



February 18, 2020

The Honorable Paul G. Pinsky
Chair, Senate Education, Health, and Environmental Affairs Committee
2 West
Miller Senate Office Building
Annapolis, MD 21401

RE: SB 604 – “Public Schools – Medical Cannabis – Policy for Administration During School Hours and Events – Letter of Information

Dear Chair Pinsky and Committee Members:

The Maryland Medical Cannabis Commission (the Commission) is submitting this letter of information for Senate Bill 604 entitled “**Public and Nonpublic Schools – Medical Cannabis – Policy for Administration During School Hours and Events.**” As introduced, this bill alters the definition of a “caregiver” for pediatric medical cannabis patients and repeals the limitation on the number of qualifying medical cannabis patients a caregiver may serve at one time. SB 604 would require the Maryland Medical Cannabis Commission (Commission) and the Maryland State Department of Education (MSDE) to jointly develop guidelines for public schools regarding the administration of medical cannabis to students who are qualifying medical cannabis patients during school hours and school-sponsored after-school activities, and on a school bus. Further, the bill authorizes nonpublic schools to adopt a policy regarding the administration of medical cannabis during school hours and school-sponsored after-school activities. Importantly, as introduced, this bill **does not** expressly authorize minor patients to access medical cannabis on school grounds.

However, the bill sponsor, Senator Feldman, has amended the bill to incorporate many of the proposed technical amendments outlined below. Specifically, the sponsor amended the bill to (1) alter the definition of “caregiver” to specify that a minor patient may have up to four caregivers, and that a parent or guardian may designate up to two additional adults to serve as a caregiver for their minor child, (2) authorize school health personnel to administer medical cannabis, (3) expressly allow the use of medical cannabis by qualifying minor patients on school grounds, (4) prohibit smoking or vaping of medical cannabis on school grounds, (5) streamline the guidelines that the Commission and MSDE are responsible for developing, and (6) remove the nonpublic school technical assistance provision. The Commission appreciates that Sen. Feldman collaborated with stakeholders and sought to identify a consensus approach.

Thirty-three states and Washington, D.C. have medical cannabis programs, with 17 of those states permitting medical cannabis for pediatric patients. Of the 17 states permitting pediatric use, nine permit medical cannabis to be administered to students on school grounds. The Commission requested information from those states, inquiring whether permitting the use of medical cannabis

on school grounds had created issues regarding federal funding to public schools. Representatives from Delaware, Illinois, and Colorado responded, stating that no school has had federal funding impacted as a result of permitting the use of medical cannabis on school grounds. Furthermore, Colorado law has an express provision exempting any school that loses federal funding as a result of permitting the use of medical cannabis on school grounds. This exemption has yet to be used. Moreover, the U.S. District Court for the Northern District of Illinois held a state law prohibiting the possession and use of medical cannabis on school grounds, school buses, or school-related events violated the federal Individuals with Disabilities Education Act (IDEA) requirement to provide reasonable accommodations to students with disabilities. The decision prompted the Illinois General Assembly to pass a 2019 law allowing medical cannabis use on school grounds for qualifying patients.

The issue of access to medical cannabis on school grounds is important for the State's approximately 160 minor medical cannabis patients. Therefore, the Commission offers the following technical changes to the bill:

Amend the conforming changes to the Health-General Article

The Commission proposes the following amendments to Health-General Article §§13-3301–13-3313:

1. Expand the definition of caregiver for minor patients under Health-General Article § 13-3301 to include up to two adults designated by a parent or guardian, and explicitly state that the definition does not include school nurses and other authorized school personnel. There are already sufficient requirements and processes in place to ensure that school nurses and other school personnel have been thoroughly vetted. Requiring them to also register with the Commission as caregivers would be overly burdensome and unnecessary.
2. Health-General Article, §13-3304(g)(5)(ii) states that (i) a minor patient may only obtain medical cannabis from a caregiver, and (ii) the caregiver must be a parent or guardian. The Commission recommends carving out an exemption for school nurses and other authorized school personnel to administer medical cannabis that does not require them to register as a caregiver. Further, the exemption would require the medical cannabis be obtained through a student's caregiver, and be administered in accordance with dosing, timing, and delivery route instructions provided by the caregiver. Finally, the Commission recommends not striking the existing provision that prohibits a caregiver from having more than five qualifying patients. This is to avoid unintended consequences, and the potential for caregivers to operate outside of their intended function.
3. Health-General Article §13-3313 establishes statutory immunity for certain individuals who administer medical cannabis to patients. This provision should be amended to provide immunity to school nurses and other authorized school personnel.

Streamline and narrow the categories addressed by the school guidelines

SB 604 requires guidelines that encompass six broad categories and numerous subcategories, many of which are ancillary or unrelated to administering medical cannabis on school grounds. Any proposed guidelines should instead address more relevant areas such as (1) which school personnel are authorized to administer medical cannabis, (2) locations where medical cannabis may be administered (including addressing after-school activities and field trips), and (3) clearly prohibit

any method of administration that includes smoking or vaping.

Remove the technical assistance/outreach provision

The technical assistance/outreach provision outlined in SB 604 is not consistent with existing practices for providing instruction to school personnel. MSDE already has an established, comprehensive process in place for providing technical assistance and outreach to implement school health guidelines for public schools. Further, mandating the Commission directly participate in the instruction of school personnel at the local level would be an inappropriate role for the Commission, given the Commission’s role is to regulate medical cannabis businesses.

Remove the technical assistance to nonpublic school provision

SB 604 requires the Commission to be solely responsible for providing technical assistance and instruction regarding the guidelines to nonpublic schools. This is a highly incongruous role for the Commission for several reasons. As mentioned above, the Commission’s role is to regulate medical cannabis businesses. It would therefore be inappropriate for the Commission to provide technical assistance and instruction to nonpublic schools. Furthermore, the Commission would face significant difficulties regarding staffing should it be required to provide the assistance outlined in this provision. There are 946 nonpublic schools in Maryland – to provide even a portion of those schools with assistance, the Commission would need to greatly increase its operating capacity. In addition, the Commission does not currently maintain staff members with the expertise required to provide assistance of this level to nonpublic schools.

Extend implementation deadline to one year

Previous initiatives in the State have illustrated the complexities of vetting and finalizing school health guidelines. After consulting with MSDE, the Commission believes that it would be unrealistic to develop guidelines, provide technical assistance and instruction to schools on guideline implementation, and develop a monitoring process – all by December 1, 2020. Therefore, the Commission recommends that the deadline for carrying out the bill’s activities be extended from December 1, 2020 to September 1, 2021.

I hope this information is useful. If you would like to discuss this further, please contact me at (410) 487-8069 or at william.tilburg@maryland.gov.

Sincerely,



William Tilburg
Executive Director

cc: Members of the House Health and Government Operations Committee
Brian P. Lopez, Chair, Maryland Medical Cannabis Commission

Attachment: “States that Authorize Medical Cannabis on School Property, by Jurisdiction”

Attachment: “Minor Medical Cannabis Patients in Maryland”

Attachment: “Proposed Amendments to SB 604”

As of February 10, 2020

States that Authorize Medical Cannabis on School Grounds, by Jurisdiction

State	Parents/Guardians to Administer	Nurse or other School Personnel to Administer	Location	Authority
CO	X “Primary caregiver” as determined by the board of education or charter school	X Pursuant to the definition of “primary caregiver” per local policy. No requirement for staff to administer	School grounds, school bus, or at a school-sponsored event.	School may allow
DE	X	-	School grounds or a school bus	Statutory mandate
FL	X School board policy may allow	X If specified in the district school board policy to ensure access	School grounds	School may allow
IL	X Any designated caregiver may administer	X If registered as the patient’s caregiver	School grounds or a school bus	School shall allow
ME	X Legal custodian or others if registered caregivers	X If registered as the patient’s caregiver	School grounds or a school bus	School shall allow
NJ	X Any “primary caregiver”	X If considered a “primary caregiver” under the school policy	School grounds, school bus, or at a school-sponsored event	School shall allow
NM	X	X By designated school personnel	‘School settings’ as determined by local board policy	School shall allow
VA	-	X School nurse and other designated personnel; applies only to CBD and THC-A oil	At school	School may allow
WA	X	-	School grounds, a school bus, or at a school-sponsored event	School shall allow, upon request by parent or guardian

As of January 31, 2020

Minor Medical Cannabis Patients in Maryland

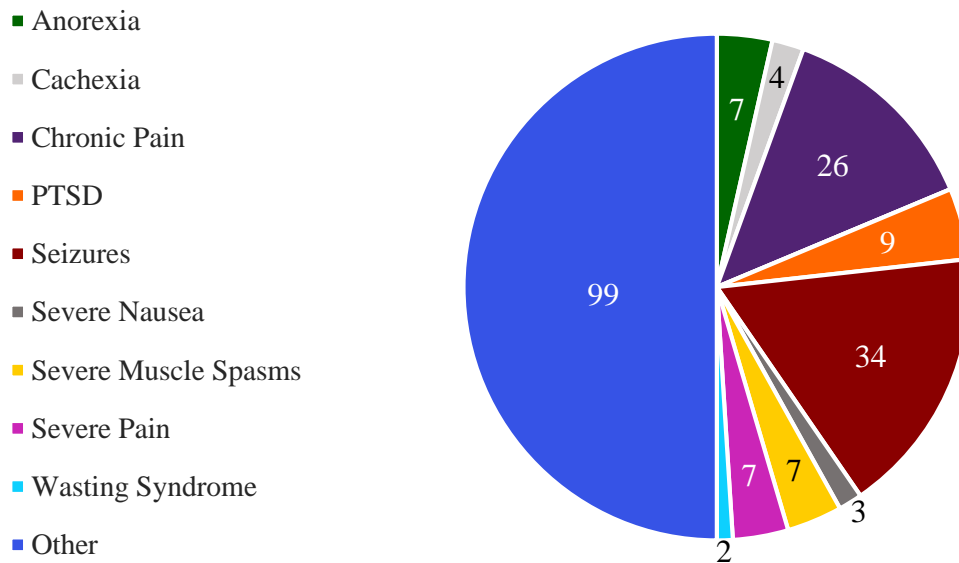
1. Minor Patients: 157

2. Certifying Conditions:

- Anorexia: 7
- Cachexia: 4
- Chronic Pain: 26
- PTSD: 9
- Seizures: 34
- Severe Nausea: 3
- Severe Muscle Spasms: 7
- Severe pain: 7
- Wasting Syndrome: 2
- Other: 99
 - **Other Includes:**
 - Anxiety: 35
 - Autism: 34
 - ADHD: 15
 - Severe Aggression (related to Anxiety and Autism): 7
 - Depression: 14
 - Cancer: 3

Note: Total conditions exceed number of patients, because several patients are certified for more than one condition

Medical Cannabis: Certified Minor Patient Conditions



AMENDMENT TO SENATE BILL 604
(First Reading File Bill)

13 – 3301.

(c) ~~(1)~~ “Caregiver” means:

~~(1)~~ (I) A person who has agreed to assist with a qualifying patient’s medical use of cannabis; and

~~(2)~~ (II) For a qualifying patient under the age of 18 years[, a]:

~~(H)~~ A. A parent or legal guardian; AND

~~(H)~~ B. AN NOT MORE THAN TWO ADDITIONAL ADULT ADULTS DESIGNATED BY THE PARENT OR LEGAL GUARDIAN.

(2) “CAREGIVER” DOES NOT INCLUDE A SCHOOL NURSE OR OTHER SCHOOL PERSONNEL AUTHORIZED TO ADMINISTER MEDICAL CANNABIS TO A STUDENT IN ACCORDANCE WITH THE GUIDELINES ESTABLISHED UNDER TITLE 7, SUBTITLE 446 OF THE EDUCATION ARTICLE.

13 – 3304.

(g)(5)(i) Except as provided in subparagraph (ii) of this paragraph, a qualifying patient or caregiver may obtain medical cannabis only from a medical cannabis grower licensed by the Commission or a dispensary licensed by the Commission.

(ii) A qualifying patient under the age of 18 years may obtain medical cannabis only through:

A. [the] THE qualifying patient's caregiver[.]; OR

B. A SCHOOL NURSE OR OTHER SCHOOL PERSONNEL AUTHORIZED TO ADMINISTER MEDICAL CANNABIS TO A STUDENT IN ACCORDANCE WITH THE GUIDELINES ESTABLISHED UNDER TITLE 7, SUBTITLE 446 OF THE EDUCATION ARTICLE.

(6) ~~{i}~~ A caregiver may serve no more than five qualifying patients at any time.

~~{ii}~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH III OF THIS PARAGRAPH, A A qualifying patient may have no more than ~~{two}~~ ~~FOUR~~ caregivers.

(III) A QUALIFYING PATIENT UNDER THE AGE OF 18 YEARS MAY HAVE NO MORE THAN FOUR CAREGIVERS.

(7) A SCHOOL NURSE OR AUTHORIZED SCHOOL PERSONNEL DESCRIBED IN PARAGRAPH (5)(II) OF THIS SUBSECTION:

(I) MAY ONLY ADMINISTER MEDICAL CANNABIS TO A STUDENT:

**A. THAT IS OBTAINED THROUGH THE STUDENT’S CAREGIVER;
AND**

B. IN ACCORDANCE WITH DOSING, TIMING, AND DELIVERY ROUTE INSTRUCTIONS AS PROVIDED BY THE CAREGIVER’S WRITTEN INSTRUCTIONS; AND

(II) IS NOT REQUIRED TO REGISTER WITH THE COMMISSION UNDER THIS SUBTITLE.

13 – 3313.

(a) Any of the following persons acting in accordance with the provisions of this subtitle may not be subject to arrest, prosecution, revocation of mandatory supervision, parole, or probation, or any civil or administrative penalty, including a civil penalty or disciplinary action by a professional licensing board, or be denied any right or privilege, for the medical use of or possession of medical cannabis:

(10) A SCHOOL NURSE OR OTHER SCHOOL PERSONNEL AUTHORIZED TO ADMINISTER MEDICAL CANNABIS TO A STUDENT IN ACCORDANCE WITH THE GUIDELINES ESTABLISHED UNDER TITLE 7, SUBTITLE 446 OF THE EDUCATION ARTICLE.

Article – Education

7 – 446.

(A) ON OR BEFORE ~~DECEMBER 1, 2020~~ MARCH 1, 2021, THE DEPARTMENT AND THE NATALIE M. LAPRADE MEDICAL CANNABIS COMMISSION JOINTLY SHALL DEVELOP GUIDELINES FOR PUBLIC SCHOOLS REGARDING ALLOWING 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 ACTIVITIES AND WHILE ON A SCHOOL BUS.

(B) THE GUIDELINES SHALL ~~INCLUDE~~ ESTABLISH:

(1) WHICH SCHOOL PERSONNEL ARE AUTHORIZED TO ADMINISTER MEDICAL CANNABIS TO A STUDENT WHO IS A QUALIFYING PATIENT DURING SCHOOL

HOURS AND SCHOOL-SPONSORED AFTER-SCHOOL ACTIVITIES AND WHILE ON A SCHOOL BUS;

(2) SPECIFIC LOCATIONS WHERE MEDICAL CANNABIS MAY BE ADMINISTERED TO A STUDENT WHO IS A QUALIFYING PATIENT DURING SCHOOL HOURS AND SCHOOL-SPONSORED AFTER-SCHOOL ACTIVITIES AND WHILE ON A SCHOOL BUS;

(3) PROCEDURES FOR EDUCATING SCHOOL NURSES AND OTHER SCHOOL PERSONNEL ON ISSUES RELATING TO MEDICAL CANNABIS INCLUDING: SAFETY CONSIDERATIONS FOR PATIENT USE OF MEDICAL CANNABIS AS IT RELATES TO A SCHOOL SETTING;

~~(I) THE STATE'S MEDICAL CANNABIS PROGRAM;~~

~~(II) FEDERAL AND STATE LAWS AND REGULATIONS;~~

~~(III) PROFESSIONAL LICENSURE AND CIVIL AND CRIMINAL LIABILITY ISSUES;~~

~~(IV) CANNABIS PHARMACOLOGY AND RESEARCH ASSOCIATED WITH THE MEDICAL USE OF CANNABIS; AND~~

~~(V) SAFETY CONSIDERATIONS FOR PATIENT USE OF CANNABIS AS IT RELATES TO A SCHOOL SETTING;~~

(4) PROTOCOLS TO ENSURE STUDENTS WHO ARE QUALIFYING PATIENTS RECEIVE CARE DURING SCHOOL HOURS AND SCHOOL-SPONSORED AFTER-SCHOOL ACTIVITIES AND WHILE ON A SCHOOL BUS; AS DETERMINATE BY:

~~(I) THE STUDENT'S CERTIFYING PROVIDER~~

~~(II) THE STUDENT'S PARENT OR GUARDIAN OR CAREGIVER; AND~~

~~(III) THE SCHOOL NURSE'S ASSESSMENT;~~

(5) SECURITY PROTOCOLS FOR THE POSSESSION, STORAGE, AND LOSS OR THEFT OF MEDICAL CANNABIS ON SCHOOL PROPERTY;

(4) (6) A PLAN FOR THE ADMINISTRATION OF MEDICAL CANNABIS BY A SCHOOL NURSE, OR CAREGIVER DURING SCHOOL HOURS AND SCHOOL-SPONSORED AFTER-SCHOOL ACTIVITIES AND WHILE ON A SCHOOL BUS THAT MUST HAVE INCLUDE LABELING; AS WELL AS DOSING, TIMING AND DELIVERY ROUTE INSTRUCTIONS AS PROVIDED BY THE CAREGIVER'S WRITTEN INSTRUCTIONS;

(7) A CLEAR PROHIBITION ON ANY METHOD OF ADMINISTRATION OF MEDICAL CANNABIS THAT INCLUDES SMOKING OR VAPING;

~~(5) (8) NOTICE REQUIREMENTS TO APPROPRIATE SCHOOL PERSONNEL, PARENTS AND GUARDIANS, AND LOCAL LAW ENFORCEMENTS, IF NECESSARY; AND~~

~~(9) WHETHER THE MEDICAL CANNABIS MAY BE RETAINED ON SCHOOL GROUNDS AT THE END OF THE SCHOOL DAY OR SCHOOL-SPONSORED AFTER-SCHOOL ACTIVITY OR WHETHER IT MUST BE RETURNED TO THE STUDENT’S CAREGIVER; AND~~

~~(10) ANY OTHER NECESSARY GUIDELINES ON ISSUES CONCERNING THE ADMINISTRATION OF MEDICAL CANNABIS TO STUDENTS WHO ARE QUALIFYING PATIENTS DURING SCHOOL HOURS AND SCHOOL-SPONSORED AFTER-SCHOOL ACTIVITIES AND ON A SCHOOL BUS.~~

~~(C) ON OR BEFORE DECEMBER 1, 2020, THE DEPARTMENT AND THE NATALIE M. LAPRADE MEDICAL CANNABIS COMMISSION JOINTLY SHALL:~~

~~(1) PROVIDE TECHNICAL ASSISTANCE TO SCHOOLS TO:~~

~~(I) IMPLEMENT THE GUIDELINES ESTABLISHED UNDER THIS SECTION; AND~~

~~(II) INSTRUCT SCHOOL PERSONNEL AT THE LOCAL LEVEL REGARDING THE GUIDELINES ESTABLISHED UNDER THIS SECTION;~~

~~(2) DEVELOP A PROCESS TO MONITOR IMPLEMENTATION OF THE GUIDELINES; AND~~

~~(3) SHARE THE GUIDELINES ESTABLISHED UNDER THIS SECTION WITH A NONPUBLIC SCHOOL THAT ESTABLISHES OR SEEKS TO ESTABLISH A POLICY UNDER SUBSECTION (D) OF THIS SECTION.~~

~~(D) (1) EACH NONPUBLIC SCHOOL IN THE STATE MAY ESTABLISH A POLICY 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.~~

~~(2) THE NATALIE M. LAPRADE MEDICAL CANNABIS COMMISSION SHALL:~~

~~(I) PROVIDE TECHNICAL ASSISTANCE TO IMPLEMENT A POLICY ESTABLISHED BY A NONPUBLIC SCHOOL UNDER THIS SUBSECTION; AND~~

~~(II) INSTRUCT SCHOOL PERSONNEL OF A NONPUBLIC SCHOOL REGARDING THE GUIDELINES ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2020~~ July 1, 2020.