



Iowa School Medical Cannabidiol Guidance

Introduction

In 2017, the Iowa legislature enacted a law that created the “Medical Cannabidiol Program” ([Iowa Code § 124E](#); [Iowa Administrative Code 641.154](#)). The department of education recognizes the conflict between federal and state laws concerning medical cannabidiol.

Under the federal Controlled Substances Act and United States Drug Enforcement Agency, any drug product in finished dosage formulation that has been approved by the U.S. Food and Drug Administration (FDA) and has no more than 0.1 percent residual tetrahydrocannabinols is a schedule V drug and can be prescribed by a healthcare provider ([United States Drug Enforcement Agency \[DEA\], 2019](#)). Schedule V drugs, substances, or chemicals are defined as drugs with medical use that have a lower potential for abuse and consist of preparations that may contain limited quantities of certain narcotics ([DEA Scheduling, 2019](#)).

All other cannabidiol products not approved by the FDA remain a schedule I drug. Schedule I drugs, substances, or chemicals are defined as drugs with no currently accepted medical use and a high potential for abuse ([DEA Scheduling, 2019](#)). Cannabidiol, containing tetrahydrocannabinols, that is not FDA approved and falls under the Medical Cannabidiol Act is considered a schedule I drug with the United States Drug Enforcement Agency and are not prescribed by a healthcare provider. Cannabidiol not approved by the FDA remains a schedule I drug, does not have clinically researched, evidenced-based safe parameters for licensed school personnel to administer and is not prescribed by a healthcare provider.

Federal law preempts state law, and does not recognize or protect state-regulated medical cannabidiol possession and use that is not FDA approved.

School District Employee’s Use of Medical Cannabidiol

School districts adopt policies to implement a drug-free workplace under the Drug-Free Work Act ([41 U.S.C. 81](#)). An employee who is using cannabidiol that is covered in the [Iowa Medical Cannabidiol Act](#) is not protected from violating school district employee policies, as non-FDA approved cannabidiol remains a schedule I drug. (E.g. If a school employee purchases cannabidiol in a store that is not prescribed and uses this product, it would violate school policy and federal law. An employee who participates in the Iowa Medical Cannabidiol program would be accountable to their employer’s policies surrounding employment and if licensed, their licensing boards or regulatory agencies). It is always in the best interest of school employees to be knowledgeable of their policies surrounding employment and for school employers to communicate with their legal counsel.

An employee is not protected from risk for conviction of driving under the influence (DUI) for those individuals who hold a Class D chauffeur’s license, drive students to and from school-sanctioned activities and are registered under the Iowa Medical Cannabidiol program. Federal law does not recognize or protect this medical cannabidiol possession and use.

Transportation personnel in schools who hold a Class C commercial driver’s license are subject to Department of Transportation physicals and drug testing under the Federal Motor Carrier Safety Administration (FMCSA) federal regulations which prohibit the use of medical marijuana regardless of the state medical cannabidiol program ([49 CFR Parts 300-399](#)).

Students' Use of Medical Cannabidiol

School districts may have policies related to the Safe Drug-Free School Act for possession, use, or diversion of controlled substances. According to Iowa Code [124.401](#), it is unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly from, or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by chapter 124.401. Additionally, there is a school zone enhancement in [Iowa Code § 124.401A](#) and [§ 124.401B](#) that states if convicted of distributing or possessing with the intent to distribute a Schedule I, II, or III controlled substance (includes both a counterfeit and a simulated controlled substance) to a person greater than or equal to 18 years, and the offense is within 1000 feet of a public or private elementary or secondary school, public park, public swimming pool, public recreation center, or on a marked school bus, then the offender may be sentenced to an additional term of 5 years (§ 124.401A). If convicted of possessing a Schedule I, II, or III controlled substance (includes a simulated controlled substance, but the "counterfeit substance" language was omitted from the statute) and the offense is within 1000 feet of a public or private elementary or secondary school, public park, public swimming pool, public recreation center, or on a marked school bus, then the offender may be sentenced to an additional penalty of 100 hours of community service work for a public agency or a nonprofit charitable organization (§ 124.401B).

Individuals with Disabilities Education Act

School districts must also abide by the Individuals with Disabilities Education Act in the provision of educational services. For a child who has an individualized education plan (IEP) and parents are requesting the administration of cannabidiol that is not FDA approved, the child is still entitled to free and appropriate education. If the child is excluded, the IEP team would formulate an alternative placement and program for the child, based on the unique needs of each child (such as whether the IEP team concludes that administration of cannabidiol is necessary for receiving a FAPE or not). The child is entitled to services but may not be entitled to them in a comprehensive school setting. Administration of cannabidiol that is not FDA approved by a licensed school nurse or as delegated by a licensed school nurse to an assistive personnel conflicts with federal law, nursing standards of practice, code of ethics for licensed educators, and school policies.

School Nurse's Administration of Medical Cannabidiol

All students, as healthcare consumers, have the right to nursing care that meets the legal standards of healthcare regardless of the practice setting (Nation Council of State Boards of Nursing [NCSBN], 2019). The school nurse retains accountability to provide the consumer this right of protection by following safe parameters to work in their scope of practice as defined in the Iowa Nurse Practice Act ([Iowa Administrative Code 655 Chapter 6](#)). School nursing standards of practice require the nurses to be knowledgeable about the care that they provide, utilize evidence-based practice, and to safeguard students from harm ([School Nursing: Scope and Standards, 2017](#); [National Association of State Boards of Nursing \[NCSBN\] Guidelines on Medical Marijuana, 2019](#)).

School nurses maintain accountability and utilize their professional nursing judgment in their practice to determine whether an over the counter or prescribed drug is safe to administer. FDA offers formal, evidence-based evaluation of medications to assist licensed healthcare providers with information on safe dosage, storage, standardized dosing times, possible drug interactions, possible side effects, or toxic effects of a drug to protect the individual who is taking the medication. Medical cannabidiol that is approved by the Iowa Medical Cannabidiol Act or purchased from a vendor is not FDA approved, remains a schedule I drug and is not prescribed by a licensed health care provider. School nurses follow school district policies regarding medication administration, delegation of medication administration, and maintain accountability for their licensed nursing practice related to the safe provision of clinically competent, evidence-based health services for students in their district.

The health and safety of Iowa students in schools is important. School nurses approach families and students in an ethical manner without judgement regarding the patient’s choice of treatment (NCSBN, 2019). 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 (NCSBN, 2019). A necessary component of knowledge in nursing care includes the availability of moderate to high quality evidence-based research and comprehensive understanding of state and federal laws regarding the use of cannabis, to provide safe nursing care to patients (NCSBN, 2019).

School Employees Asked to Become “Care Providers” for students under the Iowa Medical Cannabidiol Act

Parents or legal guardians may request licensed educators and licensed nurses to become care providers for their students in the course of their employment to allow the licensed school personnel to purchase, possess, and transport medical cannabidiol for their child. “Primary caregiver” is defined in [Iowa Code § 124E](#) as, “a person who is a resident of this state or a bordering state as defined in section 331.910, including but not limited to a parent or legal guardian, at least eighteen years of age, who has been designated by a patient’s health care practitioner as a necessary caretaker taking responsibility for managing the well-being of the patient with respect to the use of medical cannabidiol pursuant to the provisions of this chapter.”

Licensed professional educators and licensed school nurses practice according to their licensing boards. The provision of becoming a “care provider” is not applicable to their licensed practice ([IAC 655](#); [IAC 282](#)). This guidance does not hinder a parent of a child who is licensed as a nurse or as an educator, from fulfilling their right as a primary care provider for their child.

Nothing in this guidance restricts a licensed educator or licensed nurse from becoming a “care provider” to access the Iowa Medical Cannabidiol Program for their child.