

GREEN SHEET REDIGEST

HB 697

2022 Regular Session

Magee

MEDICAL MARIJUANA: Reforms the state systems for regulating the production of marijuana for therapeutic use and for the dispensing of such product

DIGEST

Proposed law revises laws establishing and providing for a regulatory system for marijuana for therapeutic use, known commonly as medical marijuana, in the following ways:

- (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 ten-license limit on marijuana pharmacy licenses provided in present law and provides for a system for increasing the number of licenses issued contingent upon increases in medical marijuana patient counts.

Present law provides for licensure of marijuana pharmacies by the La. Board of Pharmacy (board). Provides that the board shall limit the number of such licenses granted in the state to no more than ten licensees. Proposed law revises present law by requiring the board to award a minimum of one license in each of ten regions established in proposed law, to award each license through a competitive process, and to increase incrementally the number of licenses issued based upon increases in medical marijuana patient counts by region.

Proposed law provides that the regions among which the board shall allocate marijuana pharmacy licenses shall correspond to the sets of parishes comprising, respectively, the human services districts and authorities established by present law (R.S. 28:912) as those districts and authorities existed on July 1, 2022. Requires that on and after Oct. 1, 2022, at least one licensed marijuana pharmacy shall be located in each region.

Proposed law requires the board to consider the status of an applicant as a minority-, woman-, or veteran-owned business as a primary factor in awarding a license.

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

- (1) After 4,000 active, qualified patients are identified in the prescription monitoring program in a region, the board may allow the marijuana pharmacy licensee in that region to open one additional marijuana pharmacy location in that region. Requires the board to license the additional location within three months of the date on which the patient registration threshold is met.
- (2) If an additional 4,000 active, qualified patients are identified in the prescription monitoring program in a region, then the board may license one additional marijuana pharmacy location in that region. These provisions of proposed law authorizing issuance of an additional license in a region shall apply each time that an additional increment of 4,000 active, qualified patients is reached in the region.

Proposed 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 ten-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.

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

Proposed 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.
- (8) Material safety data sheet requirements.
- (9) Transportation of therapeutic marijuana by contractors.

Proposed 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 present law (R.S. 40:1046(H)(8)(a)(iii)).

Proposed law requires that marijuana produced for therapeutic use be tested by a facility licensed by LDH in accordance with proposed law as a therapeutic marijuana laboratory. Requires that applicants for licensure as a therapeutic marijuana laboratory meet all of the following requirements in order to qualify for a license:

- (1) Be accredited by the National Institute on Drug Abuse, the National Environmental Laboratory Accreditation Conference, the International Organization for Standardization, or other accrediting entity approved by LDH, which accreditation shall be maintained in active and good standing or other substantially similar status for the duration of licensure.
- (2) Employ or hire a laboratory director or other qualifying individual who meets certain suitability requirements provided in present law.
- (3) Submit to at least one on-site facility inspection conducted by LDH prior to licensure.
- (4) Implement and utilize the Louisiana Medical Marijuana Tracking System computerized inventory tracking system to post accurate analyses and results, which shall be subject to review by LDH.
- (5) Demonstrate acceptable laboratory performance standards regarding accuracy, precision, proficiency, reportable ranges, specificity, or other quality controls required by LDH.

Proposed law stipulates that the LDAF agricultural chemistry laboratory shall be exempt from the application process and deemed approved as a therapeutic marijuana laboratory; requires, however, that such laboratory shall comply with the requirements of paragraphs (4) and (5) above.

Proposed 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 proposed 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 Louisiana patients.

Proposed law requires that LDH temporarily follow existing administrative rules relative to marijuana for therapeutic use promulgated by LDAF until such time as it adopts all necessary emergency rules and permanent rules relating to cultivation, extraction, processing, production, and transportation of such product.

Proposed law authorizes the University of Louisiana at Monroe to conduct research on marijuana for therapeutic use.

Proposed 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 recommended marijuana for therapeutic use in this state in accordance with the provisions of Act No. 261 of the 2015 RS.

Proposed law repeals present law providing procedures for selection and licensing of a therapeutic marijuana producer in the event that neither the LSU Ag Center nor the SU Ag Center is licensed as a production facility.

Proposed law repeals present law requiring the board to establish 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, including amounts for topical treatments.

Proposed law repeals present law requiring the board to establish standards, procedures, and protocols to ensure that all recommended therapeutic marijuana dispensed, except for raw or crude marijuana, is consistently pharmaceutical grade.

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

(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))

Summary of Amendments Adopted by House

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

1. Transfer duties with respect to testing of medical marijuana provided in proposed law from the La. Board of Pharmacy to the La. Department of Health (LDH).
2. Require that LDH temporarily follow existing administrative rules relative to medical marijuana promulgated by the Dept. of Agriculture and Forestry until such time as LDH adopts all necessary emergency rules and permanent rules relating to cultivation, extraction, processing, production, and transportation of such product.
3. Revise the process provided for in proposed law for issuance of additional marijuana pharmacy licenses by the La. Board of Pharmacy.

4. Revise the regional structure established in proposed law for allocation of marijuana pharmacy licenses by providing that the regions shall correspond to the sets of parishes comprising, respectively, the human services districts and authorities established in present law (R.S. 28:912).
5. Revise limitations and restrictions provided in proposed law with respect to proximity of licensed marijuana pharmacies to each other.
6. Require that on and after Oct. 1, 2022, at least one licensed marijuana pharmacy shall be located in each region.
7. Authorize the University of Louisiana at Monroe to conduct research on marijuana for therapeutic use.
8. Provide that the licensed marijuana production facility or its contractor shall remit to the La. Dept. of Revenue the proceeds of the fee on gross sales of therapeutic marijuana established in present law.

The House Floor Amendments to the engrossed bill:

1. Decrease the regional patient count threshold qualifying a region for an additional marijuana pharmacy from 5,000 additional patients to 2,500 additional patients.
2. Correct references to patients registered in the prescription monitoring program to refer instead to patients identified in the prescription monitoring program.
3. Delete provisions mandating the La. Board of Pharmacy to require a marijuana pharmacy licensee to open an additional marijuana pharmacy location in certain circumstances; add in lieu thereof an authorization for the board to allow the licensee to open an additional location in those circumstances.
4. Define "active, qualified patient" for purposes of proposed law.
5. Make technical changes.

Summary of Amendments Adopted by Senate

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

1. Requires the LBP to consider the status of an applicant as a minority-, woman-, or veteran-owned business as a primary factor in awarding a license.
2. Increases the regional patient count threshold from 2,500 additional patients to 4,000 additional patients.
3. Repeals outdated provisions regarding rules published on or before Jan. 1, 2016.
4. Makes technical changes.