

RÉSUMÉ DIGEST

ACT 491 (HB 697)

2022 Regular Session

Magee

New law revises prior law relative to the state regulatory system for marijuana for therapeutic use, known commonly as medical marijuana. New law makes the following changes to prior law relative to the medical marijuana regulatory system:

- (1) Transfers duties for licensure and regulation of medical marijuana production facilities from the La. Dept. of Agriculture and Forestry (LDAF) to the La. Dept. of Health (LDH).
- (2) Transfers duties with respect to testing of medical marijuana from LDAF to LDH.
- (3) Provides requirements and standards for laboratories that conduct testing of medical marijuana.
- (4) Provides for selection of marijuana production contractors by licensed producers of medical marijuana and for oversight and regulation of such contractors.
- (5) Repeals the 10-license limit on marijuana pharmacy licenses provided in prior law. Provides instead for a minimum number of marijuana pharmacy licenses (ten) along with a system for increasing the number of licenses issued contingent upon increases in medical marijuana patient counts.

Existing law provides for licensure of marijuana pharmacies by the La. Board of Pharmacy ("board"). New law keeps this licensure function within the board and revises prior law relative to marijuana pharmacy licensure by requiring the board to do the following:

- (1) Award a minimum of one marijuana pharmacy license in each of nine regions established in new law.
- (2) Award one additional license to the region with the highest population density as of Aug. 1, 2022.
- (3) Award each license through a competitive process.
- (4) Consider the status of a marijuana pharmacy applicant as a minority-, woman-, or veteran-owned business as a primary factor in awarding a license.
- (5) Incrementally increase the number of licenses issued based upon increases in medical marijuana patient counts by region.

New law provides that the regions among which the board is required to allocate marijuana pharmacy licenses shall correspond to the nine administrative regions of LDH.

New law provides for the following system for incrementally increasing the number of marijuana pharmacy licenses issued by the board:

- (1) After 3,500 active, qualified patients are identified in the prescription monitoring program in a region, the board shall allow the marijuana pharmacy licensee in that region to open one additional marijuana pharmacy location as a satellite location in that region. Provides that for the purposes of new law, "satellite location" means an additional marijuana pharmacy location operated by a marijuana pharmacy licensee within the licensee's geographic region but physically separate from the location of the originally licensed marijuana pharmacy.
- (2) If the marijuana pharmacy licensee opens a satellite location and the original location and the satellite location are each serving 3,500 active, qualified patients, then the board shall allow the marijuana pharmacy licensee in that region to open one additional marijuana pharmacy location as a second satellite location in that region.
- (3) If a marijuana pharmacy licensee declines to open a second satellite location, then the board may issue an additional marijuana pharmacy license in that region to open one

marijuana pharmacy location in lieu of the original licensee's second satellite location in that region.

- (4) The board shall consider any unserved parishes within the region when approving a satellite location or additional marijuana pharmacy for licensure.

New law stipulates that, in total, no more than 30 marijuana pharmacy locations, including satellite locations, may be approved by the board pursuant to new law. Further stipulates that new law shall not be construed to do any of the following:

- (1) Authorize a marijuana pharmacy licensee to open more than two satellite locations in a single region.
- (2) Require the closure of any marijuana pharmacy location, including a satellite location, if the active, qualified patient count drops below 3,500 after the location is approved by the board.

New law prohibits any marijuana pharmacy from locating within a 15-mile radius of another marijuana pharmacy, with the following exceptions:

- (1) In a region that encompasses any parish with a population of more than 350,000 persons according to the most recent federal decennial census, no marijuana pharmacy shall locate within a 10-mile radius of another marijuana pharmacy.
- (2) In a region that encompasses any municipality with a population of more than 350,000 persons according to the most recent federal decennial census, no marijuana pharmacy shall locate within a five-mile radius of another marijuana pharmacy.

New law requires each marijuana pharmacy licensed in accordance with new law to offer home delivery to patients in each zip code within its region at least once per month.

New law repeals prior law that required administrative rules on dispensing of medical marijuana to include the following:

- (1) Standards, procedures, and protocols for determining the amount of usable recommended therapeutic marijuana that is necessary to constitute an adequate supply to ensure uninterrupted availability for a period of one month.
- (2) Standards, procedures, and protocols to ensure that all recommended therapeutic marijuana dispensed, except for raw or crude marijuana, is consistently pharmaceutical grade.

New law recognizes and declares that both the Louisiana State University Agricultural Center (LSU Ag Center) and the Southern University Agricultural Center (SU Ag Center) timely exercised and asserted their intent to be licensed to produce medical marijuana in this state in accordance with the provisions of Act No. 261 of the 2015 RS. Repeals prior law that provided procedures for selection and licensing of a medical marijuana producer in the event that neither the LSU Ag Center nor the SU Ag Center is licensed as a production facility.

New law requires the LSU Ag Center and SU Ag Center to select and contract with only one contractor apiece for production of medical marijuana. Provides that the selection process and contracting provided for in new law shall be done in accordance with all applicable provisions of the La. Procurement Code (existing law, R.S. 39:1551 et seq.). Requires each contractor and the university with which it contracts to execute an agreement for services.

New law provides requirements and standards for marijuana production contractors of licensed producers of medical marijuana, including requirements and standards with respect to all of the following:

- (1) Initial inspections of contractor facilities.
- (2) Inspections of contractor facilities subsequent to initial inspections.

- (3) Security at contractor facilities.
- (4) Visitors at contractor facilities.
- (5) Data management by contractors.
- (6) Contractors' inventory.
- (7) Material safety data sheet requirements.
- (8) Transportation of therapeutic marijuana by contractors.

New law provides that the licensed marijuana production facility or its contractor shall remit to the La. Department of Revenue the proceeds of the fee on gross sales of therapeutic marijuana established in existing law, R.S. 40:1046(H)(8)(a)(iii).

New law requires that marijuana produced for therapeutic use be tested by a facility licensed by LDH in accordance with new law as a therapeutic marijuana laboratory. Requires that applicants for licensure as a therapeutic marijuana laboratory provide proof of accreditation to LDH in accordance with standards and requirements of new law. Exempts the LDAF agricultural chemistry laboratory from the application process and provides that that facility shall be deemed approved as a therapeutic marijuana laboratory.

New law requires that each batch of finished medical marijuana product pass all applicable testing requirements and standards provided in new law prior to transportation of the product to a marijuana pharmacy.

New law requires LDAF to continue to conduct laboratory testing of marijuana produced for therapeutic use according to applicable rules and regulations in effect on the effective date of new law, unless otherwise provided for in rules of LDH, until at least two additional laboratories are approved by LDH and have both been operational for a minimum of six months to ensure a reliable, adequate, and uninterrupted supply of therapeutic marijuana to patients in this state.

New law requires that LDH temporarily follow existing administrative rules promulgated by LDAF relative to medical marijuana production until such time as LDH adopts all necessary emergency rules and permanent rules relating to cultivation, extraction, processing, production, and transportation of medical marijuana products.

New law authorizes the University of Louisiana at Monroe to conduct research on medical marijuana.

Effective August 1, 2022.

(Amends R.S. 40:1046(A)(1), (C)(1) and (2)(intro. para.), (G), and (H)(1), (2), (6)(a)(intro. para.) and (b), and (8)(a)(intro. para.) and (iii); Adds R.S. 40:1046(A)(7), (B), and 1046.1-1046.3; Repeals R.S. 40:1046(C)(2)(d), (e), and (h) and (H)(3)-(5))