



# Policy Services

NORTH DAKOTA SCHOOL BOARDS ASSOCIATION

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## NORTH DAKOTA MEDICAL MARIJUANA FAQ

### **Who can use pediatric medical marijuana?**

Any minor (under the age of nineteen) that is a qualifying patient who possesses a valid registry card.

NDCC 19-24.1-01

### **Can a parent request that their child receive medical marijuana?**

Yes; however, the minor child (under the age of nineteen) needs to be a qualifying patient that has been diagnosed by a health care provider as having a debilitating medical condition as defined by ND law.

NDCC 19-24.1-03.

### **Is the parent required to provide a copy of their child's registry identification card to the school?**

No.

NDCC 19-24.1-37

### **Can a student self-administer the pediatric medical marijuana while on school property?**

No, they may not. It is the designated caregiver's responsibility to control the acquisition of usable marijuana and control the dosage and frequency of the use of usable marijuana by the minor. The designated caregiver must prevent the minor from accessing the usable marijuana by storing the usable marijuana in an enclosed, locked facility.

NDCC 19-24.1-05(5)

### **Can a district employee administer pediatric medical marijuana to the student on school property?**

No, they may not. It is the designated caregiver's responsibility to control the acquisition of usable marijuana and control the dosage and frequency of the use of usable marijuana by the minor. The designated caregiver must prevent the minor from accessing the usable marijuana by storing the usable marijuana in an enclosed, locked facility.

NDCC 19-24.1-05(5)

**Can a parent administer medical marijuana on school property?**

No. Possessing or consuming usable marijuana is prohibited:

- a. On a school bus or school van that is used for school purposes;
- b. On the grounds of any public or private school; and
- c. At any location while a public or private school sanctioned event is occurring at that location.

The parent would need to remove their child from school property prior to administering the pediatric medical marijuana to them.

NDCC 19-24.1-33.

**Can a student or employee store medical marijuana on school property?**

No, they may not. Possessing or consuming usable marijuana is prohibited:

- a. On a school bus or school van that is used for school purposes;
- b. On the grounds of any public or private school; and
- c. At any location while a public or private school sanctioned event is occurring at that location.

NDCC 19-24.1-33.

**Can an employee be a medical marijuana cardholder?**

Yes, however, it is recommended that the employee check their workplace policies on drug use and which positions are prohibited from using a controlled substance at all times, even if prescribed.

Employees shall notify their employer any time they are using medication prescribed by a physician that could adversely affect their performance or duties. Employees shall not drive or perform safety-sensitive duties at any time they have been advised by a physician that medication may or will adversely affect their ability to safely perform these duties.

Covered and safety sensitive employees are prohibited from using a controlled substance at all times unless use is at the instruction of a physician, and the physician has advised that use will not affect the employee's ability to perform safety-sensitive duties.

*Covered employee/position* means an employee/position subject to the Omnibus Transportation Employee Testing Act.

*Safety-sensitive position* means a job in which a momentary lapse in the discharge of duties poses a safety threat with potentially severe consequences. In addition to covered positions, the board recognizes the following as safety-sensitive positions: school vehicle drivers as described in NDCC 15.1-07-20

**Can an employer fire an employee for being a medical marijuana cardholder?**

No. An employee is also not required to inform their employer that they are a medical marijuana cardholder; however, employees shall notify the District any time they are using medication prescribed by a physician if such use could adversely affect performance of safety-sensitive duties. Employees shall not drive or perform any safety-sensitive duties at any time if they have been advised by a physician that the medication may or will adversely affect their ability to safely perform these duties.

Employers may discipline an employee for possessing or consuming usable marijuana in the workplace or for working while under the influence of marijuana. If you suspect an employee is using medical marijuana, it is recommended that you follow any policies you may have regarding the use or possession of drugs in the workplace (DEAA). Contact your attorney if you require further assistance.

**Can you drug test an employee?**

Employees serving in covered or safety sensitive positions are required to participate in all applicable drug and alcohol testing as a condition of employment. If you suspect an employee is using medical marijuana, it is recommended that you follow any policies you may have regarding the use or possession of drugs in the workplace (DEAA). See NDSBA article, *Drug Testing Employees*, or contact your attorney if you require further assistance.

**If an employer suspects and employee is under the influence of medical marijuana, what steps should be taken?**

We recommend that the employee's supervisor or district administrator complete a Record of Observable Behavior form (DEAA-E1). The supervisor or district administrator shall not attempt to make allegations or diagnose behavior beyond observed and reported behavior.

The employee's supervisor and/or district administrator shall solicit an explanation from the employee regarding the employee's observed behavior. All conversations had with the employee shall, whenever possible, involve a witness.

Violators of the employee's Drug-Free Workplace policy may be subject to the disciplinary consequences.

A formal chemical dependency diagnostic interview (and treatment, if the report of the diagnostician indicates a need for treatment) may be made a condition of continued employment if the employee's job performance is adversely affected. The District shall make every effort to provide supportive assistance to those employees who return after completing a therapeutic regime.

