

MEMO

TO: Whitted Takiff Clients
FROM: Neal E. Takiff & Shermin Ali-Andani
DATE: September 3, 2019

RE: EXPANSION OF LAW ON MEDICAL MARIJUANA IN SCHOOLS

On August 12 2019, Governor Pritzker signed Illinois Senate Bill 455 into law as **Public Act 101-0370**, which goes into effect on January 1, 2020 and effectively amends the Illinois School Code by expanding Ashley's Law (see 105 ILCS 5/22-33 et seq.), which authorized the use of medicinal marijuana in schools. Pursuant to Public Act 101-0370, a registered qualifying student must have the right to have administered a medical cannabis infused product by a school nurse or school administrator and may have the right to self-administer the medical cannabis product under the supervision of the school nurse or school administrator of the school, which includes nonpublic schools. Pub. Act. 101-0370, 105 ILCS 5/22-33(b-5).

SUMMARY OF AMENDMENTS TO ASHLEY'S LAW

Ashley's law previously required that schools allow the parent, guardian, or any other individual registered with the Department of Public Health as a designated caregiver of a student who is a registered qualifying patient, to administer a medical cannabis infused product to the student on school premises. Public Act 101-0370 expands this law by providing that school districts, public schools, charter schools, and nonpublic schools must allow a school nurse or school administrator to administer a medical cannabis infused product to a student who is a registered qualifying patient: (1) while on school premises; (2) while at school sponsored activities; or (3) before or after normal school activities, including while the student is in before-school or after-school care on school operated property or while the student is being transported on a school bus. See Pub. Act. 101-0370, 105 ILCS 5/22-33(b-5). Further, the new law does not require it, but allows schools to authorize the self-administration of medical cannabis infused products by students who are registered qualifying patients, if the self-administration takes place under the direct supervision of a qualified school nurse or administrator. *Id.*

While schools must allow for administration to occur by a school nurse or school administrator, it is worth noting that new law does not require a member of any school or district staff to administer the cannabis infused product against their will and still includes the following language: "[n]othing in this Section requires a member of a school's staff to administer a medical cannabis infused product to a student." 105 ILCS 5/22-33(e). A school nurse or school administrator must complete a training program developed by the Illinois State Board of Education relating to cannabis administration annually before being allowed to administer medical cannabis infused products to students. Schools must maintain records related to the training

curriculum and of the staff members who have completed the training. Qualified nurses and school administrators are not subject to arrest, prosecution, or denial of any right or privilege under Illinois law for administering the medical cannabis infused products to qualifying students.

The expanded language of Ashley's Law, also now specifically includes what documentation is required prior to the administration of medical cannabis in schools. Specifically, before allowing the administration of medical cannabis infused products on school premises and by a school nurse or school administrator, the parent/guardian of the student who is the registered qualifying patient must provide the school the following:

- Written authorization for use of the medical cannabis infused product, which includes the times where or the special circumstances under which the medical cannabis infused product must be administered;
- Copy of the registry identification cards of the student (as the registered qualifying patient) and the parent/guardian (as the registered designated caregiver);
- The written authorization and a copy of the registry identification cards must be kept on file in the office of the school nurse.

The remaining portions discussed in our previous 2018 memo regarding Ashley's Law remain in place and schools should look to updating their policies and forms related to medical cannabis use in schools to account for the above provisions beginning on January 1, 2020. It should also be noted, that as before, schools are allowed not to authorize the administration of medical cannabis infused products at school if doing so would jeopardize the schools' federal funding. See 105 ILCS 5/22-33(f).

CONTACT US

We hope you found this update helpful. Please feel free to reach out to us if you have any additional questions with regard to Ashley's Law and the implementation of policies for your school or on behalf of your student seeking the administration of medical cannabis in schools.

For questions and legal assistance on this topic, please feel free to contact us by phone at (847)564-8662 or via e-mail to Shermin Ali-Andani (sali@whittedtakiff.com) or Neal Takiff (ntakiff@whittedtakiff.com).

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