HOUSE BILL NO. 190



#### BY REPRESENTATIVES TRAVIS JOHNSON AND GLOVER

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 authorize medical								
9	psychologists to recommend medical marijuana to patients; to revise references to								
10	licensed health professionals who may recommend medical marijuana to patients								
11	within laws providing for immunity from prosecution for possession of marijuana;								
12	to revise references to licensed health professionals who may recommend medical								
13	marijuana to patients within laws providing for a data system for the collection and								
14	analysis of clinical information associated with use of medical marijuana; and to								
15	provide for related matters.								
16	Be it enacted by the Legislature of Louisiana:								
17	Section 1. R.S. 40:966(F)(1), (7), and (8)(a), 1046(A)(1), (2)(a)(xviii), (xxii), and								
18	(b), (3), (4), (5)(b), (6), and (C)(1), 1168.2(2) through (5), and 1168.3(A)(1)(b)(iii), (iv), and								
19	(2)(b) are hereby amended and reenacted and R.S. 40:1046(B) is hereby enacted to read as								
20	follows:								

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

\* \* \*

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.

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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.

(8)(a) The defenses in Paragraph (1) of this Subsection shall be raised by
reproducing a patient's medical records that have been created by his attending
<del>physician, that</del> contain the <u>legitimate</u> recommendation to possess marijuana for

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### **ENROLLED**

1	therapeutic use in a form permissible under R.S. 40:1046 issued by a licensed health
2	professional authorized by R.S. 40:1046(B) to recommend medical marijuana to
3	patients.
4	* * *
5	§1046. Recommendation and dispensing of marijuana for therapeutic use; rules and
6	regulations of the Louisiana State Board of Medical Examiners and
7	Louisiana Board of Pharmacy; production facility licensing by the
8	Department of Agriculture and Forestry
9	A.(1) Notwithstanding any other provision of this Part, any physician
10	licensed by and in good standing with the Louisiana State Board of Medical
11	Examiners to practice medicine in this state clinician authorized by the provisions
12	of Subsection B of this Section to recommend medical marijuana, referred to in this
13	Section as an "authorized clinician", may recommend, in any form as permitted by
14	the rules and regulations of the Louisiana Board of Pharmacy, raw or crude
15	marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols
16	for therapeutic use by any patient clinically diagnosed as suffering from a
17	debilitating medical condition. Nothing in this Paragraph shall be construed to
18	prevent the Louisiana Board of Pharmacy from permitting, by rule, medical
19	marijuana in a form to be administered by metered-dose inhaler. For purposes of this
20	Section, "metered-dose inhaler" means a device that delivers a specific amount of
21	medication to the lungs, in the form of a short burst of medicine that is usually
22	self-administered by the patient via inhalation.
23	(2)(a) For purposes of this Subsection, "debilitating medical condition"
24	means any of the following:
25	* * *
26	(xviii) A concussion diagnosed by a physician an authorized clinician.
27	* * *
28	(xxii) Any condition not otherwise specified in this Subparagraph that $\frac{1}{2}$
29	physician an authorized clinician, in his medical clinical opinion, considers

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debilitating to an individual patient and is qualified through his medical <u>clinical</u> education and training to treat.

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

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\* \* \*

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

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

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- 24

(5)

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(b) No pharmacy authorized to dispense marijuana for therapeutic use in
accordance with the provisions of this Section shall dispense raw or crude marijuana
to any person under twenty-one years of age without a recommendation from a
physician an authorized clinician specifically recommending marijuana in raw or
crude form for that person.

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1	(6) Physicians <u>Authorized clinicians</u> shall report adverse events and health
2	outcomes associated with a patient's use of medical marijuana to the data system
3	provided for in R.S. 40:1168.1 et seq.
4	B. All of the following licensed health professionals are hereby authorized
5	to recommend medical marijuana to patients and, for purposes of this Part, shall be
6	deemed "authorized clinicians":
7	(1) Any physician licensed by and in good standing with the Louisiana State
8	Board of Medical Examiners to practice medicine in this state.
9	(2) Any nurse practitioner licensed by and in good standing with the
10	Louisiana State Board of Nursing to practice advanced practice registered nursing
11	in this state and who has prescriptive authority conferred by the Louisiana State
12	Board of Nursing.
13	(3) Any medical psychologist licensed by and in good standing with the
14	Louisiana State Board of Medical Examiners to practice medical psychology in this
15	state.
16	C.(1) The Louisiana Board of Pharmacy shall adopt rules relating to the
17	dispensing of recommended marijuana for therapeutic use. Any rules published by
18	the Louisiana Board of Pharmacy on or before January 1, 2016, that describe the
19	pharmacist as dispensing medical marijuana based on a physician's prescription
20	should be repromulgated to indicate that the physician or other authorized clinician
21	is "recommending" use of therapeutic marijuana.
22	* * *
23	§1168.2. Definitions
24	For purposes of this Subpart, the following terms have the meaning ascribed
25	to them in this Section:
26	* * *
27	(2) "Authorized clinician" means all of the following licensed health
28	professionals authorized pursuant to R.S. 40:1046 to recommend medical marijuana
29	to patients:

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Board of Medical Examiners to practice medicine in this state.
(b) Any nurse practitioner licensed by and in good standing with the
Louisiana State Board of Nursing to practice advanced practice registered nursing
in this state and who has prescriptive authority conferred by the Louisiana State
Board of Nursing.
(c) Any medical psychologist licensed by and in good standing with the
Louisiana State Board of Medical Examiners to practice medical psychology in this
state.
(2) (3) "Board" means the Louisiana State Board of Medical Examiners.
(3) (4) "Data system" means the system authorized and provided for in R.S.
40:1168.3.
(4) (5) "Medical marijuana" means the therapeutic substance produced under
the authority of and in accordance with R.S. 40:1046.
(5) "Physician" has the meaning ascribed in R.S. 37:1262.
§1168.3. Data system; components; reporting; design in collaboration with medical
schools; public records exception
A. The board may create and maintain an electronic system for the collection
and analysis of clinical information associated with the use of medical marijuana by
patients. The system shall include, at minimum, the following components:
(1)
* * *
(b) The board shall design and administer the data system such that any of
the following persons may report an adverse event:
* * *
(iii) A physician An authorized clinician who prescribes or recommends
medical marijuana to a patient.
(iv) Any physician, medical psychologist, or advanced practice registered
nurse who treats a patient other than a physician an authorized clinician who

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1	(2)						
2		*	*	*			
3	(b) The board sha	all design a	and adm	ninister tł	ne data syst	em such th	at reporting
4	of health outcomes is lin	nited to <del>ph</del>	iysician	<del>s</del> <u>author</u> i	ized clinici	ians exclus	ively.
5		*	*	*			

## SPEAKER OF THE HOUSE OF REPRESENTATIVES

### PRESIDENT OF THE SENATE

## GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_