

Michigan School Health: Cannabidiol - CBD

CONSIDERATIONS FOR PRACTICE

In Michigan, the Public Health Code is the primary statute that defines regulations for nurses and other health care professionals. School nursing practice is also influenced by federal, state, local laws and in some instances the Michigan School Code. School Nursing: Scope and Standards of Practice are “expectations that guide the practice of school nursing” (2017, preface, ix). This document contains important information that is not all inclusive or a substitute for a nurse’s decision making or judgement. It is intended as a broad direction for school nurse practice.

OVERVIEW

Marijuana and hemp have two different definitions in U.S. laws even though they are from the same cannabis plant and are currently subject to different statutory and regulatory requirements. (see p.4)

Michigan Marijuana legislation passed in 2016 ([PA 283 of 2016](#)), allows the use of medical marijuana with certain protections. Since the passage of this law parental requests to have marijuana products administered to their child while at school (or to allow the child to self-administer) have increased. However, PA 283 of 2016 specifically prohibits any person to possess marijuana, or otherwise engage in the medical use of marijuana on a school bus or on the grounds of any preschool, primary or secondary school.

In 2018, the [Agriculture Improvement Act](#) determined hemp is no longer subject to regulation and oversight as a controlled substance by Drug Enforcement Agency (DEA). Cannabis and cannabis-derived FDA-regulated products are subject to the same authorities and requirements as FDA-regulated products containing any other substance (whether cannabis-derived or otherwise) (Consumer Research Services, 2020).

In 2018, the [Food and Drug Administration \(FDA\)](#) approved Epidiolex, a CBD prescription oil to treat rare kinds of seizures specifically: Dravet syndrome (DS), Lennox Gastaut syndrome (LGS) and Tuberous Sclerosis Complex, in people one year of age and older (Mayo Clinic, 2020). At the date of this document, only one CBD based medication is FDA approved. [Check the FDA site for future updated information.](#)

School districts are encouraged to seek legal advice when considering Marijuana administration in the school setting.

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NATIONAL INFORMATION

National Association of School Nurses (NASN)

- [Position Brief: Cannabis/Marijuana](#)
- [Medical Cannabis: What School Nurses Need to Know](#) (1 CNE Unit)
- [Mary Jane at School: Navigating the Benefit and Risk of Medical Cannabis](#) (Course free to MASN/NASN members)
- [Medical Cannabis School: Separating Fact From Fiction](#) (podcast and article)

FEDERAL LAW

<p>CONTROLLED SUBSTANCE ACT(CSA) (21 U.S.C. § 811)</p>	<p>Federal law has declared the use, sale or distribution of marijuana illegal. In a state that has legalized medical or recreational marijuana use, it remains a federal crime to possess, buy or sell marijuana.</p>
<p>PUBLIC LAW 115–334 Agriculture Improvement Act 2018</p>	<p>The Agriculture Improvement Act of 2018 removed hemp and its derivatives (including hemp-derived CBD) from the CSA definition of marijuana. Hemp is no longer subject to regulation and oversight as a controlled substance by DEA. Hemp production is now subject to regulation as an agricultural commodity by the U.S. Department of Agriculture (USDA). The bill also expanded the statutory definition of what constitutes hemp to include “all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers,” as long as it contains no more than a 0.3% concentration of delta-9 THC (7 U.S.C. §1639o). CBD products that do not meet the statutory definition of hemp continue to be prohibited (aside from lawful use for research purposes) under the CSA and remain regulated by DEA.</p>

MICHIGAN LAWS

<p>Public Act 283 of 2016</p>	<p>This act does not permit any person to possess marijuana, or otherwise engage in the medical use of marijuana at any of the following locations: In a school bus or on the grounds of any preschool, primary or secondary school.</p>
<p>PUBLIC HEALTH CODE (EXCERPT), Act 368 of 1978 Section 333.7410</p>	<p>An individual 18 years of age or over who delivers a controlled substance described in schedule 1 or 2 to another person on or within 1,000 feet of school property or a library shall be punished by a term of imprisonment of not less than 2 years and, in addition, may be punished by a fine.</p>

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<p>PUBLIC HEALTH CODE (EXCERPT), Act 368 of 1978, 333.7106</p>	<p>Key definitions included in this legislation include "Physician" "Marijuana" and "Marijuana-infused product"</p>
<p>PUBLIC HEALTH CODE (EXCERPT) Act 368 of 1978, 333.17201</p>	<p>Defines nursing scope of practice. The RN's scope of practice includes the teaching, direction, and supervision of less skilled personnel in the performance of delegated nursing activities.</p>
<p>REVISED SCHOOL CODE (EXCERPT) Act 451 of 1976 380.1178</p>	<p>Administration of medication or epinephrine auto-injector to pupil; liability; school employee as licensed registered professional nurse. Sec. 1178. (1) Subject to subsection (2), a school administrator, teacher, or other school employee designated by the school administrator, who in good faith administers medication to a pupil in the presence of another adult or in an emergency that threatens the life or health of the pupil, pursuant to written permission of the pupil's parent or guardian, and in compliance with the instructions of a physician, physician's assistant, or certified nurse practitioner, or a school employee who in good faith administers an epinephrine auto-injector to an individual consistent with the policies under section 1179a, is not liable in a criminal action or for civil damages as a result of an act or omission in the administration of the medication or epinephrine auto-injector, except for an act or omission amounting to gross negligence or willful and wanton misconduct.</p> <p>(2) If a school employee is a licensed registered professional nurse, subsection (1) applies to that school employee regardless of whether the medication or epinephrine auto-injector is administered in the presence of another adult.</p> <p>(3) A school district, nonpublic school, member of a school board, or director or officer of a nonpublic school is not liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from a person acting under this section.</p>

Michigan Department of Education

<p>Medications in School and MDE Policy Model</p>	<p>Policy and guidelines for administering medication to pupils in school.</p>
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Definitions

[PUBLIC HEALTH CODE \(EXCERPT\), Act 368 of 1978, 333.7106](#)

- (2) '**Industrial hemp**' means the plant *Cannabis sativa* L. and any part of that plant, including the viable seeds of that plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis. Industrial hemp includes industrial hemp commodities and products and topical or ingestible animal and consumer products derived from the plant *Cannabis sativa* L. with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.
- (4) '**Marijuana**' means all parts of the plant *Cannabis sativa* L., growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. Marijuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination. Marijuana **does not** include industrial hemp.
- (f) '**Marijuana-infused product**' means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marijuana that is intended for human consumption in a manner other than smoke inhalation. Marijuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

[PUBLIC HEALTH CODE \(EXCERPT\), Act 368 of 1978, 333.17708](#)

- (2) '**Prescriber**' means a licensed dentist, a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, a licensed doctor of podiatric medicine and surgery, a licensed physician's assistant, a licensed optometrist certified under Part 174 to administer and prescribe therapeutic pharmaceutical agents, an advanced practice registered nurse as that term is defined in section 17201 who meets the requirements of section 17211a, a licensed veterinarian, or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery.
- '**CBD**' is a chemical found in marijuana. CBD should not contain tetrahydrocannabinol (THC), the psychoactive ingredient found in marijuana that produces a high, however CBD products cannot be guaranteed to be completely without THC due to the lack of standards for product safety oversight. The usual CBD formulation is oil, but CBD is also sold as an extract, a vaporized liquid and an oil-based capsule. Food, drinks and beauty products are among the many CBD-infused products available online. <https://www.mayoclinic.org/healthy-lifestyle/consumer-health/expert-answers/is-cbd-safe-and-effective/faq-20446700>

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CONSIDERATIONS FOR SCHOOL NURSE PRACTICE

The Controlled Substance Act classifies marijuana and cannabis as Schedule 1 Controlled Substances. Healthcare professionals (HCPs) cannot legally prescribe these drugs (cannabis and marijuana) due to the Schedule 1 classification (Congressional Research Service, 2020). HCPs are not writing prescriptions for medical marijuana, they are only recommending it (Patrick & Reiner, 2017).

School nurses may be requested to evaluate a student suspected of being under the influence of illicit drugs or marijuana. The school district's policy should define the role of the school nurse in the evaluation of a student in this situation. "In all cases, the nurse should avoid stating that a student is under the influence and only report on the signs and symptoms that are presented in as factual and objective manner as possible" (Patrick & Reiner, 2017).

FDA APPROVAL: It is important to understand that, with limited exceptions (see Epidiolex below), marijuana and CBD are **not** FDA approved or subject to the standards that the FDA holds for ensuring the safety of a product. (This is also true for essential oils.) Without FDA oversight there is no guarantee of uniform dosing or product quality (USDA, 2021).

It is the position of NASN that school nurses only administer cannabis/marijuana medication that is FDA approved in the school setting (NASN, 2019).

The MI Public Health Code (PHC) identifies what practice-related activities are acceptable and not acceptable. Michigan PHC allows nurses to administer medications as directed by a supervising health professional.

The [State of Michigan Model Policy for Administering Medication at School](#) directs all medications administered in schools to be prescribed by an appropriately licensed prescriber.

School nurses are the experts in medication administration and chronic health conditions in the school setting. It is important for school nurses to be knowledgeable of state and federal laws in addition to the implications of their current school administration policy as they apply to the school nurse to provide safe care to students. (Patrick & Reiner, 2017). The school nurse must also understand the actions, dosing, active ingredients, and side effects of medication administered (Quinn & Lepkowski, 2019).

The school nurse must work closely with parents who are using cannabis-based products for their children at home, so that appropriate planning and care coordination in school (including but not limited to, development of an emergency care plan, required training and daily support) may occur.

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EPIDIOLEX®: **FDA-Approved Prescription Medicine**

The Michigan Public Health Code excludes 'industrial hemp' from the definition of marijuana. Epidiolex contains less than 0.1% of tetrahydrocannabinol (THC) and therefore falls under the industrial hemp exception to marijuana in the Michigan Public Health Code. **Epidiolex should be treated in compliance with school policy on prescription medication administration.**

DETAILED INFORMATION

- EPIDIOLEX® (cannabidiol) is a highly purified cannabidiol (CBD) oral solution prescription medication with less than 0.1% of tetrahydrocannabinol (THC) approved by the U.S. Food and Drug Administration (FDA) for treatment of 3 conditions, [Dravet Syndrome](#), [Lennox Gastaut Syndrome](#) (LGS) and [Tuberous Sclerosis Complex](#) (TSC).
- In April of 2020, the Drug Enforcement Administration (DEA), announced that Epidiolex, is no longer considered a [controlled substance](#) and therefore, is no longer subject to the Controlled Substances Act (CSA).
- In June of 2020, the Michigan Board of Pharmacy agreed to de-schedule Epidiolex.
- [Public Act 283 of 2016](#) DOES NOT apply to the use of Epidiolex when prescribed by an appropriately licensed provider.
- Epidiolex is not a rescue drug medication and has not been studied as a rescue medication.
- [For more information see Medication Guide](#)

According to Federal law, Michigan law and the Michigan Public Health Code, and Revised School Code approved FDA drugs (including CBD) can be administered in school. School officials should confirm that the use of CBD oil is consistent with the school district's medication policy, making sure that CBD is in its original container, the label identifies the THC threshold, and limit the student's use to that prescribed by the HPC (Thrun Law, 2020).

WHERE TO GO WITH QUESTIONS?

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References

Congressional Research Service. (2020). FDA Regulation of Cannabidiol (CBD) Consumer Products. [FDA Regulation of Cannabidiol \(CBD\) Consumer Products \(congress.gov\)](#)

Mayo Clinic. (2020). **What are the benefits of cbd — and is it safe to use?**

<https://www.mayoclinic.org/healthy-lifestyle/consumer-health/expert-answers/is-cbd-safe-and-effective/faq-20446700>

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Patrick, K. & Reiner, K. (2017). *Marijuana use in schools*. Legal Resource for School Health Services. Pp. 371-379. SchoolNurse.com.

Quinn, B. & Lepkowski, A. (2019). *Students with seizures and epilepsy*. School Nursing: A Comprehensive Text. pp. 652-672. F.A. Davis.

Thrun Law. (2020). *Student use of cdb oil: Practical tips*. [Student Use of CBD Oil: Practical Tips - Thrun Law Firm](#)

United States Food and Drug Administration. (2021). *FDA regulation of care of cannabis and cannabis derived products, including cannabidiol*. [FDA Regulation of Cannabis and Cannabis Derived Products, Including Cannabidiol \(CBD\) | FDA](#)

Additional Resources:

Findlaw.com <https://statelaws.findlaw.com/criminal-laws/marijuana.html>,
<https://criminal.findlaw.com/criminal-charges/federal-marijuana-laws.html>

Thrun Laws [Student Use of CBD Oil: Practical Tips - Thrun Law Firm](#) (Michigan Law)

US Department of Justice, Drug Enforcement Administration, Diversion Control Division, [Title 21 United States Code Controlled Substance Act, Section 811](#)

Food and Drug Administration [FDA Regulation of Cannabis and Cannabis-Derived Products: Questions and Answers](#)

Michigan Public Health Code, [PUBLIC HEALTH CODE \(EXCERPT\), Act 368 of 1978, Article 15, OCCUPATIONS](#)

Dravet Syndrome News, [Epidiolex Now Available in the US as a Non-controlled Substance](#) Mary Chapman

Physicians, Medical Marijuana and the Law, Joseph Gregorio, [Virtual Mentor. 2014;16\(9\):732-738. 10.1001/virtualmentor.2014.16.9.hlaw1-1409](#)