Stephen Elliott **Physician's Phone:** 303-892-6436

School District Policy JLCD requires, as a condition to its agreement to release any medication, that the medicine be prescribed by a physician or dentist and furnished by the parent(s) of the student with the original pharmacy container label stating the student's name, name of the medication, the dosage, the number of dosages per day or time(s) when the medication is to be released to the student, and the date when the medication is to be stopped (if applicable). It is understood that the medication is given solely at the request of, and as an accommodation to, the undersigned parent(s) or guardian(s). The undersigned parent(s) or guardian(s) hereby agree(s) to release the Douglas County School District RE-1 and its personnel from any and all claim(s), which they now have or may hereafter have arising out of the release of the medication to the student.

Parent/Guardian Signature: [signature] **Date:** 8/7/19

☐ Reviewed/complete ☐ Needs clarification

School Nurse Signature: _______________ **Date:** _______

Douglas County
Learn today. Lead tomorrow.

Health Services
8/7/19

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Example of a Attestation

Cannabis Administration Attestation

Student:_______________________________ DOB:____________ Student ID ________________
is receiving the following cannabis product:

Cannabis Product Description:____

Mode of Administration: (check all that apply)   ___Oral   ___Topical ___Patch

Copy of Medical Marijuana Registration Card received and uploaded to IC _____Yes

Name(s) of parent/legal guardian who will be administering cannabis:
____

Location in the building where substance is given:____

Staff member(s) overseeing administration: ____

I,_________________________________, hereby release the school and district from
(print parent name)
any and all legal liability and financial responsibility to this student and any third party, related to the administration of cannabis product to my student, on school property or at a school sponsored event.

Parent Signature:_____________________________________ Date:_____________

Principal Signature: ___________________________________ Date:____________

Nurse Consultant Signature:_____________________________ Date: ____________

Revised 10/29/18 Adopted by Superintendent's Cabinet 11.07.18

Health, Wellness and Prevention Dept - 620 Wilcox St. - Castle Rock, CO 80104 | Office: 303-387-0260 | Fax: 303-387-0119

February 23, 2021

To Whom It May Concern,

It has been our privilege at Cohen Medical Centers to recommend cannabis to qualifying minor patients in Colorado and offer guidance with the process to their families since 2009. We have seen firsthand how effective cannabis can be for these children when administered safely and consistently. As the parents who have fought so bravely for safe access can attest, cannabis is life changing and, in many cases, life saving for these children.

Over the years as relevant legislation has passed, we have adapted our processes to facilitate access for all patients. In 2018 when HB18-1286 passed allowing nurses to administer medical cannabis to patients at school, our physicians were asked to send signed documentation clarifying each patient's regimen with cannabis provided by the child's parent or guardian, and includes specific products used, dosages, and administration. It is kept on file at school and adapted as necessary to ensure that all parties involved; parents, school nurse, school administration, and physician are all on the same page, and that the medication is administered to the patient at school in a safe and consistent manner.

It is our hope that this process will help school nurses feel more at ease administering cannabis as medicine, and that students will be able to take their medication at school without fanfare or stigma so that they are able to maximize their educational opportunities.

Sincerely,

Lisa Escalante
Manager
Cohen Medical Centers

276 GALAPAGO STREET, DENVER COLORADO 80223 303-892-6436
WWW.COHENMEDICALCENTERS.COM

Buscher Law LLC
3900 E Mexico Ave. Suite 300
Denver, CO 80210

Alex@BuscherLaw.com
720-258-6940
BuscherLaw.com

On February 16, SB 21-056 (SB-56) was introduced in the Colorado General Assembly requiring school boards to create a policy for the administration and storage of medical marijuana on school grounds. This bill finally recognizes the legitimacy of cannabis therapeutics and the necessity for students to be in school, no matter what course of treatment a doctor has recommended. The bill has so far received bipartisan support, with one Democrat and one Republican (including the Senate Minority Leader) signing on from both the Senate and House of the Colorado General Assembly.

SB-56 comes as a response to certain school district policies contrary to existing Colorado law. In 2018, the Colorado General Assembly passed a law allowing school principals to develop medical marijuana administration plans for students. Under these plans, a school volunteer could administer medical marijuana medication on school grounds to a student with a medical marijuana recommendation.

In late 2019, a student seeking to take advantage of the privileges afforded by these laws found himself unable to do so because of a school board policy taking the decision out of the principals' hands and banning staff administration on school property. This action resulted in a discrimination complaint based on the policy violating state law. The complaint resulted in a finding of probable cause of discrimination; however, when there was no viable solution at the end of the process (besides suing the school district during a pandemic), it became clear that Colorado's laws would have to be changed once again.

Current law requires school districts to permit primary caregivers to possess and administer cannabis-based medicine on school grounds and gives principals the discretion to allow administration of those medications by school personnel. Principals, fearful for their jobs, have been reluctant to make such unilateral decisions, meaning parents are still the only practical option for administration. This generally means one parent cannot work, and a child with an acute condition like epilepsy, is left unprotected. Furthermore, due to COVID, schools aren't currently allowing parental administration, as required by law. Thus, current law is insufficient to help medical cannabis students in the way the Colorado General Assembly originally intended.

SB-56 makes the adoption of a medical marijuana policy mandatory for school district boards of education. In doing so, the bill creates the following system:

- A school board will adopt a policy permitting the storage and administration of any medication, including medical marijuana, subject to certain requirements and limited exceptions found in Colorado's Education Code (C.R.S. § 22-1-119.3).
- The student's parent or guardian will deliver the medical marijuana in a container with instructions for its use. The school board policy must provide a procedure for the storage and possession of a sufficient supply of the medical marijuana on school grounds in a manner that will not "significantly delay access to" the medication in an emergency, while also keeping the medication secure.
- Volunteers at the school may administer that medical marijuana to the student when necessary. The policy is not required to *compel* any particular school employee to volunteer to administer medical marijuana, but at the same time the policy may not prohibit such volunteering.

Importantly, the bill also provides protection against professional discipline or retaliation, explicitly prohibiting retaliation by the school board against any school employees who volunteer to administer medical marijuana.

SB-56 will make much-needed changes to Colorado's medical marijuana laws, allowing students with significant medical conditions for which they use marijuana-based medicine, to attend school just like students using any other doctor-recommended medicine. It is long past time to stop discriminating against students because of the medication their doctor recommends. SB-56 will ensure this practice will not continue.

5889 Greenwood Plaza Blvd, Suite 404 • Greenwood Village, CO

February 23, 2021

The Honorable Rachel Zenzinger
200 E. Colfax, RM 346
Denver, CO 80203

Dear Chair Zenzinger and Members of the Senate Education Committee,

On behalf of the Epilepsy Foundation of Colorado, I urge you to support Senate Bill 21-056, which would ensure access to medical cannabis for students in our schools who are dependent on these medicines for ongoing seizure control and for rescue from seizure emergencies. Access to medical cannabis is particularly important for the one third of people living with epilepsy who experience intractable or uncontrolled seizures and are living with rare epilepsies, and the many more who experience significant adverse effects from other medications.

The Epilepsy Foundation of Colorado is the leading voluntary health organization that speaks on behalf of the nearly 60,000 Coloradoans living with epilepsy and seizures. We foster the wellbeing of children and adults affected by seizures through research programs, educational activities, advocacy, and direct services. Epilepsy is a medical condition that produces seizures affecting a variety of mental and physical functions. Approximately 1 in 26 Americans will develop epilepsy at some point in their lifetime. There is no "one size fits all" treatment for epilepsy, and about a third of people living with epilepsy suffer from uncontrolled or intractable seizures, with many more living with significant side-effects, despite available treatments. Uncontrolled seizures can lead to disability, injury, and even death.

The Epilepsy Foundation of Colorado is committed to supporting physician-directed care, and to exploring and advocating for all potential treatment options for epilepsy. Bureaucratic processes should not stand in the way of patients gaining access to proven and potentially lifesaving treatment. We urge your support of SB21-056 to ensure that students throughout our state are guaranteed access to the medication they need. Please do not hesitate to contact me at 303-953-4739 or sarah@epilepsycolorado.org with any questions or concerns.

Sincerely,

Sarah Klein

Sarah Klein
CEO
Epilepsy Foundation of Colorado

OFFICE: 303-377-9774 • FAX: 303-377-0081 • www.epilepsycolorado.org
An independently incorporated affiliate of the Epilepsy Foundation

<u>SB21-056 Testimonials</u>

Senate Educational Committee
February 24, 2021

Amber Wann – Douglas County
In Person – Mother of Benjamin Wann

David DiCarlo – Douglas County
Online – Neighbor of the Wann Family

Stacey Linn – Jefferson County
In Person – Stakeholder in Jacks Law – Mother of Jack Splitt

Sarah Porter -Douglas County
In Person – Mother of Marley Porter

Mark Porter – Douglas County
In Person – Father of Marley Porter

Kenda Newman – Douglas County
In Person – Mother of Emily Newman

Emily Newman – Douglas County
In Person – Epilepsy Patient

Neil Margallis – Jefferson County
Online - Father of Kennedy Margallis

Michelle Walker – Arapahoe County
In Person – Mother of Vincent Walker

Jamie Kropp – Pueblo County
In Person – Mother of Kolt Kropp

Dan Brandt – Pueblo County
In Person – Stepfather of Kolt Kropp

Heather Shaffett – Weld County
In Person – Mother of Ozark Shaffett

Ozark Shaffett – Weld County
In Person – Medical Cannabis Patient

Autumn Brooks – Clear Creek County
In Person – Lobbyist Clear Creek County School District

Dave Wasserman – Added Testimony
In Person – Personal Story

Hannah Lovato – Eagle County
In Person - Mother of Quintin Lavato

Quintin Lavato – Eagle County
In Person – Medical Cannabis Patient

Benjamin Wann – Douglas County
In Person – Medical Cannabis Patient

Brad Wann – Douglas County
In Person – Father of Benjamin Wann