

2018 Regular Session

HOUSE BILL NO. 579

BY REPRESENTATIVES JAMES AND COX

PHARMACISTS: Provides relative to the authorization for therapeutic use of marijuana

1 AN ACT

2 To amend and reenact R.S. 40:1046(A), (G), and (J) and R.S. 40:1046(A), (G), and (J) as  
3 amended and reenacted by Section 2 of Act No. 96 of the 2016 Regular Session of  
4 the Legislature of Louisiana and to enact R.S. 40:1046(K) and R.S. 40:1046(K) of  
5 Section 2 of Act No. 96 of the 2016 Regular Session of the Legislature of Louisiana,  
6 relative to the authorization of marijuana for therapeutic use; to provide for the duties  
7 and authorization of the Louisiana State Board of Medical Examiners and the  
8 Louisiana Board of Pharmacy with respect to the therapeutic use of marijuana; to  
9 provide for definitions; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 40:1046(A) and (G) are hereby amended and and reenacted to read  
12 as follows:

13 §1046. Recommendation of marijuana for therapeutic use; rules and regulations;  
14 Louisiana Board of Pharmacy and the adoption of rules and regulations  
15 relating to the dispensing of recommended marijuana for therapeutic use; the  
16 Department of Agriculture and Forestry and the licensure of a production  
17 facility

18 A.(1) Notwithstanding any other provision of this Part, a physician licensed  
19 by and in good standing with the Louisiana State Board of Medical Examiners to  
20 practice medicine in this state and who is domiciled in this state may recommend,

1 in any form as permitted by the rules and regulations of the Louisiana Board of  
2 Pharmacy except for inhalation, and raw or crude marijuana, tetrahydrocannabinols,  
3 or a chemical derivative of tetrahydrocannabinols for therapeutic use by patients  
4 clinically diagnosed as suffering from a debilitating medical condition.

5 (2)(a) For purposes of this Subsection, "debilitating medical condition"  
6 means cancer, glaucoma, Parkinson's disease, positive status for human  
7 immunodeficiency virus, acquired immune deficiency syndrome, cachexia or  
8 wasting syndrome, seizure disorders, epilepsy, spasticity, severe muscle spasms,  
9 intractable pain, Crohn's disease, muscular dystrophy, ~~or~~ multiple sclerosis, or post-  
10 traumatic stress disorder.

11 (b) Intractable pain means a pain state in which the cause of the pain cannot  
12 be removed or otherwise treated with the consent of the patient and which, in the  
13 generally accepted course of medical practice, no relief or cure of the cause of the  
14 pain is possible, or none has been found after reasonable efforts. It is pain so chronic  
15 and severe as to otherwise warrant an opiate prescription.

16 (c) The Louisiana State Board of Medical Examiners shall adopt rules  
17 relating to the approval or denial of additional qualifying conditions.

18 (d) If the United States Food and Drug Administration approves the use of  
19 medical marijuana in the same form provided for in this Part for any debilitating  
20 medical condition specifically identified in this Paragraph, that medical condition  
21 shall no longer be covered by the provisions of this Part.

22 ~~(e)~~(e) If the United States Food and Drug Administration approves the use  
23 of medical marijuana in a form or derivative different than provided for in this Part  
24 for any debilitating medical condition specifically identified in this Paragraph, the  
25 disease state shall remain covered by the provisions of this Part. The patient shall  
26 first be treated by the approved form or derivative of medical marijuana through  
27 utilization of step therapy or fail first protocols. If, after use of the United States  
28 Food and Drug Administration approved form or derivative of medical marijuana,  
29 the physician determines that the preferred treatment required under step therapy or

1 fail first protocol has been ineffective in the treatment of the patient's debilitating  
2 medical condition, he may recommend the form of medical marijuana provided for  
3 in this Part for use by the patient as medically necessary.

4 (3) For purposes of this Part, "recommend" or "recommended" means an  
5 order from a physician domiciled in Louisiana and licensed and in good standing  
6 with the Louisiana State Board of Medical Examiners and authorized by the board  
7 to recommend medical marijuana that is patient-specific and disease-specific in  
8 accordance with Paragraph (2) of this Subsection, and is communicated by any  
9 means allowed by the Louisiana Board of Pharmacy to a Louisiana-licensed  
10 pharmacist in a Louisiana-permitted dispensing pharmacy as described in Subsection  
11 G of this Section, and is preserved on file as required by Louisiana law or federal law  
12 regarding medical marijuana.

13 (4) Physicians ~~shall~~ may recommend use of medical marijuana for treatment  
14 of debilitating medical conditions in accordance with rules and regulations  
15 promulgated by the Louisiana State Board of Medical Examiners.

16 (5) Any member of the public may petition the Louisiana State Board of  
17 Medical Examiners for the addition of serious medical conditions and medical  
18 marijuana treatment options.

19 (6) The Louisiana State Board of Medical Examiners shall submit to the  
20 Senate and House committees on health and welfare on an annual basis not less than  
21 sixty days prior to the beginning of the regular session of the legislature a report as  
22 to any additional diseases or medical conditions that ~~should~~ will be added to the list  
23 of eligible diseases and conditions for recommendation pursuant to review of public  
24 notice and comment.

25 \* \* \*

26 G.(1) The Louisiana Board of Pharmacy shall develop an annual,  
27 nontransferable specialty license for a pharmacy to dispense recommended  
28 marijuana for therapeutic use and shall limit the number of such licenses granted in  
29 the state to no more than ten licensees. The Louisiana Board of Pharmacy shall

1 develop rules and regulations regarding the geographical locations of dispensing  
2 pharmacies in Louisiana.

3 (2) Pharmacists licensed pursuant to this Section may dispense medical  
4 marijuana to patients enrolled in the state-sponsored medical marijuana program in  
5 Louisiana, their caregivers, and minor patients' domiciliary parents.

6 (3) Licensed dispensing pharmacies may not dispense raw or crude  
7 marijuana to a patient or a parent or caregiver of a patient.

8 \* \* \*

9 J. Notwithstanding any other provision of law to the contrary, employers and  
10 their worker's compensation insurers shall not be obliged or ordered to pay for  
11 medical marijuana in claims arising under Title 23 of the Louisiana Revised Statutes  
12 of 1950, the Louisiana Workers' Compensation Law.

13 K. The provisions of this Section shall terminate on January 1, 2020.

14 Section 2. R.S. 40:1046(A) and (G) as amended and reenacted by Section 2 of Act  
15 No. 96 of the 2016 Regular Session of the Legislature of Louisiana are hereby amended and  
16 reenacted to read as follows:

17 Section 2. R.S. 40:1046 is hereby amended and reenacted to read as follows:

18 §1046. Prescription of marijuana for therapeutic use; rules and regulations;  
19 Louisiana Board of Pharmacy and the adoption of rules and  
20 regulations relating to the dispensing of prescribed marijuana for  
21 therapeutic use; the Department of Agriculture and Forestry and the  
22 licensure of a production facility

23 A.(1) Notwithstanding any other provision of this Part, a physician  
24 licensed **by and in good standing with the Louisiana State Board of**  
25 **Medical Examiners** to practice medicine in this state **and who is domiciled**  
26 **in this state** may prescribe, in any form as permitted by the rules and  
27 regulations of the Louisiana Board of Pharmacy except for inhalation, and  
28 raw or crude marijuana, tetrahydrocannabinols, or a chemical derivative of  
29 tetrahydrocannabinols for therapeutic use by patients clinically diagnosed as

1 suffering from a debilitating medical condition ~~glaucoma, symptoms~~  
2 ~~resulting from the administration of chemotherapy cancer treatment, and~~  
3 ~~spastic quadriplegia in accordance with rules and regulations promulgated by~~  
4 ~~the Louisiana State Board of Medical Examiners. The Louisiana State Board~~  
5 ~~of Medical Examiners shall submit to the Senate and House committees on~~  
6 ~~health and welfare on an annual basis not less than sixty days prior to the~~  
7 ~~beginning of the regular session of the legislature a report as to any~~  
8 ~~additional diseases or medical conditions that should be added to the list of~~  
9 ~~eligible diseases and conditions for prescription.~~

10 (2)(a) For purposes of this Subsection, "debilitating medical  
11 condition" means cancer, glaucoma, positive status for human  
12 immunodeficiency virus, acquired immune deficiency syndrome,  
13 cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity,  
14 severe muscle spasms, intractable pain, Crohn's disease, muscular  
15 dystrophy, or multiple sclerosis, or post-traumatic stress disorder.

16 (b) Intractable pain means a pain state in which the cause of the  
17 pain cannot be removed or otherwise treated with the consent of the  
18 patient and which, in the generally accepted course of medical practice,  
19 no relief or cure of the cause of the pain is possible, or none has been  
20 found after reasonable efforts. It is pain so chronic and severe as to  
21 otherwise warrant an opiate prescription.

22 (c) The Louisiana State Board of Medical Examiners shall adopt  
23 rules relating to the approval or denial of additional qualifying  
24 conditions.

25 (b) (d) If the United States Food and Drug Administration  
26 approves the use of medical marijuana in the same form provided for in  
27 this Part for any debilitating medical condition specifically identified in  
28 this Paragraph, that medical condition shall no longer be covered by the  
29 provisions of this Part.

1                    ~~(e)~~ (e) If the United States Food and Drug Administration  
2                    approves the use of medical marijuana in a form or derivative different  
3                    than provided for in this Part for any debilitating medical condition  
4                    specifically identified in this Paragraph, the disease state shall remain  
5                    covered by the provisions of this Part. The patient shall first be treated  
6                    by the approved form or derivative of medical marijuana through  
7                    utilization of step therapy or fail first protocols. If, after use of the  
8                    United States Food and Drug Administration approved form or  
9                    derivative of medical marijuana, the physician determines that the  
10                   preferred treatment required under step therapy or fail first protocol  
11                   has been ineffective in the treatment of the patient's debilitating medical  
12                   condition, he may prescribe the form of medical marijuana provided for  
13                   in this Part for use by the patient as medically necessary.

14                   (3) For purposes of this Part, "prescribe" or "prescription"  
15                   means an order from a physician domiciled in Louisiana and licensed  
16                   and in good standing with the Louisiana Board of Medical Examiners  
17                   and authorized by the board to prescribe medical marijuana that is  
18                   patient-specific and disease-specific in accordance with Paragraph (2) of  
19                   this Subsection, and is communicated by any means allowed by the  
20                   Louisiana Board of Pharmacy to a Louisiana-licensed pharmacist in a  
21                   Louisiana-permitted dispensing pharmacy as described in Subsection G  
22                   of this Section, and is preserved on file as required by Louisiana law or  
23                   federal law regarding medical marijuana.

24                   (4) Physicians ~~shall~~ may prescribe the use of medical marijuana  
25                   for treatment of debilitating medical conditions in accordance with rules  
26                   and regulations promulgated by the Louisiana State Board of Medical  
27                   Examiners.

1 **(5) Any member of the public may petition the Louisiana State**  
 2 **Board of Medical Examiners for the addition of serious medical**  
 3 **conditions and medical marijuana treatment options.**

4 **(~~5~~) (6) The Louisiana State Board of Medical Examiners shall**  
 5 **submit to the Senate and House committees on health and welfare on an**  
 6 **annual basis not less than sixty days prior to the beginning of the regular**  
 7 **session of the legislature a report as to any additional diseases or medical**  
 8 **conditions that should will be added to the list of eligible diseases and**  
 9 **conditions for recommendation pursuant to review of public notice and**  
 10 **comment.**

11 \* \* \*

12 ~~I.G.(1)~~ The Louisiana Board of Pharmacy shall develop an annual,  
 13 nontransferable specialty license for a pharmacy to dispense prescribed  
 14 marijuana for therapeutic use and shall limit the number of such licenses  
 15 granted in the state to no more than ten licensees. The Louisiana Board of  
 16 Pharmacy shall develop rules and regulations regarding the geographical  
 17 locations of dispensing pharmacies in Louisiana.

18 **(2) Pharmacists licensed pursuant to this Section may dispense**  
 19 **medical marijuana to patients enrolled in the state-sponsored medical**  
 20 **marijuana program in Louisiana, their caregivers, and minor patients'**  
 21 **domiciliary parents.**

22 **(3) Licensed dispensing pharmacies may not dispense raw or**  
 23 **crude marijuana to a patient or a parent or caregiver of a patient.**

24 \* \* \*

25 J. Notwithstanding any other provision of law to the contrary, employers and  
 26 their worker's compensation insurers shall not be obliged or ordered to pay for  
 27 medical marijuana in claims arising under Title 23 of the Louisiana Revised Statutes  
 28 of 1950, the Louisiana Workers' Compensation Law.

1 K. The provisions of this Section shall terminate on January 1, 2020.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 579 Reengrossed

2018 Regular Session

James

**Abstract:** Provides relative to the conditions for which medical marijuana may be recommended or prescribed.

**Recommendation of Medical Marijuana**

Present law authorizes physicians who are domiciled in La. and licensed by and in good standing with the La. State Board of Medical Examiners to recommend tetrahydrocannabinols (commonly referred to as "medical marijuana"), or chemical derivatives thereof, for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition. Defines "debilitating medical condition" to mean cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, Crohn's disease, muscular dystrophy, or multiple sclerosis.

Proposed law adds the following to the set of conditions for which medical marijuana may be recommended:

- (1) Glaucoma.
- (2) Severe muscle spasms.
- (3) Intractable pain.
- (4) Post-traumatic stress disorder.
- (5) Parkinson's disease.

Proposed law defines "intractable pain" as a pain state in which the cause of the pain cannot be removed or otherwise treated with the consent of the patient and which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. Provides further that intractable pain is pain so chronic and severe as to otherwise warrant an opiate prescription.

Proposed law provides that any member of the public may petition the La. State Board of Medical Examiners for the addition of serious medical conditions and medical marijuana treatment options.

Present law requires the La. Board of Pharmacy to develop an annual, nontransferable specialty license for a pharmacy to dispense recommended marijuana for therapeutic use. Provides that the number of such licenses shall be no more than ten. Proposed law retains present law and authorizes pharmacists licensed pursuant to present law to dispense medical marijuana to patients, their caregivers, and minor patients' domiciliary parents.

Proposed law prohibits licensed marijuana dispensing pharmacies from dispensing raw or crude marijuana to a patient or their parent or caregiver.



Proposed law stipulates that employers and their worker's compensation insurers shall not be obliged or ordered to pay for recommended medical marijuana in claims arising under present law relative to worker's compensation.

### **Prescription of Medical Marijuana**

Present law authorizes physicians who are domiciled in La. and licensed by and in good standing with the La. State Board of Medical Examiners to prescribe, rather than recommend, medical marijuana for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition if and when the U.S. Drug Enforcement Administration reclassifies marijuana from a Schedule I drug to a Schedule II drug, thereby allowing the drug to be legally prescribed. Defines "debilitating medical condition" to mean cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, Crohn's disease, muscular dystrophy, or multiple sclerosis.

Proposed law revises present law to authorize physicians who are domiciled in La. and licensed by and in good standing with the La. State Board of Medical Examiners to prescribe marijuana or marijuana preparations for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition. Adds the following to the set of conditions for which medical marijuana may be prescribed:

- (1) Glaucoma.
- (2) Severe muscle spasms.
- (3) Intractable pain.
- (4) Post-traumatic stress disorder.

Proposed law defines "intractable pain" as a pain state in which the cause of the pain cannot be removed or otherwise treated with the consent of the patient and which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. Provides further that intractable pain is pain so chronic and severe as to otherwise warrant an opiate prescription.

Proposed law provides that any member of the public may petition the La. State Board of Medical Examiners for the addition of serious medical conditions and medical marijuana treatment options.

Present law requires the La. Board of Pharmacy to develop an annual, nontransferable specialty license for a pharmacy to dispense prescribed marijuana for therapeutic use. Provides that the number of such licenses shall be no more than ten. Proposed law retains present law and authorizes pharmacists licensed pursuant to present law to dispense medical marijuana to patients, their caregivers, and minor patients' domiciliary parents.

Proposed law prohibits licensed marijuana dispensing pharmacies from dispensing raw or crude marijuana to a patient or their parent or caregiver.

Proposed law stipulates that employers and their worker's compensation insurers shall not be obliged or ordered to pay for recommended medical marijuana in claims arising under present law relative to worker's compensation.

(Amends R.S. 40:1046(A), (G), and (J) and R.S. 40:1046(A), (G), (J) and as amended and reenacted by §2 of Act No. 96 of the 2016 R.S.; Adds R.S. 40:1046(K) and R.S. 40:1046(K) of §2 of Act No. 96 of the 2016 R.S.)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Revise proposed law defining "marijuana preparations" to provide that such preparations can be any form authorized by and consistent with the rules adopted by the La. Board of Pharmacy.
2. Amend present law relative to prescription of medical marijuana to reflect amendments proposed law makes in present law relative to recommendation of medical marijuana.
3. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Restore present law authorizing physicians to recommend or prescribe marijuana for therapeutic use in any form as permitted by rules and regulations of the La. Board of Pharmacy except for inhalation, and except for raw or crude marijuana.
2. Delete proposed law referring to marijuana preparations, marijuana paraphernalia, and vaporization of marijuana.
3. Add Parkinson's disease to the set of conditions for which medical marijuana may be recommended.
4. Stipulate that employers and their worker's compensation insurers shall not be obliged or ordered to pay for recommended or prescribed medical marijuana in claims arising under present law relative to worker's compensation.
5. Make technical changes.