2022 Regular Session

HOUSE BILL NO. 566

### BY REPRESENTATIVE BAGLEY

# MEDICAL MARIJUANA: Increases the number of entities eligible for licensure as medical marijuana production facilities

1	AN ACT
2	To amend and reenact R.S. 40:1046(H)(1)(a), (2)(a) and (b), (3), (4)(a) and (e),
3	(6)(a)(introductory paragraph) and $(b)$ and $1047(A)(4)$ , relative to the therapeutic use
4	of marijuana; to provide for the transfer of licensure of marijuana production
5	facilities; to provide for regulatory authority; to provide for the definition of
6	"department"; to provide for an effective date; and to provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. R.S. 40:1046(H)(1)(a), (2)(a) and (b), (3), (4)(a) and (e),
9	(6)(a)(introductory paragraph) and (b) and 1047(A)(4) are hereby amended and reenacted
10	to read as follows:
11	§1046. Recommendation and dispensing of marijuana for therapeutic use; rules and
12	regulations of the Louisiana State Board of Medical Examiners and
13	Louisiana Board of Pharmacy; production facility licensing by the
14	Department of Agriculture and Forestry Louisiana Department of Health
15	* * *
16	H.(1)(a) The Department of Agriculture and Forestry Louisiana Department
17	of Health, referred to in this Subsection as "the department", shall develop the rules
18	and regulations regarding the extraction, processing, and production of

- recommended therapeutic marijuana and the facility producing therapeutic
  marijuana. The rules and regulations shall require as a minimum standard that the
  extraction and refining process produce a product that is food-safe and capable of
  producing pharmaceutical-grade products.

5

6 (2)(a) The Department of Agriculture and Forestry department shall develop an annual, nontransferable specialty license for the production of recommended 7 8 marijuana for therapeutic use. Other than the licenses granted pursuant to 9 Subparagraph (b) of this Paragraph, the Department of Agriculture and Forestry 10 department shall limit the number of such licenses granted in the state to no more 11 than one licensee. The Louisiana State University Agricultural Center and the 12 Southern University Agricultural Center shall have the right of first refusal to be 13 licensed as the production facility, either separately or jointly. If neither of the 14 centers exercise this option, the license shall be awarded grant any new licenses 15 pursuant to the requirements provided for in Paragraphs (3) through (5) of this 16 Subsection. The department shall take into consideration market supply and demand 17 for the therapeutic use of marijuana, product cost to patients, and geographic balance of production facilities, if possible, within the state when making the decision to 18 19 issue any new licenses.

20 (b) Prior to September 1, 2016, the The Louisiana State University 21 Agricultural Center and the Southern University Agricultural Center, if already 22 licensed on July 1, 2023, shall each provide written notice to the commissioner of 23 agriculture and forestry of their intent to be licensed as a have the right to retain their 24 production facility, either separately or jointly license, provided that on or before 25 August 1, 2023, each university shall provide written notice to the secretary of the 26 department of its intent to remain a licensed production facility and to be regulated 27 by the department.

28 \* \* \*

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(3) The <u>A</u> license shall be limited to one geographic location as provided for		
2	in rule by the Department of Agriculture and Forestry department. The geographic		
3	location shall be a public record subject to disclosure under the Public Records Law,		
4	R.S. 44:1 et seq. The licensee shall permit inspection of the production facility by		
5	any elected member of the Louisiana Legislature upon request after receipt of		
6	reasonable notice.		
7	(4)(a) The Department of Agriculture and Forestry department shall grant		
8	the <u>a</u> license pursuant to a contract awarded through a competitive sealed bid or a		
9	competitive sealed proposal as provided for in R.S. 39:1594 and 1595. The contract		
10	for the license shall be subject to the Louisiana Procurement Code and shall not be		
11	subject to any exceptions to or other variances from the Louisiana Procurement		
12	Code. The contract shall not be awarded under the sole source procurement		
13	provisions provided for in R.S. 39:1597.		
14	* * *		
15	(e) No person licensed licensee pursuant to this Subsection shall subcontract		
16	for services for the cultivation or processing in any way of marijuana if the		
17	subcontractor, or any of the service providers in the chain of subcontractors, is		
18	owned wholly or in part by any state employee or member of a state employee's		
19	immediate family, including but not limited to any legislator, statewide public		
20	official, university or community or technical college employee, Louisiana State		
21	University Agricultural Center employee, or Southern University Agricultural Center		
22	employee. For the purposes of this Paragraph, "immediate family" has the same		
23	meaning as provided in R.S. 42:1102.		
24	* * *		
25	(6)(a) The <del>Department of Agriculture and Forestry</del> department shall collect		
26	the following information from each licensee:		
27	* * *		
28	(b) The Department of Agriculture and Forestry department shall provide the		
29	information collected pursuant to this Paragraph for the previous calendar year in the		

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1	form of a written report to the Louisiana Legislature no later than February first or		
2	each year. The department shall also make a copy of the report required by this		
3	Subparagraph available to the public on the Internet.		
4	* * *		
5	§1047. Louisiana Department of Agriculture and Forestry Department of Health;		
6	authorization to obtain criminal history record information		
7	A. As used in this Section, the following terms shall have the following		
8	meaning:		
9	* * *		
10	(4) "Department" means the Louisiana Department of Agriculture and		
11	Forestry Department of Health.		
12	* * *		
13	Section 2.(A) This Section shall become effective upon signature of this Act by the		
14	governor or, if not signed by the governor, upon expiration of the time for bills to become		
15	law without signature by the governor, as provided by Article III, Section 18 of the		
16	Constitution of Louisiana. If this Act is vetoed by the governor and subsequently approved		
17	by the legislature, this Section shall become effective on the day following such approval.		
18	(B)(1) Section 1 of this Act shall become effective on July 1, 2023; if this Act is		
19	vetoed by the governor and subsequently approved by the legislature, Section 1 of this Act		
20	shall become effective on July 1, 2023, or on the day following such approval by the		
21	legislature, whichever is later.		
22	(2) The Department of Agriculture and Forestry and the Louisiana Department of		
23	Health shall take such actions prior to July 1, 2023, including but not limited to amending,		
24	adopting, and repealing administrative rules, as well as the transfer of any relevant program		
25	and licensee records, as are necessary to implement the provisions of this Act on that date.		

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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)]

HB 566 Engrossed	2022 Regular Session	Bagley
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Abstract: Changes the state regulatory authority for medical marijuana production from the La. Dept. of Agriculture and Forestry to the La. Dept. of Health and removes a limitation on the number of production facility licenses.

<u>Present law</u> requires the La. Dept. of Agriculture and Forestry (LDAF) to develop rules and regulations regarding the extraction, processing, and production of recommended marijuana for therapeutic use, known commonly as medical marijuana. Requires LDAF to license and regulate medical marijuana production facilities.

<u>Proposed law</u> replaces LDAF with the La. Dept. of Health (LDH) as the state authority for licensure and regulation of medical marijuana production facilities.

<u>Present law</u> requires the number of production facility licenses issued within the state, outside of those granted to the Louisiana State University (LSU) and Southern University (SU) Agricultural Centers, to be limited to one. Provides that the license shall be awarded by competitive sealed bid process or competitive sealed proposal and only if LSU and SU decline to be licensed.

<u>Proposed law</u> removes the limitation on the number of licenses which may be issued and requires LDH to issue any new licenses pursuant to the procedures established in <u>present law</u>.

<u>Proposed law</u> stipulates that if the LSU and SU Agricultural Centers hold production facility licenses on July 1, 2023, then they may retain their licenses so long as each institution provides written notice to the secretary of LDH on or before August 1, 2023, of its intent to remain licensed and be regulated by LDH.

<u>Present law</u> authorizes LDAF to obtain criminal history record information for the purposes of determining suitability of medical marijuana production licensees and applicants for licensure. <u>Proposed law</u> revises <u>present law</u> to confer this authority on LDH.

<u>Proposed law</u> encompasses transfer provisions pursuant to which LDH becomes the successor in every way to LDAF for the purposes of regulating medical marijuana production.

Upon the effective date of <u>proposed law</u>, the provisions of <u>proposed law</u> effectuating the full succession of LDAF by LDH become effective on July 1, 2023.

<u>Proposed law</u> requires LDAF and LDH to take such actions prior to July 1, 2023, including but not limited to amending, adopting, and repealing administrative rules, as are necessary to fully implement <u>proposed law</u> on that date.

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

(Amends R.S. 40:1046(H)(1)(a), (2)(a) and (b), (3), (4)(a) and (e), (6)(a)(intro. para.) and (b) and 1047(A)(4))

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### Summary of Amendments Adopted by House

- The Committee Amendments Proposed by <u>House Committee on Health and Welfare</u> to the <u>original</u> bill:
- 1. Make technical changes.

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