

Title: Use of Cannabis by Licensees

Date Issued: May 24, 2022

Date revised:

Purpose: Provide guidance on the use of cannabis for either medicinal or recreational use by New Mexico licensed physicians and other licensees

Approved by: Vote of the New Mexico Medical Board

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The Board often receives inquiries from physicians and other licensees regarding the personal use of cannabis by licensees under our jurisdiction for medicinal or recreational purposes. While our actions are based on the Medical Practice and Impaired Health Care Provider Acts, and relevant regulations, the following reflects the Board's policy on this matter and other considerations our licensees should contemplate.

- While the Board does not have a specific prohibition regarding a physician's or other licensee's use of cannabis for medicinal and/or recreational purposes, it views the use of cannabis as it does the use of other controlled substances and alcohol. The Board must follow the law, which states if a physician is impaired, the Board can take disciplinary action.
- The law prohibits physicians from using drugs of any kind, including cannabis, or alcohol to the extent or in such a manner as to be impaired while practicing medicine, or use that is habitual or excessive on or off the job, whether they are using cannabis for medical purposes or for recreational use. The Impaired Healthcare Provider Care Act authorizes the Board to take action against a physician who is impaired, and the Medical Practice Act authorizes the Board to take action for unprofessional conduct. The Board will take appropriate action against any physician who has violated the Medical Practice Act.
- If a physician is convicted for a drug-related crime, including for cannabis, be it a misdemeanor or felony, the Board must adhere to its mission of consumer protection and treat the conviction as is it does any crime committed by physicians. The Board will investigate the circumstances surrounding the conviction and take the appropriate action to protect the public. Moreover, the Board is alerted when a physician is arrested, including for driving under the influence, and the Board would investigate the circumstances leading to the arrest and take appropriate action for public protection.
- The Board investigates all complaints it receives regarding a physician who may be impaired (including from cannabis use – medical or recreational). The Board must

determine if a physician is impaired, which may require an evaluation pursuant to the Impaired Health Care Provider Act. If it is determined through the investigative process that it would be dangerous to allow the physician to continue practicing, the Board can also petition for an Interim Suspension Order preventing the physician from practicing medicine pending resolution of the disciplinary matter.

- Note that the Board has accepted the recommendation of our monitoring program, the NM Health Professional Wellness Program, that using marijuana while being monitored is not allowed under any circumstances.
- While not under the purview of the medical board, licensees are advised to follow the policies of their employer around the use of marijuana, including whether the licensee is considered to be in a safety-sensitive position.
- Similarly federal employees and non-citizens working with US immigration authorities may also be forbidden from using marijuana.
- Lastly, testing positive for marijuana, even if not impaired, may create issues if a potential malpractice situation arises. Consulting risk-management around the use of marijuana as a healthcare provider is advised.