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State Superintendent of Schools

Operations

BILL: House Bill 331 DATE: February 19, 2020

**SUBJECT:** Public Schools – Medical **COMMITTEE:** Health and Government

Cannabis – Guidelines for Administration to Students

(Connor's Courage)

**POSITION:** Information Only

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## **EXPLANATION:**

The Maryland State Department of Education (MSDE) is providing information for consideration regarding **House Bill (HB) 331** – *Public Schools* – *Medical Cannabis* – *Guidelines for Administration to Students (Connor's Courage)*, which requires the MSDE and the Natalie M. LaPrade Medical Cannabis Commission to jointly develop guidelines for public schools regarding the administration of medical cannabis to students who are qualifying patients under Title 13, Subtitle 33 of the Health – General Article during school hours and school-sponsored after-school activities.

HB 331 requires that the guidelines include procedures for educating school nurses or issues related to medical cannabis; protocols to ensure students who are qualifying patients receive care during school hours and school-sponsored after-school activities; security protocols for possession, storage, and loss or theft; appropriate methods for administering medical cannabis by a school nurse during school hours and school-sponsored after-school activities; notice requirements to appropriate stakeholders; and any other issues concerning the administration of medical cannabis to students who are qualifying patients during school hours and school-sponsored after-school activities.

HB 331 also requires that on or before December 1, 2020, the Department, and the Natalie M. LaPrade Medical Cannabis Commission jointly shall provide technical assistance to schools to implement the guidelines and instruct school personnel at the local level regarding the guidelines established, and develop a process to monitor implementation of the guidelines.

Any discussion of the use of medical cannabis in public schools in Maryland must consider the federal law. Cannabis remains illegal at the federal level for all purposes. School systems could be in danger of violating federal law and losing federal funds if they permit the use of any cannabis by students. Through the Controlled Substances Act, Congress prohibits the cultivation, distribution, and possession of marijuana. See 21 U.S.C. § 801 et seq. Federal "drug free schools" laws provide heightened penalties for "distributing, possessing with intent to distribute, or manufacturing a

controlled substance" in a school zone. 21 U.S.C. § 860. Marijuana remains a controlled substance under federal law, federal authorities could attempt to prosecute parents, guardians, or caregivers for distributing a controlled substance if they provide cannabis to students on school grounds. See 21 U.S.C. § 844. A condition of receipt of federal grant funds from the U.S. Department of Education is compliance with the Federal Drug-Free Workplace Act 41 U.S.C. §701 et. seq. As a recipient of federal funds, school systems must make a good faith effort to maintain a drug-free workplace. 34 C.F.R. §84.200. see also, 2 C.F.R. §182.200. Failure to do so can lead to the U.S. Department of Education suspending or terminating a grant award. 34 C.F.R. §84.510.

All states, including Maryland, must consider the federal ramifications prior to enacting legislation that could impact federal funds. The Maryland State Department of Education estimates that HB 331 will have an operational and fiscal impact on the agency.

The MSDE respectfully requests that this information be considered during deliberation of HB 331. For further information please contact Tiffany Johnson Clark at 410-260-6028 or <a href="mailto:tiffany.clark1@maryland.gov">tiffany.clark1@maryland.gov</a>.