

# ACT No. 708

2018 Regular Session

HOUSE BILL NO. 579

BY REPRESENTATIVES JAMES AND COX

1 AN ACT

2 To amend and reenact R.S. 40:1046(A)(1) and (2) and (J), and R.S. 40:1046(A)(1) and (2)  
3 and (J) as amended and reenacted by Section 2 of Act No. 96 of the 2016 Regular  
4 Session of the Legislature of Louisiana and to enact R.S. 40:1046(K) and R.S.  
5 40:1046(K) of Section 2 of Act No. 96 of the 2016 Regular Session of the  
6 Legislature of Louisiana, relative to the authorization of marijuana for therapeutic  
7 use; to provide for debilitating medical conditions; to provide for definitions; and to  
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:1046(A)(1) and (2) and (J) are hereby amended and and reenacted  
11 and R.S. 40:1046(K) is hereby enacted to read as follows:

12 §1046. Recommendation of marijuana for therapeutic use; rules and regulations;  
13 Louisiana Board of Pharmacy and the adoption of rules and regulations  
14 relating to the dispensing of recommended marijuana for therapeutic use; the  
15 Department of Agriculture and Forestry and the licensure of a production  
16 facility

17 A.(1) Notwithstanding any other provision of this Part, a physician licensed  
18 by and in good standing with the Louisiana State Board of Medical Examiners to  
19 practice medicine in this state and who is domiciled in this state may recommend,  
20 in any form as permitted by the rules and regulations of the Louisiana Board of  
21 Pharmacy except for inhalation, and raw or crude marijuana, tetrahydrocannabinols,

1 or a chemical derivative of tetrahydrocannabinols for therapeutic use by patients  
2 clinically diagnosed as suffering from a debilitating medical condition.

3 (2)(a) For purposes of this Subsection, "debilitating medical condition"  
4 means cancer, glaucoma, Parkinson's disease, positive status for human  
5 immunodeficiency virus, acquired immune deficiency syndrome, cachexia or  
6 wasting syndrome, seizure disorders, epilepsy, spasticity, severe muscle spasms,  
7 intractable pain, Crohn's disease, muscular dystrophy, ~~or~~ multiple sclerosis, or post-  
8 traumatic stress disorder.

9 (b) Intractable pain means a pain state in which the cause of the pain cannot  
10 be removed or otherwise treated with the consent of the patient and which, in the  
11 generally accepted course of medical practice, no relief or cure of the cause of the  
12 pain is possible, or none has been found after reasonable efforts. It is pain so chronic  
13 and severe as to otherwise warrant an opiate prescription.

14 (c) If the United States Food and Drug Administration approves the use of  
15 medical marijuana in the same form provided for in this Part for any debilitating  
16 medical condition specifically identified in this Paragraph, that medical condition  
17 shall no longer be covered by the provisions of this Part.

18 ~~(c)~~(d) If the United States Food and Drug Administration approves the use  
19 of medical marijuana in a form or derivative different than provided for in this Part  
20 for any debilitating medical condition specifically identified in this Paragraph, the  
21 disease state shall remain covered by the provisions of this Part. The patient shall  
22 first be treated by the approved form or derivative of medical marijuana through  
23 utilization of step therapy or fail first protocols. If, after use of the United States  
24 Food and Drug Administration approved form or derivative of medical marijuana,  
25 the physician determines that the preferred treatment required under step therapy or  
26 fail first protocol has been ineffective in the treatment of the patient's debilitating  
27 medical condition, he may recommend the form of medical marijuana provided for  
28 in this Part for use by the patient as medically necessary.

29 \* \* \*

1                   J. Notwithstanding any other provision of law to the contrary, employers and  
 2                   their worker's compensation insurers shall not be obliged or ordered to pay for  
 3                   medical marijuana in claims arising under Title 23 of the Louisiana Revised Statutes  
 4                   of 1950, the Louisiana Workers' Compensation Law.

5                   K. The provisions of this Section shall terminate on January 1, 2020.

6                   Section 2. R.S. 40:1046(A)(1) and (2) and (J) as amended and reenacted by Section  
 7                   2 of Act No. 96 of the 2016 Regular Session of the Legislature of Louisiana are hereby  
 8                   amended and reenacted and R.S. 40:1046(K) is hereby enacted to read as follows:

9                   Section 2. R.S. 40:1046 is hereby amended and reenacted to read as follows:

10                   §1046. Prescription of marijuana for therapeutic use; rules and regulations;  
 11                   Louisiana Board of Pharmacy and the adoption of rules and  
 12                   regulations relating to the dispensing of prescribed marijuana for  
 13                   therapeutic use; the Department of Agriculture and Forestry and the  
 14                   licensure of a production facility

15                   A.(1) Notwithstanding any other provision of this Part, a physician  
 16                   licensed by and in good standing with the Louisiana State Board of Medical  
 17                   Examiners to practice medicine in this state and who is domiciled in this state  
 18                   may prescribe, in any form as permitted by the rules and regulations of the  
 19                   Louisiana Board of Pharmacy except for inhalation, and raw or crude  
 20                   marijuana, tetrahydrocannabinols, or a chemical derivative of  
 21                   tetrahydrocannabinols for therapeutic use by patients clinically diagnosed as  
 22                   suffering from a debilitating medical condition ~~glaucoma, symptoms~~  
 23                   ~~resulting from the administration of chemotherapy cancer treatment, and~~  
 24                   ~~spastic quadriplegia in accordance with rules and regulations promulgated by~~  
 25                   ~~the Louisiana State Board of Medical Examiners. The Louisiana State Board~~  
 26                   ~~of Medical Examiners shall submit to the Senate and House committees on~~  
 27                   ~~health and welfare on an annual basis not less than sixty days prior to the~~  
 28                   ~~beginning of the regular session of the legislature a report as to any~~  
 29                   ~~additional diseases or medical conditions that should be added to the list of~~  
 30                   ~~eligible diseases and conditions for prescription.~~

1                    (2)(a) For purposes of this Subsection, "debilitating medical  
 2                    condition" means cancer, glaucoma, positive status for human  
 3                    immunodeficiency virus, acquired immune deficiency syndrome, cachexia  
 4                    or wasting syndrome, seizure disorders, epilepsy, spasticity, severe muscle  
 5                    spasms, intractable pain, Crohn's disease, muscular dystrophy, or multiple  
 6                    sclerosis, or post-traumatic stress disorder.

7                    (b) Intractable pain means a pain state in which the cause of the pain  
 8                    cannot be removed or otherwise treated with the consent of the patient and  
 9                    which, in the generally accepted course of medical practice, no relief or cure  
 10                   of the cause of the pain is possible, or none has been found after reasonable  
 11                   efforts. It is pain so chronic and severe as to otherwise warrant an opiate  
 12                   prescription.

13                   ~~(b)~~(c) If the United States Food and Drug Administration approves  
 14                   the use of medical marijuana in the same form provided for in this Part for  
 15                   any debilitating medical condition specifically identified in this Paragraph,  
 16                   that medical condition shall no longer be covered by the provisions of this  
 17                   Part.

18                   ~~(c)~~(d) If the United States Food and Drug Administration approves  
 19                   the use of medical marijuana in a form or derivative different than provided  
 20                   for in this Part for any debilitating medical condition specifically identified  
 21                   in this Paragraph, the disease state shall remain covered by the provisions of  
 22                   this Part. The patient shall first be treated by the approved form or derivative  
 23                   of medical marijuana through utilization of step therapy or fail first  
 24                   protocols. If, after use of the United States Food and Drug Administration  
 25                   approved form or derivative of medical marijuana, the physician determines  
 26                   that the preferred treatment required under step therapy or fail first protocol  
 27                   has been ineffective in the treatment of the patient's debilitating medical  
 28                   condition, he may prescribe the form of medical marijuana provided for in  
 29                   this Part for use by the patient as medically necessary.

\* \* \*

1                   J. Notwithstanding any other provision of law to the contrary, employers and  
 2                   their worker's compensation insurers shall not be obliged or ordered to pay for  
 3                   medical marijuana in claims arising under Title 23 of the Louisiana Revised Statutes  
 4                   of 1950, the Louisiana Workers' Compensation Law.

5                   K. The provisions of this Section shall terminate on January 1, 2020.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

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