

ARTICLE 24:60

MEDICAL CANNABIS

Chapter

- 24:60:01 Definitions.
- 24:60:02 General Provisions.
- 24:60:03 District Discretion.

CHAPTER 24:60:01

DEFINITIONS

24:60:01:01. Definitions. Terms defined in [SDCL chapter 34-20G](#) shall have the same meaning in this article. In addition, the following terms used in this article mean:

- (1) “School Property,” any school premises, vehicle, or building, or on or in any premises, vehicle, or building used or leased for school functions.

CHAPTER 24:60:02

GENERAL PROVISIONS

Section

- 24:60:02:01 Administration of medical cannabis to students.
- 24:60:02:02 Allowable forms of medical cannabis.
- 24:60:02:03 Required notification.
- 24:60:02:04 Notice.

- 24:60:02:05 Restrictions.
- 24:60:02:06 Required consent.
- 24:60:02:07 Student age of 18 or older.
- 24:60:02:08 Prohibited acts -- student.
- 24:60:02:09 Discipline not allowed by school for student solely for being a cardholder.
- 24:60:02:10 School, school employee or volunteer not required to administer or store medical cannabis.
- 24:60:02:11 Records.
- 24:60:02:12 Exemption.

24:60:02:01. Administration of medical cannabis to students. A school district shall, upon notification pursuant to § 24:60:02:03, allow a registered designated caregiver on school property, or at any school-sponsored activity, to administer medical cannabis to a student in a school or at a school-sponsored activity, who are medical cannabis cardholders, in accordance with their licensed health care practitioner's recommendation.

24:60:02:02. Allowable forms of medical cannabis. Medical cannabis shall be in the form of non-smokable marijuana.

24:60:02:03. Required notification. The parent or legal guardian of any student that may have medical cannabis administered upon school property or at a school-sponsored activity and is a cardholder, must notify the school district prior to any medical cannabis being administered. The parent or legal guardian must present the registry identification card to the school district. The school district shall retain a copy, both front and back, of the card for the

student's file. The school district may accept a nonresident card, pursuant to the restrictions detailed in [SDCL chapter 34-20G](#). The parent or legal guardian shall provide written notice to the school district, within ten days of the following change(s):

- (1) Designated caregiver(s);
- (2) If the student ceases to have a debilitating medical condition; or
- (3) If the card is void, expired, or revoked.

24:60:02:04. Notice provided to individuals within the district. If a school district receives notice pursuant § 24:60:02:03, the school district shall ensure that such notice is provided to the student's educators and persons designated to provide health services to students at the school.

24:60:02:05. Restrictions on administering medical cannabis.

- (1) A student shall not possess or self-administer medical cannabis on or in school property or at a school-sponsored activity.
- (2) Only a designated caregiver may possess and administer to a student, who is a cardholder, on or in school property or at a school-sponsored activity. The designated caregiver shall not administer the medical cannabis in a manner that creates disruption to the educational environment or causes exposure to other students.
- (3) After the designated caregiver administers the medical cannabis, the designated caregiver shall remove any remaining medical cannabis from the school property or school-sponsored activity.

24:60:02:06. Required consent. Prior to the administration of medical cannabis and any time when the student's administration of medical cannabis changes, the student's parent or legal

guardian shall at least annually complete and submit to the school district the documentation required by this article including, but not limited to:

- (1) A written certification including the signature of the recommending practitioner and the recommended dosage, frequency or time(s) of administration, and length of time between dosages of the medical cannabis to be administered;
- (2) The registry identification card for the student and proof of the registered designated caregiver(s);
- (3) A written statement from the student's parent or legal guardian, including:
 - a. Acknowledgment stating the school district and personnel and volunteers of the school district are released from any and all liability, except in cases of willful or wanton conduct, or reckless disregard of the criteria of the treatment plan, and
 - b. Acknowledgment that no school personnel shall be required to administer medical cannabis.

24:60:02:07. Students age 18 or older. A student who is age 18 or older or has been emancipated shall not possess or self-administer medical cannabis while on school property or at a school-sponsored activity. Such student shall provide the notices and documentation required by § 24:60:02:03, the written consent as detailed in § 24:60:02:06, and must designate a caregiver for the purposes of possession and administration on school property or school-sponsored activity.

24:60:02:08. Prohibited acts -- student. Student possession, use, distribution, sale, or being under the influence of a cannabis product inconsistent with this article is prohibited.

24:60:02:09. No discipline allowed by school solely due to student being a cardholder. A school district may not discipline a student who is a cardholder, solely because the student requires medical cannabis as a reasonable accommodation necessary to attend school.

24:60:02:10. School, school employee or volunteer not required to administer or store medical cannabis. Neither this section nor any other state or federal law, including without limitation the “Individuals with Disabilities Education Act”, 20 U.S.C. sec. 1400 et seq., as amended to December 10, 2015, and section 504 of the “Rehabilitation Act of 1973”, 29 U.S.C. sec. 794, as amended to December 10, 2015, may be used to require a school district or any employee or volunteer thereof to store medical cannabis on school property or at a school-sponsored activity or to administer medical cannabis.

24:60:02:11. Records. Any information received by a school district pursuant to ARSD § 24:60, containing confidential information or personally identifiable information is protected by the “Family Educational Rights and Privacy Act of 1974,” 20 U.S.C. sec. 1232g, as amended to July 1, 2013 and shall become part of the student’s educational record.

24:60:02:12. Exemption. A school district shall not be required to comply with §§ 24:60:02:01 through 24:60:02:11, if:

- (1) The school district posts on its website in a conspicuous place a statement regarding its decision not to comply with §§ 24:60:02:01 through 24:60:02:11; and
- (2) The school district loses federal funding as a result from complying with §§ 24:60:02:01 through 24:60:02:11; or
- (3) The school district can reasonably demonstrate that it lost federal funding as a result from complying with §§ 24:60:02:01 through 24:60:02:11.

CHAPTER 24:60:03

DISTRICT DISCRETION

Section

24:60:03:01 Permissive district policy.

24:60:03:02 District policy -- requirements.

24:60:03:01. Permissive district policy. Should a school district choose to permit the administration and storage of medical cannabis by school personnel on school property or at a school-sponsored activity, the school district may adopt policies regarding the reasonable parameters of the administration and storage of medical cannabis. Such policies may establish criteria for designated school personnel to administer medical cannabis or emergency administration of medical cannabis due to a life-threatening event. Criteria may also address the form of non-smokable medical cannabis that will be allowed to be stored and administered.

24:60:03:02. District policy -- requirements. If a school district adopts such policies detailed in § 24:60:03:01, such policies shall include, but not be limited to:

- (1) The student's parent or legal guardian shall deliver the student's medical cannabis in a container that contains clearly labeled instructions, or the plan for administration must clearly specify instructions, to include the dosage, frequency or time(s) of administration, and length of time between dosages of the medical cannabis from the student's recommending practitioner;
- (2) A student shall not possess or self-administer medical cannabis on or in school property or at a school-sponsored activity;

- (3) The school district shall designate specific school personnel at each school, as the person(s) who secures and stores the medical cannabis; and
- (4) The designed school personnel shall secure the medical cannabis in a locked storage container.

Source:

General Authority: SDCL §§ [34-20G-95](#), [13-33A-2](#).

Law Implemented: SDCL §§ [34-20G-95](#), [13-33A-2](#).