

CLIENT NEWS BRIEF

The Pot Thickens: Legal Updates on Marijuana and Schools

Schools may soon be getting requests to permit students to take a marijuana-based epilepsy drug at school, thanks to a change in the way the federal government regulates it. Read on to learn more about Epidiolex and the state of the law regarding administration of medication at school, including marijuana based drugs.

Separately, but related to administration of marijuana based drugs, Governor Jerry Brown recently vetoed a state bill that would have permitted school boards to develop a policy allowing parents and guardians to administer medical marijuana on campus.

Administration of Epidiolex at School—the First Food & Drug Administration (FDA) Approved Marijuana-Based Drug

Epidiolex—a drug that contains a non-psychoactive component of marijuana called cannabidiol or CBD (previously reported on [here](#))—was approved by the Food & Drug Administration (FDA) in June 2018 to treat two forms of severe epilepsy that usually begin in childhood. On September 27, 2018, the Drug Enforcement Administration (DEA) announced that Epidiolex is now a Schedule V drug, the least restricted schedule of the Controlled Substances Act (“CSA”).

The DEA specifically placed in Schedule V “FDA-approved drugs that contain CBD derived from cannabis and no more than 0.1 percent tetrahydrocannabinols.” At this time, *only* Epidiolex falls into this category, as it is the only cannabis-based drug that has been approved by the FDA. Because Epidiolex is now a Schedule V drug, it can be prescribed by medical doctors. Epidiolex is expected to become commercially available in the next six weeks, according to GW Pharmaceuticals, the maker of the drug.

If a child has a valid prescription for a medication, which can now include Epidiolex, that he needs to take at school, a school must accommodate that child, provided that the school district’s applicable board policies and regulations and Education Code section 49423—the provision that allows for medication to be administered at school—are met. **School districts should therefore be prepared to respond to requests for students to store and ingest Epidiolex at school before the end of 2018.** All other forms of marijuana besides Epidiolex remain on Schedule I of the CSA and are still illegal under federal law.

Given the constant changes in this area of the law and the complicated nuances of existing law, Lozano Smith recommends that any school district that receives a request by a parent or guardian to provide his or her child with medical marijuana generally or Epidiolex specifically at school consult with legal counsel.

Governor Brown Vetoes Senate Bill 1127

Senate Bill (SB) 1127, which would have permitted school boards to develop a

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policy to permit parents or guardians to administer medical marijuana to students on campus, was vetoed by Governor Jerry Brown on September 28. In his veto message, Governor Brown stated that the bill “is overly broad as it applies to all students instead of limited cases where a doctor recommends medical marijuana for a student in order to prevent or reduce the effects of a seizure.”

A two-thirds vote in each house—which must occur within 60 days of the veto—would override the Governor’s veto and make SB 1127 the law. The Governor’s veto is rarely overridden in California, but it is still possible that SB 1127 could become law in January 2019. If the Legislature does not override the veto, the bill may be revised or reintroduced in 2019, when California will have a new governor. Lozano Smith will keep clients updated about the status of SB 1127 and related bills.

We encourage you to listen to the webinar [Getting Blunt: An Update on Marijuana in Schools](#), presented by Aimee Perry and Alyssa Bivins, which discusses the issues raised in this article in greater detail. Look out for the next Getting Blunt webinar to remain up to date in this rapidly evolving area of the law.

If you have any questions regarding medication administration in general, or this ruling, contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

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