

1 SENATE BILL 276

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Antoinette Sedillo Lopez and Gerald Ortiz y Pino

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10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; CLARIFYING REQUIREMENTS FOR LOCAL
12 SCHOOL BOARDS AND CHARTER SCHOOL GOVERNING BODIES TO AUTHORIZE
13 PARENTS AND GUARDIANS AS WELL AS SCHOOL PERSONNEL TO STORE,
14 POSSESS AND ADMINISTER MEDICAL CANNABIS TO QUALIFIED STUDENTS
15 IN CERTAIN SCHOOL SETTINGS; ELIMINATING THE AUTHORITY OF SCHOOL
16 BOARDS OR CHARTER SCHOOL GOVERNING BODIES TO RESTRICT THE TYPES
17 OF DESIGNATED SCHOOL PERSONNEL WHO MAY ADMINISTER MEDICAL
18 CANNABIS; PROHIBITING DISCOURAGEMENT OR DISCIPLINE OF SCHOOL
19 EMPLOYEES WHO VOLUNTEER TO ADMINISTER MEDICAL CANNABIS;
20 CLARIFYING THE CIRCUMSTANCES FOR EXEMPTION FROM REQUIREMENTS TO
21 IMPLEMENT POLICIES AUTHORIZING THE STORAGE, POSSESSION AND
22 ADMINISTRATION OF MEDICAL CANNABIS TO QUALIFIED STUDENTS IN
23 CERTAIN SCHOOL SETTINGS; REPEALING A CONFLICTING SECTION OF
24 LAWS 2019.

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1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

2 SECTION 1. Section 22-33-5 NMSA 1978 (being Laws 2019,
3 Chapter 247, Section 1 and Laws 2019, Chapter 261, Section 1)
4 is amended to read:

5 "22-33-5. MEDICAL CANNABIS--POSSESSION--STORAGE--
6 ADMINISTRATION--RESTRICTION--EXEMPTIONS.--

7 A. Except as provided pursuant to Subsection C of
8 this section, local school boards and the governing bodies of
9 charter schools shall adopt policies and procedures to
10 authorize the possession, storage and administration of medical
11 cannabis by parents and legal guardians [~~or~~] and by designated
12 school personnel to qualified students for use in school
13 settings; provided that:

14 (1) a student shall not possess, store or
15 self-administer medical cannabis in a school setting;

16 (2) a parent, legal guardian or designated
17 school personnel shall not administer medical cannabis in a
18 manner that creates disruption to the educational environment
19 or causes other students to be exposed to medical cannabis;

20 (3) a written treatment plan for the
21 administration of the medical cannabis is agreed to and signed
22 by the principal or the principal's designee of the qualified
23 student's school and the qualified student's parent or legal
24 guardian; and

25 (4) before the first administration of medical

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1 cannabis in a school setting, the qualified student's parent or
2 legal guardian completes and submits documentation as required
3 by local school board or charter school rules that includes a:

4 (a) copy of the qualified student's
5 written certification for use of medical cannabis pursuant to
6 the Lynn and Erin Compassionate Use Act; and

7 (b) written statement from the qualified
8 student's parent or legal guardian releasing the school and
9 school personnel from liability, except in cases of willful or
10 wanton misconduct or disregard of the qualified student's
11 treatment plan.

12 B. A school board or the governing body of a
13 charter school may adopt policies that:

14 [~~(1)~~] ~~restrict the types of designated school~~
15 ~~personnel who may administer medical cannabis to qualified~~
16 ~~students;~~

17 ~~(2)]~~ (1) establish reasonable parameters
18 regarding the administration and use of medical cannabis and
19 the school settings in which administration and use are
20 authorized; and

21 [~~(3)]~~ (2) ban student possession, use,
22 distribution, sale or being under the influence of a cannabis
23 product in a manner that is inconsistent with the provisions of
24 this subsection.

25 C. The provisions of Subsection A of this section

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1 shall not apply to a charter school or school district if
2 [~~(1)~~] the charter school or school district
3 [~~reasonably determines that it would lose, or has lost~~]
4 receives written notice from a federal agency that it would
5 lose federal funding as a result of implementing the provisions
6 of Subsection A of this section [~~and~~

7 ~~(2) the determination is appealable by any~~
8 ~~parent to the secretary, based on rules established by the~~
9 ~~department].~~

10 D. A public school, charter school or school
11 district shall not:

12 (1) discipline a student who is a qualified
13 student on the basis that the student requires medical cannabis
14 as a reasonable accommodation necessary for the student to
15 attend school;

16 (2) deny eligibility to attend school to a
17 qualified student on the basis that the qualified student
18 requires medical cannabis as a reasonable accommodation
19 necessary for the student to attend school or a school-
20 sponsored activity; [~~or~~]

21 (3) discipline a school employee who refuses
22 to administer medical cannabis; or

23 (4) discourage or discipline a school employee
24 who volunteers to administer medical cannabis.

25 E. As used in this section:

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1 (1) "certifying practitioner" means a health
2 care practitioner who issues a written certification to a
3 qualified student;

4 (2) "designated school personnel" means a
5 school employee whom a public school, charter school or school
6 district authorizes to possess, store and administer medical
7 cannabis to a qualified student in accordance with the
8 provisions of this section;

9 (3) "medical cannabis" means cannabis that is:

10 (a) authorized for use by qualified
11 patients in accordance with the provisions of the Lynn and Erin
12 Compassionate Use Act; and

13 (b) in a form that is not an aerosol and
14 cannot be smoked or inhaled in particulate form as a vapor or
15 by burning;

16 (4) "qualified student" means a student who
17 demonstrates evidence to the school district that the student
18 is authorized as a qualified patient pursuant to the Lynn and
19 Erin Compassionate Use Act to carry and use medical cannabis in
20 accordance with the provisions of that act;

21 (5) "school" means a public school or a
22 charter school;

23 (6) "school setting" means any of the
24 following locations during a school day:

25 (a) a school building;

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1 (b) a school bus used within the state
2 during, in transit to or in transit from a school-sponsored
3 activity;

4 (c) a public vehicle used within the
5 state during, in transit to or in transit from a school-
6 sponsored activity in the state; or

7 (d) a public site in the state where a
8 school-sponsored activity takes place; and

9 (7) "written certification" means a statement
10 in a qualified student's medical records or a statement signed
11 by a qualified student's certifying practitioner that, in the
12 certifying practitioner's professional opinion, the qualified
13 student has a debilitating medical condition and the certifying
14 practitioner believes that the potential health benefits of the
15 medical use of cannabis would likely outweigh the health risks
16 for the qualified student. A written certification is not
17 valid for more than one year from the date of issuance."

18 SECTION 2. REPEAL.--Laws 2019, Chapter 247, Section 1 is
19 repealed.

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