

2015 Regular Session

SENATE BILL NO. 143

BY SENATOR MILLS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PHARMACISTS. Provides relative to prescribed marijuana for therapeutic uses and the development of rules and regulations by the Louisiana Board of Pharmacy and the Louisiana State Board of Medical Examiners. (gov sig)

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AN ACT

To amend and reenact R.S. 40:1046, relative to the therapeutic use of marijuana; to provide for the adoption of rules and regulations relating to the prescribing, dispensing, and producing of marijuana for therapeutic use; to provide for a deadline to adopt rules and regulations; to provide for a report to the legislature; to provide for the location of the place of dispensing; to require for the use of the Prescription Monitoring Program; to provide for licensure of a production facility; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1046 is hereby amended and reenacted to read as follows:

§1046. Prescription of marijuana for therapeutic use; rules and regulations; ~~secretary of health and hospitals;~~ **Louisiana Board of Pharmacy and the adoption of rules and regulations relating to the dispensing of prescribed marijuana for therapeutic use; the Department of Agriculture and Forestry and the licensure of a production facility**

A. Notwithstanding any other provision of this Part, a physician licensed to

1 practice medicine in this state and who is also registered to prescribe Schedule I
2 substances with the Drug Enforcement Administration may prescribe, **in any form**
3 **as permitted by the rules and regulations of the Louisiana Board of Pharmacy**
4 **except for inhalation, and raw or crude** marijuana, tetrahydrocannabinols, or a
5 chemical derivative of tetrahydrocannabinols for therapeutic use by patients
6 clinically diagnosed as suffering from glaucoma, symptoms resulting from the
7 administration of chemotherapy cancer treatment, and spastic quadriplegia in
8 accordance with rules and regulations promulgated by the ~~secretary of health and~~
9 ~~hospitals and in accordance with FDA and DEA administrative guidelines for~~
10 ~~procurement of the controlled substance from the National Institute on Drug Abuse.~~
11 **Louisiana State Board of Medical Examiners. The Louisiana State Board of**
12 **Medical Examiners shall submit to the Senate and House committees on health**
13 **and welfare on an annual basis not less than sixty days prior to the beginning**
14 **of the regular session of the legislature a report as to any additional diseases or**
15 **medical conditions that should be added to the list of eligible diseases and**
16 **conditions for prescription.**

17 B. The ~~secretary of health and hospitals, by January 1, 1992~~ **Louisiana State**
18 **Board of Medical Examiners** shall promulgate rules and regulations; authorizing
19 physicians licensed to practice in this state to prescribe marijuana for therapeutic use
20 by patients as described in Subsection A of this Section **no later than January 1,**
21 **2016.**

22 **C.(1) The Louisiana Board of Pharmacy shall adopt rules relating to the**
23 **dispensing of prescribed marijuana for therapeutic use no later than December**
24 **1, 2016. The Louisiana Board of Pharmacy shall seek input from groups**
25 **including but not limited to the following:**

26 **(a) The Louisiana District Attorneys Association.**

27 **(b) The Louisiana Sheriffs' Association.**

28 **(c) The Louisiana Commission of Law Enforcement and the**
29 **Administration of Criminal Justice.**

1 **(d) The Department of Agriculture and Forestry.**

2 **(2) The rules shall include but not be limited to:**

3 **(a) Standards, procedures, and protocols for the effective use of**
4 **prescribed marijuana for therapeutic use as authorized by state law and related**
5 **rules and regulations.**

6 **(b) Standards, procedures, and protocols for the dispensing and tracking**
7 **of prescribed therapeutic marijuana in Louisiana.**

8 **(c) Procedures and protocols to provide that no prescribed therapeutic**
9 **marijuana may be dispensed from, produced from, obtained from, sold to, or**
10 **transferred to a location outside of this state.**

11 **(d) The establishment of standards, procedures, and protocols for**
12 **determining the amount of usable prescribed therapeutic marijuana that is**
13 **necessary to constitute an adequate supply to ensure uninterrupted availability**
14 **for a period of one month, including amounts for topical treatments.**

15 **(e) The establishment of standards, procedures, and protocols to ensure**
16 **that all prescribed therapeutic marijuana dispensed is consistently**
17 **pharmaceutical grade.**

18 **(f) The establishment of standards and procedures for the revocation,**
19 **suspension, and nonrenewal of licenses.**

20 **(g) The establishment of other licensing, renewal, and operational**
21 **standards which are deemed necessary by the Louisiana Board of Pharmacy.**

22 **(h) The establishment of standards and procedures for testing prescribed**
23 **therapeutic marijuana samples for levels of tetrahydrocannabinol (THC) or**
24 **other testing parameters deemed appropriate by the board.**

25 **(i) The establishment of health, safety, and security requirements for**
26 **dispensers of prescribed therapeutic marijuana.**

27 **(j) Licensure of dispensers of prescribed therapeutic marijuana.**

28 **D. The Louisiana Board of Pharmacy shall submit a report to the**
29 **legislature no later than January 1, 2016, with recommendations on possible fee**

1 amounts relative to the provisions of this Section.

2 E. All rules shall be adopted in accordance with the provisions of the
3 Administrative Procedure Act.

4 F. Nothing in this Section shall be construed to prohibit the Louisiana
5 State Board of Medical Examiners or the Louisiana Pharmacy Board from
6 adopting emergency rules as otherwise provided for in the Administrative
7 Procedure Act.

8 G. Marijuana, tetrahydrocannabinols, or a chemical derivative of
9 tetrahydrocannabinols prescribed pursuant to this Section shall be dispensed
10 in person from a licensed pharmacy in good standing located in Louisiana.

11 H. A prescriber and dispenser of marijuana, tetrahydrocannabinols, or
12 a chemical derivative of tetrahydrocannabinols pursuant to this Section shall
13 review the patient's information in the Prescription Monitoring Program
14 database prior to the prescribing and dispensing thereof.

15 I. The Louisiana Board of Pharmacy shall develop an annual, non-
16 transferable specialty license for a pharmacy to dispense prescribed marijuana
17 for therapeutic use and shall limit the number of such licenses granted in the
18 state to no more than ten licensees.

19 J.(1) The Department of Agriculture and Forestry shall develop the rules
20 and regulations regarding the production of prescribed therapeutic marijuana
21 and the facility producing therapeutic marijuana.

22 (2) The Department of Agriculture and Forestry shall develop an annual,
23 nontransferable specialty license for the production of prescribed marijuana for
24 therapeutic use and shall limit the number of such licenses granted in the state
25 to no more than one licensee.

26 (3) The Department of Agriculture and Forestry shall submit a report
27 to the legislature no later than January 1, 2016, with recommendations on
28 possible fee amounts relative to the provisions of this Section.

29 Section 2. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
 2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 4 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christopher D. Adams.

DIGEST

SB 143 Engrossed

2015 Regular Session

Mills

Present law provides a physician licensed to practice medicine in this state and who is also registered to prescribe Schedule I substances with the Drug Enforcement Administration (DEA) may prescribe marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols for therapeutic use by patients clinically diagnosed as suffering from glaucoma, symptoms resulting from the administration of chemotherapy cancer treatment, and spastic quadriplegia in accordance with rules and regulations promulgated by the secretary of health and hospitals and in accordance with FDA (Food and Drug Administration) and DEA administrative guidelines for procurement of the controlled substance from the National Institute on Drug Abuse.

Proposed law amends present law as a physician licensed to practice medicine in this state and who is also registered to prescribe Schedule I substances with the DEA may prescribe marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols in any form except for inhalation and raw or crude for therapeutic use by patients.

Proposed law provides the Louisiana State Board of Medical Examiners (LSBME) submit an annual report to the legislature regarding recommendations as to additional diseases or medical conditions to be added to the eligible list of diseases and conditions for prescription.

Present law provides the secretary of health and hospitals, by January 1, 1992, shall promulgate rules and regulations authorizing physicians licensed to practice in this state to prescribe marijuana for therapeutic use by patients as described in present law.

Proposed law amends present law by removing the secretary of health and hospitals as the party promulgating the rules and regulations and placing the responsibility of promulgating the rules and regulations with the LSBME. Proposed law gives LSBME until January 1, 2016, to promulgate the rules and regulations.

Proposed law provides the Louisiana Board of Pharmacy (LBP) shall adopt rules relating to the dispensing of prescribed marijuana for therapeutic use no later than December 1, 2016, and LBP shall seek input from groups including but not limited to the following:

- (1) The Louisiana District Attorneys Association.
- (2) The Louisiana Sheriffs' Association.
- (3) The Louisiana Commission of Law Enforcement and the Administration of Criminal Justice.
- (4) The Department of Agriculture and Forestry.

Proposed law provides the rules shall include but not be limited to:

- (1) Standards, procedures, and protocols for the effective use of prescribed marijuana for therapeutic use as authorized by state law and related rules and regulations.
- (2) Standards, procedures, and protocols for the dispensing of prescribed therapeutic marijuana in Louisiana.
- (3) Procedures and protocols to provide that no prescribed therapeutic marijuana may be dispensed from, produced from, obtained from, sold to, or transferred to a location outside of this state.
- (4) The establishment of standards, procedures, and protocols for determining the amount of usable prescribed therapeutic marijuana that is necessary to constitute an adequate supply to ensure uninterrupted availability for a period of one month, including amounts for topical treatments.
- (5) The establishment of standards, procedures, and protocols to ensure that all prescribed therapeutic marijuana dispensed is consistently pharmaceutical grade.
- (6) The establishment of standards and procedures for the revocation, suspension, and nonrenewal of licenses.
- (7) The establishment of other licensing, renewal, and operational standards which are deemed necessary by the LBP.
- (8) The establishment of standards and procedures for testing prescribed therapeutic marijuana samples for levels of tetrahydrocannabinol (THC) or other testing parameters deemed appropriate by the board.
- (9) The establishment of health, safety, and security requirements for dispensers of prescribed therapeutic marijuana.
- (10) Create licenses for dispensers of prescribed therapeutic marijuana.

Proposed law provides LBP shall submit a report to the legislature no later than January 1, 2016, with recommendations on possible fee amounts to provide for the provisions of the proposed law.

Proposed law provides the all rules and regulations promulgated pursuant to proposed law shall be adopted in accordance with the provisions of the Administrative Procedure Act.

Proposed law provides nothing in the proposed law shall be construed to prohibit LSBME or LBP from adopting emergency rules as otherwise provided for in the Administrative Procedure Act.

Proposed law provides marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols prescribed pursuant to present law shall be dispensed in person from a licensed pharmacy in good standing located in Louisiana.

Proposed law provides a prescriber and dispenser of marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols pursuant to present law shall review the patient's information in the Prescription Monitoring Program database prior to the prescribing and dispensing thereof.

Proposed law provides LBP shall develop an annual, nontransferable specialty license for a pharmacy to dispense prescribed marijuana for therapeutic use and shall limit the number of such licenses granted in the state to no more than ten licensees.

Proposed law provides The Department of Agriculture and Forestry shall develop the rules

and regulations regarding the production of prescribed therapeutic marijuana and the facility producing therapeutic marijuana.

Proposed law provides the Department of Agriculture and Forestry shall develop an annual, nontransferable specialty license for the production of prescribed marijuana for therapeutic use and shall limit the number of such licenses granted in the state to no more than one licensee.

Proposed law provides the Department of Agriculture and Forestry shall submit a report to the legislature no later than January 1, 2016, with recommendations on possible fee amounts relative to the provisions of proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 40:1046)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Provides for prescribed marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols in any form except for inhalation and raw or crude.
2. Provides for an annual report from LSBME as to adding additional diseases or conditions.
3. Provides for LBP being responsible for rules and regulations for dispensing.
4. Provides for the Department of Agriculture and Forestry being responsible for rules and regulations relative to production.
5. Provides type of pharmacy that can dispense.
6. Provides for use of the Prescription Monitoring Program by prescribers and dispensers.
7. Provides for an annual, nontransferable speciality license for a dispensing pharmacy and for a production facility.
8. Provides for the Department of Agriculture and Forestry submitting recommendations to the legislature regarding fees.