

2022 Regular Session

HOUSE BILL NO. 190

BY REPRESENTATIVE TRAVIS JOHNSON

MEDICAL MARIJUANA: Authorizes certain nurse practitioners to recommend medical marijuana to patients

1 AN ACT
2 To amend and reenact R.S. 40:966(F)(1), (7), and (8)(a), 1046(A)(1), (2)(a)(xviii), (xxii),
3 and (b), (3), (4), (5)(b), (6), and (C)(1), 1168.2(2) through (5), and
4 1168.3(A)(1)(b)(iii), (iv), and (2)(b) and to enact R.S. 40:1046(B), relative to the
5 recommendation to patients of marijuana for therapeutic use, known also as medical
6 marijuana; to provide relative to licensed health professionals who may recommend
7 medical marijuana to patients; to authorize nurse practitioners with prescriptive
8 authority to recommend medical marijuana to patients; to revise references to
9 licensed health professionals who may recommend medical marijuana to patients
10 within laws providing for immunity from prosecution for possession of marijuana;
11 to revise references to licensed health professionals who may recommend medical
12 marijuana to patients within laws providing for a data system for the collection and
13 analysis of clinical information associated with use of medical marijuana; and to
14 provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 40:966(F)(1), (7), and (8)(a), 1046(A)(1), (2)(a)(xviii), (xxii), and
17 (b), (3), (4), (5)(b), (6), and (C)(1), 1168.2(2) through (5), and 1168.3(A)(1)(b)(iii), (iv), and
18 (2)(b) are hereby amended and reenacted and R.S. 40:1046(B) is hereby enacted to read as
19 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. Immunity from prosecution. (1) Any person who is a patient of the
6 state-sponsored medical marijuana program in Louisiana, and possesses medical
7 marijuana in a form permissible under R.S. 40:1046 for a condition enumerated
8 therein, a caregiver as defined in R.S. 15:1503, or any person who is a domiciliary
9 parent of a minor child who possesses medical marijuana on behalf of his minor
10 child in a form permissible under R.S. 40:1046 for a condition enumerated therein
11 pursuant to a legitimate medical marijuana prescription or recommendation issued
12 by a ~~physician licensed by and in good standing with the Louisiana State Board of~~
13 ~~Medical Examiners~~ licensed health professional authorized by R.S. 40:1046(B) to
14 recommend medical marijuana to patients, shall be exempt from the provisions of
15 this Section. This Paragraph shall not prevent the arrest or prosecution of any person
16 for diversion of marijuana or any of its derivatives or other conduct outside the scope
17 of the state-sponsored medical marijuana program.

18 * * *

19 (7) Any ~~physician~~ licensed health professional authorized by R.S.
20 40:1046(B) to recommend medical marijuana to patients who provides information
21 on marijuana for therapeutic use within a bona fide ~~doctor-patient~~ clinician-patient
22 relationship or who issues a recommendation to a patient for marijuana for
23 therapeutic use pursuant to R.S. 40:1046 shall be exempt from the prohibitions
24 provided in this Section for possession and distribution of marijuana. This Paragraph
25 shall not prohibit the arrest or prosecution of any person for diversion of medical
26 marijuana or any other conduct outside the scope of the state-sanctioned medical
27 marijuana program provided for in R.S. 40:1046.

28 (8)(a) The defenses in Paragraph (1) of this Subsection shall be raised by
29 reproducing a patient's medical records that ~~have been created by his attending~~

1 ~~physician, that~~ contain the legitimate recommendation to possess marijuana for
2 therapeutic use in a form permissible under R.S. 40:1046 issued by a licensed health
3 professional authorized by R.S. 40:1046(B) to recommend medical marijuana to
4 patients.

5 * * *

6 §1046. Recommendation and dispensing of marijuana for therapeutic use; rules and
7 regulations of the ~~Louisiana State Board of Medical Examiners and~~
8 Louisiana Board of Pharmacy; production facility licensing by the
9 Department of Agriculture and Forestry

10 A.(1) Notwithstanding any other provision of this Part, any ~~physician~~
11 ~~licensed by and in good standing with the Louisiana State Board of Medical~~
12 ~~Examiners to practice medicine in this state~~ clinician authorized by the provisions
13 of Subsection B of this Section to recommend medical marijuana, referred to in this
14 Section as an "authorized clinician", may recommend, in any form as permitted by
15 the rules and regulations of the Louisiana Board of Pharmacy, raw or crude
16 marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols
17 for therapeutic use by any patient clinically diagnosed as suffering from a
18 debilitating medical condition. Nothing in this Paragraph shall be construed to
19 prevent the Louisiana Board of Pharmacy from permitting, by rule, medical
20 marijuana in a form to be administered by metered-dose inhaler. For purposes of this
21 Section, "metered-dose inhaler" means a device that delivers a specific amount of
22 medication to the lungs, in the form of a short burst of medicine that is usually
23 self-administered by the patient via inhalation.

24 (2)(a) For purposes of this Subsection, "debilitating medical condition"
25 means any of the following:

26 * * *

27 (xviii) A concussion diagnosed by a ~~physician~~ an authorized clinician.

28 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (xxii) Any condition not otherwise specified in this Subparagraph that a
2 ~~physician~~ an authorized clinician, in his ~~medical~~ clinical opinion, considers
3 debilitating to an individual patient and is qualified through his ~~medical~~ clinical
4 education and training to treat.

5 (b) No ~~physician~~ authorized clinician shall recommend medical marijuana
6 for treatment of any condition associated with autism spectrum disorder for a patient
7 who is under the age of eighteen unless the ~~physician~~ clinician complies with the
8 provisions of this Section and consults with a pediatric subspecialist. For purposes
9 of this Subparagraph a pediatric subspecialist is an individual licensed to practice
10 medicine in any state in the United States who provides care to patients with autism
11 spectrum disorder.

12 * * *

13 (3) For purposes of this Part, "recommend" or "recommended" means an
14 opinion of any ~~physician licensed by and in good standing with the Louisiana State~~
15 ~~Board of Medical Examiners~~ authorized clinician, provided within a bona fide
16 doctor-patient or nurse-patient relationship, that, in the sincere judgment of the
17 ~~physician~~ clinician, therapeutic cannabis may be helpful to the patient's condition or
18 symptoms and is communicated by any means allowed by the Louisiana Board of
19 Pharmacy.

20 (4) Any ~~physician licensed by and in good standing with the Louisiana State~~
21 ~~Board of Medical Examiners to practice medicine in Louisiana~~ authorized clinician
22 may recommend medical marijuana to any patient suffering from a debilitating
23 medical condition with whom he shares a bona fide doctor-patient or nurse-patient
24 relationship.

25 (5)

26 * * *

27 (b) No pharmacy authorized to dispense marijuana for therapeutic use in
28 accordance with the provisions of this Section shall dispense raw or crude marijuana
29 to any person under twenty-one years of age without a recommendation from a

1 ~~physician~~ an authorized clinician specifically recommending marijuana in raw or
2 crude form for that person.

3 (6) ~~Physicians~~ Authorized clinicians shall report adverse events and health
4 outcomes associated with a patient's use of medical marijuana to the data system
5 provided for in R.S. 40:1168.1 et seq.

6 B. All of the following licensed health professionals are hereby authorized
7 to recommend medical marijuana to patients and, for purposes of this Part, shall be
8 deemed "authorized clinicians":

9 (1) Any physician licensed by and in good standing with the Louisiana State
10 Board of Medical Examiners to practice medicine in this state.

11 (2) Any nurse practitioner licensed by and in good standing with the
12 Louisiana State Board of Nursing to practice advanced practice registered nursing
13 in this state and who has prescriptive authority conferred by the Louisiana State
14 Board of Nursing.

15 C.(1) The Louisiana Board of Pharmacy shall adopt rules relating to the
16 dispensing of recommended marijuana for therapeutic use. Any rules published by
17 the Louisiana Board of Pharmacy on or before January 1, 2016, that describe the
18 pharmacist as dispensing medical marijuana based on a physician's prescription
19 should be repromulgated to indicate that the physician or other authorized clinician
20 is "recommending" use of therapeutic marijuana.

21 * * *

22 §1168.2. Definitions

23 For purposes of this Subpart, the following terms have the meaning ascribed
24 to them in this Section:

25 * * *

26 (2) "Authorized clinician" means all of the following licensed health
27 professionals authorized pursuant to R.S. 40:1046 to recommend medical marijuana
28 to patients:

1 (a) Any physician licensed by and in good standing with the Louisiana State
2 Board of Medical Examiners to practice medicine in this state.

3 (b) Any nurse practitioner licensed by and in good standing with the
4 Louisiana State Board of Nursing to practice advanced practice registered nursing
5 in this state and who has prescriptive authority conferred by the Louisiana State
6 Board of Nursing.

7 ~~(2)~~ (3) "Board" means the Louisiana State Board of Medical Examiners.

8 ~~(3)~~ (4) "Data system" means the system authorized and provided for in R.S.
9 40:1168.3.

10 ~~(4)~~ (5) "Medical marijuana" means the therapeutic substance produced under
11 the authority of and in accordance with R.S. 40:1046.

12 ~~(5) "Physician" has the meaning ascribed in R.S. 37:1262.~~
13 §1168.3. Data system; components; reporting; design in collaboration with medical
14 schools; public records exception

15 A. The board may create and maintain an electronic system for the collection
16 and analysis of clinical information associated with the use of medical marijuana by
17 patients. The system shall include, at minimum, the following components:

18 (1)
19 * * *

20 (b) The board shall design and administer the data system such that any of
21 the following persons may report an adverse event:

22 * * *

23 (iii) ~~A physician~~ An authorized clinician who prescribes or recommends
24 medical marijuana to a patient.

25 (iv) Any physician or advanced practice registered nurse who treats a patient
26 other than ~~a physician~~ an authorized clinician who prescribes or recommends
27 medical marijuana to the patient.

28 (2)
29 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (b) The board shall design and administer the data system such that reporting
2 of health outcomes is limited to ~~physicians~~ authorized clinicians exclusively.

3 * * *

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)]

HB 190 Engrossed 2022 Regular Session Travis Johnson

Abstract: Authorizes nurse practitioners with prescriptive authority to recommend medical marijuana to patients.

Present law authorizes licensed physicians to recommend marijuana for therapeutic use, known commonly as "medical marijuana", by patients clinically diagnosed as suffering from any debilitating medical condition defined in present law. Proposed law revises present law to authorize licensed nurse practitioners who have prescriptive authority, in addition to licensed physicians, to recommend medical marijuana to patients.

Proposed law replaces "physician" with the term "authorized clinician" in present law relative to medical marijuana. Provides that all of the following licensed health professionals are authorized to recommend medical marijuana to patients and shall be deemed "authorized clinicians":

- (1) Any physician licensed by and in good standing with the La. State Board of Medical Examiners to practice medicine in this state.
- (2) Any nurse practitioner licensed by and in good standing with the La. State Board of Nursing to practice advanced practice registered nursing in this state and who has prescriptive authority conferred by the La. State Board of Nursing.

Proposed law, for consistency of present law with proposed law, revises references to licensed health professionals who may recommend medical marijuana in the following areas of present law:

- (1) Law providing for immunity from prosecution for possession of marijuana (R.S. 40:966(F)).
- (2) Law providing for a data system for the collection and analysis of clinical information associated with use of medical marijuana by patients (R.S. 40:1168.1 et seq.).

(Amends R.S. 40:966(F)(1), (7), and (8)(a), 1046(A)(1), (2)(a)(xviii), (xxii), and (b), (3), (4), (5)(b), (6), and (C)(1), 1168.2(2)-(5), and 1168.3(A)(1)(b)(iii), (iv), and (2)(b); Adds R.S. 40:1046(B))