

RÉSUMÉ DIGEST

ACT 261 (SB 143)

2015 Regular Session

Mills

Prior law, relative to the therapeutic use of marijuana, provided that a physician licensed to practice medicine in this state and who is also registered to prescribe Schedule I substances with the Drug Enforcement Administration (DEA) may prescribe marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols for therapeutic use by patients clinically diagnosed as suffering from glaucoma, symptoms resulting from the administration of chemotherapy cancer treatment, and spastic quadriplegia in accordance with rules and regulations promulgated by the secretary of health and hospitals and in accordance with FDA (Food and Drug Administration) and DEA administrative guidelines for procurement of the controlled substance from the National Institute on Drug Abuse.

New law authorizes a physician licensed to practice medicine in this state to prescribe marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols in any form except for inhalation and raw or crude for therapeutic use by patients.

New law provides the Louisiana State Board of Medical Examiners (LSBME) submit an annual report to the legislature regarding recommendations as to additional diseases or medical conditions to be added to the eligible list of diseases and conditions for prescription.

Prior law required the secretary of the Department of Health and Hospitals (DHH), by January 1, 1992, to promulgate rules and regulations authorizing physicians licensed to practice in this state to prescribe marijuana for therapeutic use by patients. New law removes authority of the secretary of DHH to promulgate these rules and regulations and grants this responsibility to the LSBME and gives them until January 1, 2016, to promulgate the rules and regulations.

New law requires the Louisiana Board of Pharmacy (LBP) to adopt rules relating to the dispensing of prescribed marijuana for therapeutic use no later than December 1, 2016, and for LBP to seek input from groups including but not limited to the Louisiana District Attorneys Association, the Department of Agriculture and Forestry, and professional law enforcement associations, organizations, and commissions.

Requires that the rules include but are not limited to the following items:

- (1) Standards, procedures, and protocols for the effective use of prescribed marijuana for therapeutic use as authorized by state law and related rules and regulations.
- (2) Standards, procedures, and protocols for the dispensing of prescribed therapeutic marijuana in Louisiana.
- (3) Procedures and protocols to provide that no prescribed therapeutic marijuana may be dispensed from, produced from, obtained from, sold to, or transferred to a location outside of this state.
- (4) The establishment of standards, procedures, and protocols for determining the amount of usable prescribed 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.
- (5) The establishment of standards, procedures, and protocols to ensure that all prescribed therapeutic marijuana dispensed is consistently pharmaceutical grade.
- (6) The establishment of standards and procedures for the revocation, suspension, and nonrenewal of licenses.
- (7) The establishment of other licensing, renewal, and operational standards which are deemed necessary by the LBP.
- (8) The establishment of standards and procedures for testing prescribed therapeutic marijuana samples for levels of tetrahydrocannabinol (THC) or other testing parameters deemed appropriate by the board.

- (9) The establishment of health, safety, and security requirements for dispensers of prescribed therapeutic marijuana.
- (10) Create licenses for dispensers of prescribed therapeutic marijuana.
- (11) Establish financial requirements demonstrating financial capacity to operate a dispensing pharmacy and, if required by LBP, the ability to maintain a \$2 million escrow account in a financial institution headquartered in Louisiana.

New law requires LBP to submit a report to the legislature no later than January 1, 2016, with recommendations on possible fee amounts for implementing this law.

New law provides that all rules and regulations be promulgated in accordance with the Administrative Procedure Act (APA) and that nothing shall prohibit LSBME or LBP from adopting emergency rules under the APA.

New law provides marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols prescribed pursuant to prior law shall be dispensed in person from a licensed pharmacy in good standing located in Louisiana.

New law provides a prescriber and dispenser of marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols pursuant to prior law shall review the patient's information in the Prescription Monitoring Program database prior to the prescribing and dispensing thereof.

New law provides LBP shall develop an annual, nontransferable specialty license for a pharmacy to dispense prescribed marijuana for therapeutic use and shall limit the number of such licenses granted in the state to no more than ten licensees. Requires LBP to develop rules and regulations regarding the geographical locations of such pharmacies.

New law requires the Department of Agriculture and Forestry to develop rules and regulations regarding the production of prescribed therapeutic marijuana and the facility producing therapeutic marijuana. Requires that these rules include procedures for application, eligibility, background checks, and standards for suitability for a license and penalties for rule violations.

New law provides the Department of Agriculture and Forestry shall develop an annual, nontransferable specialty license for the production of prescribed marijuana for therapeutic use and shall limit the number of such licenses granted in the state to no more than one licensee. Provides that LSU and Southern have the right of first refusal to be licensed as the production facility, either separately or jointly.

New law requires that the license be limited to one geographic location and that the license permit inspection of the production facility by any elected legislator upon receipt of reasonable notice.

Requires that the license be granted under a contract awarded through a competitive sealed bid or competitive sealed proposal, that the contract be subject to the Louisiana Procurement Code without any exception or other variance in that Code, and that it not be awarded under the sole source procurement provisions in the Code.

Requires the following as to the contract for the license:

- (1) The contract not exceed five years.
- (2) Any contract, memorandum of understanding, or cooperative endeavor agreement be a public record subject to disclosure under the Public Records Law.
- (3) Any contract, memorandum of understanding, or cooperative endeavor agreement entered into for services for the cultivation or processing in any way of marijuana be a public record subject to disclosure under the Public Records Law.
- (4) No person granted the license shall subcontract for services for the cultivation or processing in any way of marijuana if the subcontractor, or any of the service

providers in the chain of subcontractors, is owned wholly or in part by any state employee or member of a state employee's immediate family, including but not limited to any legislator, statewide public official, university or community or technical college employee, Louisiana State University Agricultural Center employee, or Southern University Agricultural Center employee.

- (5) Any bid for the license awarded shall include proof of the financial capability of the bidder to operate a therapeutic marijuana production facility including but not limited to a requirement that the entity have a net worth of not less than \$1 million dollars.
- (6) No person granted a license shall give or receive anything of value in connection with any contract, memorandum of understanding, or cooperative endeavor agreement executed under new law except the value that is expressed in the contract, memorandum of understanding, or cooperative endeavor agreement.

New law requires that the Department of Agriculture and Forestry collect the following information from each licensee and that the department provide this information for the previous calendar year in a written report to the legislature no later than February 1st of each year and that a copy of the report be available on the Internet:

- (1) The amount of gross marijuana produced by the licensee during each calendar year.
- (2) The details of all production costs including but not limited to seed, fertilizer, labor, advisory services, construction, and irrigation.
- (3) The details of any items or services for which the licensee subcontracted and the costs of each subcontractor directly or indirectly working for the contractor.
- (4) The amount of therapeutic chemicals produced resulting from the marijuana grown pursuant to this Section.
- (5) The amounts paid each year to the licensee related to the licensee's production of therapeutic marijuana pursuant to this Section.
- (6) The amount of therapeutic marijuana distributed to each pharmacy licensed to dispense therapeutic marijuana in this state during each calendar year.

New law provides the Department of Agriculture and Forestry shall submit a report to the legislature no later than January 1, 2016, with recommendations on possible fee amounts relative to the new law.

New law requires that levels of THC in any marijuana produced be reduced to the lowest acceptable levels available through scientifically accepted methods.

New law provides that no company is eligible for a license if it has made a contribution to a candidate in a Louisiana election governed by the provisions of the Campaign Finance Disclosure Act within the five years prior to bidding for the license, or is controlled wholly or in part by a person who made a contribution within the five years prior to the company bidding for the license, may be eligible for the license.

New law shall be known as "The Alison Neustrom Act".

New law terminates on January 1, 2020.

Effective upon signature of the governor (June 29, 2015).

(Amends R.S. 40:1046)