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October 17, 2019

Subject: SB 223 Board Report

History.

In 1996 the Compassionate Use Act immunized a patient's primary caregiver who possessed or cultivated marijuana for a patient, for medical use. This law did not allow marijuana to be used or administered on school campuses. On August 30, 2019 the Senate passed Senator Jerry Hill's SB #223 known as Jojo's law. The gravamen of the bill allows patients to administer medicinal cannabis on school campuses with certain restrictions. This law was previously passed and sent to Governor Brown, however he vetoed it because he questioned the utility of a policy that allows students to use marijuana on school campuses. On October 9, 2019 Governor Newsome signed the bill which allows school districts the discretion to allow for the administration of medicinal cannabis on school campuses.

JoJo

The student who SB 223 was named after, Jojo, is a 19 year old with Lennox Gastaut syndrome, a severe form of epilepsy. Cannabis forestalls debilitating seizures that had prevented him from attending school and left him barely able to function. Since taking medicinal cannabis he has gone from 50 seizures per day to rarely having one. His mother would previously drive to her son's school each day, sign him out of school and drive around the corner of the school to squirt a marijuana based oil into his mouth. Prescription drugs created a zombie-like state for Jojo, and cannabis is the only other way to prevent life threatening seizures. Post administration, she would then return him to the school and sign him back in. The old law prohibited marijuana from being used within 1000 feet of a school. Effective January 1, 2019 school boards make the decision as to whether to allow administration on campus.

Requirements & Restrictions of SB #223



1. Senate Bill 223 allows for the administration of medicinal cannabis if a student has a medical recommendation for medicinal cannabis.
2. The cannabis must not be in smokeable or vapeable form. Permissible forms include oil, capsules, tinctures, liquid, topical cream
3. The law is designed so that parents administer the products. Medicinal cannabis can be given by school personnel but administration of the cannabis may never be required of school personnel.
4. Medicinal cannabis products may not be stored on campus.
5. Parents entering the school to administer cannabis must sign in and out and may not disrupt the educational environment or expose other students to the medicinal cannabis.
6. Students may not self-administer medicinal cannabis.

The enactment of SB 223 does not *compel* school districts to create policy. It is not a mandate to allow medicinal cannabis to be administered on campuses. Conversely, SB 223 allows school districts to *opt in* by enacting policy which allows for the administration of cannabis on school campuses.

Federal Funding

Currently there are 31 states that allow the medicinal use of marijuana. Of this 31, only 8 allow medicinal cannabis to be administered on school grounds. None of these 8 states allow self-administration. The states that allow administration of medicinal cannabis on school grounds risk losing federal funds since the federal government does not permit the use of marijuana based products for any purpose. Officially, the federal government classifies marijuana as having no medicinal value and therefore, its use can only be recreational and thereby illegal. State law and federal law are in direct conflict.

Pros & Cons

Proponents of the new law see greater access to a needed medical treatment while opponents view this as opening the floodgates for widespread unregulated use of cannabis on campuses. Those who favor the law believe that there are significant numbers of students who need



cannabis throughout the school day who are missing school because they are currently not allowed to obtain their medicinal cannabis during school hours on campus. Many of the students who take prescription drugs for ADHD and similar ailments believe that the use of cannabis on campus will positively impact student behavior and impulse control. While those who oppose the law espouse the proliferation and overuse of cannabis citing its negative effects on society. These hardliners cite the epidemic of opioid use and the damage that vaping and e-cigarettes are having on America's youth. Whichever way one is swayed, the right to create policy that allows for medicinal cannabis use on school campuses

TEACH Public Schools

TEACH currently services approximately 1000 students district wide. If a policy was created that allowed parents to deliver medicinal cannabis, it could lead to widespread abuse, civil liability, and increased use of cannabis products by students. Three specific facts cause great concern for TEACH's implementation of a medicinal cannabis policy based on SB #223.

1. Medicinal marijuana consumption and procurement exist in a loose or often non-existent abyss of non-regulation of licensing, seedy distribution, and precarious prescriptions.
2. There is great exposure to civil liability if a student ingested a substance on campus that was toxic or otherwise harmful and there was no medical personnel on campus to mitigate harm or treat illness. (Currently none of the TEACH schools have a nurse or medical staff on campus)
3. There is great potential for abuse, misuse, and recreational consumption. Students who are 18 years old could have an adult friend deliver and administer. Parents could allow for other adults to deliver and administer. Students could have negative reactions post ingestion. A student could ingest too much cannabis and have a reaction.

Overview

It is perhaps best to take a wait and see posture with this new law. While none of schools in the other 7 states who have enacted this law have lost federal funding, the risk



is astronomical. California may very well be the test state that the federal government uses as a target to get supreme court intervention. Historically when there has been a clash between state and federal laws, supreme court intervention comes when there is a large enough litigant in the fray. California could be that litigant. If TEACH Public Schools created and implemented a policy which allowed parents to administer medicinal cannabis on campus it could compromise federal funding. It may be most prudent to treat individuals seeking to exercise this law on a case by case basis. Perhaps it is best to refrain from making broad, far reaching policy simply because the right to has been granted. If there is a request to administer on campus, at that time a policy could be created to address the particular student while protecting each campus from abuse and neglect.