

2024 Regular Session

HOUSE BILL NO. 376

BY REPRESENTATIVES RISER, CHASSION, KNOX, AND SELDERS

1 AN ACT

2 To amend and reenact R.S. 40:966(F)(2) through (5) and (8)(b)(i) and (c), 1046(A)(1), (3),
3 (5), and (7), (C)(1) and (2)(c), (g), and (i), (D), (E), (F), (G)(1), (2), (3)(a) through
4 (d), and (4) through (7), (H)(6)(a)(introductory paragraph) and (a)(vi), and (L),
5 1046.1(A), (B), (C)(1), (2)(a)(introductory paragraph) and (b), (D), (E), and
6 (F)(introductory paragraph), 1046.2(F)(introductory paragraph), (1), and
7 (2)(introductory paragraph) and (b), (G)(introductory paragraph) and (1),
8 (I)(introductory paragraph) and (1)(introductory paragraph) and (b), (2), and (3), and
9 1046.4(B) and to repeal R.S. 40:1046(C)(2)(a), (f), and (j) through (l), relative to the
10 production of therapeutic marijuana; to extend the termination date; to provide for
11 the sale of marijuana for therapeutic use; to provide for the transfer of regulatory
12 authority from the Louisiana Board of Pharmacy to the Louisiana Department of
13 Health; to provide for marijuana retail permits; to provide for rulemaking; to provide
14 for an effective date; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 40:966(F)(2) through (5) and (8)(b)(i) and (c), 1046(A)(1), (3), (5),
17 and (7), (C)(1) and (2)(c), (g), and (i), (D), (E), (F), (G)(1), (2), (3)(a) through (d), and (4)
18 through (7), (H)(6)(a)(introductory paragraph) and (a)(vi), and (L), 1046.1(A), (B), (C)(1),
19 (2)(a)(introductory paragraph) and (b), (D), (E), and (F)(introductory paragraph),
20 1046.2(F)(introductory paragraph), (1), and (2)(introductory paragraph) and (b),
21 (G)(introductory paragraph) and (1), (I)(introductory paragraph) and (1)(introductory
22 paragraph) and (b), (2), and (3), and 1046.4(B) are hereby amended and reenacted to read
23 as follows:

1 §966. Penalty for distribution or possession with intent to distribute narcotic drugs
2 listed in Schedule I; possession of marijuana, synthetic cannabinoids, and
3 heroin

4 * * *

5 F.

6 * * *

7 (2) Any ~~pharmacy licensed to dispense~~ retailer permitted to sell marijuana
8 pursuant to R.S. 40:1046, and any employee, board member, director, or agent of a
9 ~~pharmacy licensed to dispense~~ retailer permitted to sell marijuana pursuant to R.S.
10 40:1046, shall be exempt from the provisions of this Section for possession of
11 marijuana at a location designated by the Louisiana ~~Board of Pharmacy~~ Department
12 of Health's rules and regulations, or distribution of marijuana in a form approved by
13 the Louisiana ~~Board of Pharmacy~~ Department of Health to a patient with a valid
14 recommendation or prescription, in the state-sponsored medical marijuana program.
15 This Paragraph shall not prevent the arrest or prosecution of any person for diversion
16 of marijuana or any of its derivatives or other conduct outside the scope of the
17 state-sponsored medical marijuana program or for violations of the Louisiana Board
18 of Pharmacy Department of Health's rules and regulations.

19 (3) Any licensee or its subordinate contractor licensed by the Louisiana
20 Department of Agriculture and Forestry Health to produce marijuana pursuant to
21 R.S. 40:1046, and any employee, board member, director, or agent of a marijuana
22 licensee or its subordinate contractor licensed pursuant to R.S. 40:1046, shall be
23 exempt from prosecution under this Section for possession, production, or
24 manufacture of marijuana at the production facility designated by the Louisiana
25 Department of Agriculture and Forestry Health or for the transportation of marijuana
26 or any of its derivatives in accordance with the Louisiana Department of Agriculture
27 and Forestry Health's rules and regulations. This Paragraph shall not prevent the
28 arrest or prosecution of any person for diversion of marijuana from the production
29 facility designated by the Louisiana Department of Agriculture and Forestry Health
30 outside the scope of the state-sponsored medical marijuana program or for violations

1 of the Louisiana Department of ~~Agriculture and Forestry~~ Health's rules and
 2 regulations.

3 (4) Any laboratory that tests marijuana or marijuana preparations produced
 4 and distributed under the state-sponsored medical marijuana program, and any
 5 employee, board member, director, or agent of a testing laboratory pursuant to R.S.
 6 40:1046, shall be exempt from prosecution under this Section for possession of
 7 marijuana or any of its derivatives at a research laboratory designated by the
 8 Louisiana ~~Board of Pharmacy~~ Department of Health or for transportation of
 9 marijuana or any of its derivatives in accordance with Louisiana ~~Board of Pharmacy~~
 10 Department of Health's rules and regulations. This Paragraph shall not prevent the
 11 arrest or prosecution of any person for diversion of marijuana from a research
 12 laboratory designated by the Louisiana ~~Board of Pharmacy~~ Department of Health or
 13 other conduct outside the scope of the state-sponsored medical marijuana program
 14 or for violations of ~~Board of Pharmacy~~ the Louisiana Department of Health's rules
 15 and regulations.

16 (5) Any person, employee, board member, director, or agent conducting
 17 research as ~~the licensee~~ pursuant to R.S. 40:1046 and ~~any employee, board member,~~
 18 ~~director, agent, or any person conducting research in partnership with the licensee~~
 19 shall be exempt from prosecution under this Section for the possession, production,
 20 or manufacture of marijuana or any of its derivatives ~~at the production facility~~
 21 ~~designated by the Department of Agriculture and Forestry~~ or for the transportation
 22 of marijuana or any of its derivatives in accordance with Louisiana Department of
 23 ~~Agriculture and Forestry~~ Health's rules and regulations. This Paragraph shall not
 24 prevent the arrest or prosecution of any person for diversion of marijuana or any of
 25 its derivatives ~~from the production facility designated by the Department of~~
 26 ~~Agriculture and Forestry~~ or other conduct outside the scope of the state-sponsored
 27 medical marijuana program or for violations of the Louisiana Department of
 28 ~~Agriculture and Forestry~~ Health's rules and regulations.

29 * * *

1 (8)

2 * * *

3 (b) Notwithstanding any other provision of law to the contrary, except when
4 the person to be arrested has committed a felony, although not in the presence of the
5 officer, no peace officer may arrest any employee, board member, director, or agent
6 during the course and scope of his employment with the following, pursuant to R.S.
7 40:1046:

8 (i) A ~~pharmacy licensed to dispense~~ retailer permitted to sell marijuana for
9 therapeutic use.

10 * * *

11 (c) The defendant shall bear the burden of proving that the possession,
12 manufacture, production, transportation, or distribution was in accordance with the
13 state-sponsored medical marijuana program, ~~the Louisiana Board of Pharmacy rules~~
14 ~~and regulations~~, or the Louisiana Department of Agriculture and Forestry Health's
15 rules and regulation, as applicable.

16 * * *

17 §1046. Recommendation and dispensing sale of marijuana for therapeutic use; ~~rules~~
18 ~~and regulations of the Louisiana Board of Pharmacy~~; production facility
19 licensing; regulations and permitting by the Louisiana Department of Health

20 A.(1) Notwithstanding any other provision of this Part, any clinician
21 authorized by the provisions of Subsection B of this Section to recommend medical
22 marijuana, referred to in this Section as an "authorized clinician", may recommend,
23 in any form as ~~permitted~~ authorized by the rules and regulations of the Louisiana
24 ~~Board of Pharmacy~~ Department of Health, hereafter referred to as the "department",
25 raw or crude marijuana, tetrahydrocannabinols, or a chemical derivative of
26 tetrahydrocannabinols for therapeutic use by any patient clinically diagnosed as
27 suffering from a debilitating medical condition.

28 * * *

1 (c) Procedures and protocols to provide that no recommended therapeutic
2 marijuana may be ~~dispensed~~ sold from, produced from, obtained from, sold to, or
3 transferred to a location outside of this state.

4 * * *

5 (g) The establishment of other ~~licensing permit~~, renewal, and operational
6 standards which are deemed necessary by the ~~Louisiana Board of Pharmacy~~
7 department.

8 * * *

9 (i) The establishment of health, safety, and security requirements for
10 ~~dispensers of recommended~~ therapeutic marijuana retail permit holders.

11 * * *

12 D. Nothing in this Section shall be construed to prohibit the ~~Louisiana State~~
13 ~~Board of Medical Examiners or the Louisiana Board of Pharmacy~~ department from
14 adopting emergency rules as otherwise provided for in the Administrative Procedure
15 Act.

16 E. Marijuana, tetrahydrocannabinols, or a chemical derivative of
17 tetrahydrocannabinols recommended pursuant to this Section shall be ~~dispensed~~ sold
18 in person ~~from~~ by a ~~licensed pharmacy~~ marijuana retail permit holder ~~in good~~
19 ~~standing~~ located in Louisiana.

20 F.(1)(a) Each permitted retailer shall acquire and maintain all software,
21 hardware, and communications infrastructure necessary to ensure connectivity to and
22 implementation of the Louisiana Medical Marijuana Tracking System, hereafter
23 referred to as the "LMMTS", from seed to delivery to an approved laboratory, to
24 wholesale to permitted retailers, to wholesale to another licensed cultivation facility,
25 to delivery to an authorized researcher, to sale to patients or caregivers by permitted
26 retailers, or to destruction. A person who ~~recommends~~ and a person who ~~dispenses~~
27 sells marijuana, tetrahydrocannabinols, or a chemical derivative of
28 tetrahydrocannabinols pursuant to this Section shall review the patient's information
29 in the database of the ~~prescription monitoring program established in R.S. 40:1001~~
30 ~~et seq.~~ LMMTS prior to the ~~recommending and dispensing~~ selling thereof.

1 (b) Each retail permit holder shall appoint a minimum of one pharmacist
 2 residing in Louisiana who has an active unrestricted license with the Louisiana Board
 3 of Pharmacy who is designated by the retail permit holder to be responsible for the
 4 operation of the primary retail location and any satellite locations in compliance with
 5 all applicable laws and regulations. The pharmacist shall be considered on duty when
 6 accessible by the employees and agents of the primary retail location and any
 7 satellite locations through telephonic means during open hours and available by
 8 telephone or video conference for a patient consultation during open hours.

9 (2) Any person who ~~dispenses~~ sells marijuana, tetrahydrocannabinols, or a
 10 chemical derivative of tetrahydrocannabinols pursuant to this Section shall comply
 11 with the reporting requirements of the ~~prescription monitoring program established~~
 12 ~~in R.S. 40:1001 et seq~~ LMMTS.

13 G.(1)(a) The ~~Louisiana Board of Pharmacy~~ department shall ~~develop~~ issue
 14 an annual ~~license for a pharmacy to dispense~~ retail permit to sell recommended
 15 marijuana for therapeutic use and, except as provided in Paragraph (3) of this
 16 Subsection, shall limit the number of ~~licenses~~ retail permits granted in the state to no
 17 more than ten licenses. ~~Except as provided in Subparagraph (b) of this Paragraph, the~~
 18 ~~board shall award one license per region as delineated in Paragraph (2) of this~~
 19 ~~Subsection and one additional license to the region with the highest population~~
 20 ~~density as of August 1, 2022, and shall award each license through a competitive~~
 21 ~~process. The board shall consider the status of an applicant as a minority-, woman-,~~
 22 ~~or veteran-owned business as a primary factor in awarding a license.~~

23 (b) Upon each annual renewal period, a retail permit in force shall be
 24 renewed by the department for the next succeeding period upon proper application
 25 for renewal and payment of permit fees as required by law and the rules and
 26 regulations of the department.

27 (c) Subject to the limitations in this Subsection, the department shall select
 28 a new retail permit holder through a competitive bid process in accordance with the
 29 applicable provisions of the Louisiana Procurement Code, R.S. 39:1551 et seq., only
 30 if any of the following occur:

1 (i) After written notice from the department and failure of the retail permit
 2 holder to cure within thirty days following receipt of written notice, a retail permit
 3 holder fails to comply with the proper application for renewal and payment of permit
 4 fees as required by law and the rules and regulations of the department, and the retail
 5 permit is revoked.

6 (ii) A retail permit is voluntarily returned or remitted to the department prior
 7 to the expiration of the permit period.

8 ~~(b)~~ (e) The transfer of a membership interest in an entity ~~operating a~~
 9 ~~pharmacy licensed by the Louisiana Board of Pharmacy that holds a marijuana retail~~
 10 ~~permit to dispense recommended marijuana for therapeutic use may be conducted~~
 11 ~~without approval of the department shall be subject to approval of the board in the~~
 12 ~~same manner required for the transfer of a membership interest in any other~~
 13 ~~pharmacy licensed by the board.~~

14 (2) For the purposes of this Subsection, the regions among which the
 15 ~~Louisiana Board of Pharmacy shall allocate marijuana pharmacy licenses~~ retail
 16 permits are allocated shall correspond to the sets of parishes comprising,
 17 respectively, the administrative regions of the Louisiana Department of Health as
 18 those regions existed on August 1, 2022. On and after October 1, 2022, at least one
 19 ~~licensed marijuana pharmacy retailer~~ shall be located in each region.

20 (3)(a) After three thousand five hundred active, qualified patients are
 21 ~~identified in the prescription monitoring program in a region, the Louisiana Board~~
 22 ~~of Pharmacy department~~ shall notify and allow the marijuana ~~pharmacy licensee~~
 23 retail permit holder in that region to open one additional ~~marijuana pharmacy retail~~
 24 location as a satellite location in that region. For the purposes of this Paragraph,
 25 "satellite location" shall mean an additional marijuana ~~pharmacy~~ retail location
 26 operated by a ~~marijuana pharmacy licensee~~ retail permit holder within the licensee's
 27 same geographic region but physically separate from the location of the ~~originally~~
 28 ~~licensed~~ original therapeutic marijuana ~~pharmacy retail location.~~

1 (5) The provisions of this Subsection shall not be construed to require the
2 closure of any marijuana ~~pharmacy retail~~ location, including satellite locations, if the
3 active, qualified patient count drops below three thousand five hundred after the
4 location is approved ~~by the board~~.

5 (6)(a) No marijuana ~~pharmacy retail permit holder~~ shall locate within a
6 fifteen-mile radius of another ~~license retail permit holder's~~ marijuana ~~pharmacy retail~~
7 location.

8 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, in
9 a region that encompasses any parish with a population of more than three hundred
10 fifty thousand persons according to the most recent federal decennial census, no
11 marijuana ~~pharmacy retail permit holder~~ shall locate within a ten-mile radius of
12 another ~~license retail permit holder's~~ marijuana ~~pharmacy retail~~ location.

13 (c) Notwithstanding the provisions of Subparagraphs (a) and (b) of this
14 Paragraph, in a region that encompasses any municipality with a population of more
15 than three hundred fifty thousand persons according to the most recent federal
16 decennial census, no marijuana ~~pharmacy retail permit holder~~ shall locate within a
17 five-mile radius of another ~~license retail permit holder's~~ marijuana ~~pharmacy retail~~
18 location.

19 (d) The provisions of this Paragraph shall not apply if all affected retail
20 permit holders submit a written mutual agreement to the department waiving the
21 provisions of this Paragraph.

22 (7) Each marijuana ~~pharmacy licensed in accordance with the provisions of~~
23 ~~this Subsection~~ retail permit holder shall offer ~~home~~ delivery to patients in each zip
24 code within its region at least once per month.

25 * * *

26 H.

27 * * *

28 (6)(a) The Louisiana Department of Health shall collect all of the following
29 information from each ~~licensee~~ retail permit holder:

30 * * *

1 (vi) The amount of therapeutic marijuana distributed to each pharmacy
2 ~~licensed to dispense therapeutic marijuana in this state~~ retail permit holder during
3 each calendar year.

4 * * *

5 L. The provisions of this Section shall terminate on ~~January 1, 2025~~ July 1,
6 2030.

7 §1046.1. ~~Dispensing~~ Sale of marijuana for therapeutic use to visiting qualifying
8 patients

9 A. As used in this ~~Section~~ Part, the following terms have the meaning
10 ascribed in this Subsection:

11 (1) ~~"Board"~~ means the Louisiana Board of Pharmacy.

12 (2) ~~"Debilitating medical condition"~~ has the meaning ascribed in R.S.
13 40:1046(A)(2)(a).

14 (2) "Department" means the Louisiana Department of Health.

15 (3) ~~"Marijuana pharmacy"~~ means a pharmacy that holds a specialty license
16 to dispense medical marijuana issued pursuant to R.S. 40:1046(G).

17 (4) (3) "Medical marijuana" means marijuana for therapeutic use produced
18 pursuant to the provisions of R.S. 40:1046(H).

19 (5) (4) ~~"Prescription monitoring program LMMTS"~~ means the electronic
20 seed-to-sale tracking system approved by the department for the monitoring of
21 ~~controlled substances and drugs of concern established in R.S. 40:1004.~~

22 (6) (5) "Visiting qualifying patient" means a patient with a debilitating
23 medical condition who is not a resident of Louisiana or who has been a resident of
24 Louisiana for less than thirty days and who is in actual possession of a valid medical
25 marijuana registry identification card, or its equivalent, which has been issued under
26 the medical marijuana laws of another state, district, territory, commonwealth, or
27 insular possession of the United States.

28 B. A visiting qualifying patient may obtain medical marijuana from a
29 marijuana ~~pharmacy~~ retail permit holder upon producing evidence of his valid
30 medical marijuana registry identification card, or its equivalent, which has been

1 issued under the medical marijuana laws of another state, district, territory,
2 commonwealth, or insular possession of the United States.

3 C.(1) A marijuana ~~pharmacy~~ retail permit holder shall require each visiting
4 qualifying patient to certify on a form approved by the ~~board~~ department that he has
5 been diagnosed by a ~~licensed physician~~ authorized clinician with one or more
6 debilitating medical conditions. The form shall include the full name, address, and
7 phone number of the visiting qualifying patient and shall include a statement to be
8 signed by the patient by which he shall attest that he will not divert to any person any
9 medical marijuana ~~dispensed~~ sold to him by the marijuana ~~pharmacy~~ retail permit
10 holder.

11 (2)(a) A marijuana ~~pharmacy~~ retail permit holder shall retain a copy of each
12 of the following documents received from a visiting qualifying patient:

13 * * *

14 (b) The ~~board~~ department shall promulgate in accordance with the
15 Administrative Procedure Act a record retention schedule for marijuana ~~pharmacies~~
16 retail permit holders which applies to the documents identified in this Paragraph.

17 D. Prior to dispensing any medical marijuana product to a visiting qualifying
18 patient, a ~~dispensing~~ pharmacist or the pharmacist's designee at a marijuana
19 ~~pharmacy~~ retail location shall review the patient's records in the ~~prescription~~
20 ~~monitoring program~~ LMMTS. The pharmacist or the pharmacist's designee shall
21 resolve any concerns identified in the review of the patient's ~~prescription monitoring~~
22 ~~program~~ records by consultation with the patient's physician.

23 E.(1) Upon ~~dispensing~~ sale of any medical marijuana product to a visiting
24 qualifying patient, the ~~dispensing~~ pharmacist or the pharmacist's designee at a
25 marijuana ~~pharmacy~~ retail location shall report that transaction to the ~~prescription~~
26 ~~monitoring program~~ LMMTS ~~in conformance with program rules governing~~
27 ~~dispensing of controlled substances to Louisiana-resident patients and as required by~~
28 ~~any rules of the board that apply to marijuana pharmacies.~~

29 (2) ~~The dispensing pharmacist at a marijuana pharmacy shall perform a~~
30 ~~prospective drug utilization review for each visiting qualifying patient and shall~~

1 G. All of the following standards and requirements shall apply to ~~contractors'~~
2 licensees' inventory:

3 (1) Each ~~contractor~~ licensee shall maintain a comprehensive inventory of all
4 marijuana, including without limitation usable marijuana available for ~~dispensing~~
5 sale, mature marijuana plants, and seedlings at each authorized location. Following
6 an initial inventory, all marijuana shall be inventoried on a weekly basis.

7 * * *

8 I. All of the following requirements shall apply to transportation of
9 therapeutic marijuana by ~~contractors~~ licensees:

10 (1) Prior to transporting therapeutic marijuana, a ~~contractor~~ licensee shall
11 generate an inventory manifest in the Louisiana Medical Marijuana Tracking
12 System, referred to hereafter in this Subsection as the LMMTS, including all of the
13 following information:

14 * * *

15 (b) The name of the ~~contractor~~ licensee, approved laboratory, or ~~licensed~~
16 pharmacy retail permit holder receiving the transport.

17 * * *

18 (2) The ~~contractor~~ licensee originating the transport shall provide the
19 ~~contractor~~ licensee, approved laboratory, or ~~licensed~~ pharmacy retail permit holder
20 receiving the transport with a copy of the LMMTS inventory manifest, which shall
21 not be altered after departing the originating ~~contractor's~~ licensee's facility.

22 (3) The ~~contractor~~ licensee, approved laboratory, or ~~licensed~~ pharmacy retail
23 permit holder receiving the transport shall record the quantities of all therapeutic
24 marijuana products in the LMMTS. However, any ~~contractor~~ licensee, approved
25 laboratory, or ~~licensed~~ pharmacy retail permit holder receiving a therapeutic
26 marijuana transport shall refuse the transport if it is not accompanied by an unaltered
27 LMMTS inventory manifest.

28 * * *

1 §1046.4. Testing; sample collection; minimum standards; reporting; remediation

2 * * *

3 B. Each batch of medical marijuana finished product shall pass all applicable
4 testing standards, including appropriate microbial and fungal limits, acceptable
5 standards for pesticide chemical residues, appropriate residual solvent and heavy
6 metals limits, homogeneity for concentrates and extracts, and complete active
7 ingredient analysis or potency analysis prior to transportation to a medical marijuana
8 ~~pharmacy retail permit holder~~. The administrative rules of the Louisiana Department
9 of Health shall allow for a variance of no greater than plus fifteen percent or minus
10 fifteen percent from the labeled amount of active ingredients in the ingredient
11 analysis or potency analysis.

12 * * *

13 Section 2. R.S. 40:1046(C)(2)(a), (f), and (j) through (l) are hereby repealed.

14 Section 3.(A) The regulatory authority provided in Part X-E of Chapter 4 of Title
15 40 of the Louisiana Revised Statutes of 1950 shall be transferred from the Louisiana Board
16 of Pharmacy to the Louisiana Department of Health effective January 1, 2025. Prior to
17 January 1, 2025, the Louisiana Department of Health shall adopt rules in accordance with
18 the Administrative Procedure Act to provide for the regulation of therapeutic marijuana
19 retail permit holders.

20 (B) To prevent any disruption to the supply chain and to ensure uninterrupted
21 availability of recommended marijuana for therapeutic use for qualified patients, the
22 Louisiana Department of Health shall allow the continued wholesale purchase, sale, and
23 delivery of therapeutic marijuana by retail permit holders until such time as the department
24 adopts all necessary rules.

25 (C) To prevent any disruption to patient continuity of care, on January 1, 2025, the
26 Louisiana Board of Pharmacy shall transfer and the Louisiana Department of Health shall
27 accept the annual licenses in force to sell marijuana for therapeutic use at the licensees
28 primary location and all satellite locations and shall convert each license to therapeutic
29 marijuana retail permit.

1 Section 4. This Act shall become effective on January 1, 2025.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____