

2018 Regular Session

HOUSE BILL NO. 627

BY REPRESENTATIVE LYONS

EXCEP PERSON/DEV DISABLE: Authorizes the recommendation of medical marijuana for treating certain health conditions of persons with autism

1 AN ACT

2 To amend and reenact R.S. 40:1046(A)(2)(a) and Section 2 of Act No. 96 of the 2016
3 Regular Session of the Legislature of Louisiana, relative to health conditions for
4 which a recommendation or prescription of medical marijuana is authorized; to
5 authorize the recommendation of or prescription for medical marijuana in treating
6 certain conditions associated with autism spectrum disorder; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:1046(A)(2)(a) is hereby amended and reenacted to read as
10 follows:

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

16 A.

17 * * *

18 (2)(a) For purposes of this Subsection, "debilitating medical condition"
19 means ~~cancer, positive status for human immunodeficiency virus, acquired immune~~
20 ~~deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy,~~

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

17 (2)(a) For purposes of this Subsection, "debilitating medical
 18 condition" means cancer, positive status for human immunodeficiency
 19 virus, acquired immune deficiency syndrome, cachexia or wasting
 20 syndrome, seizure disorders, epilepsy, spasticity, Crohn's disease,
 21 muscular dystrophy, or multiple sclerosis. any of the following:

22 (i) Cancer.

23 (ii) Positive status for human immunodeficiency virus.

24 (iii) Acquired immune deficiency syndrome.

25 (iv) Cachexia or wasting syndrome.

26 (v) Seizure disorders.

27 (vi) Epilepsy.

28 (vii) Spasticity.

29 (viii) Crohn's disease.

- 1 (ix) Muscular dystrophy.
- 2 (x) Multiple sclerosis.
- 3 (xi) Any of the following conditions associated with autism
- 4 spectrum disorder:
- 5 (aa) Repetitive or self-stimulatory behavior of such severity that
- 6 the physical health of the person with autism is jeopardized.
- 7 (bb) Avoidance of others or inability to communicate of such
- 8 severity that the physical health of the person with autism is jeopardized.
- 9 (cc) Self-injuring behavior.
- 10 (dd) Physically aggressive or destructive behavior.
- 11 (b) If the United States Food and Drug Administration approves
- 12 the use of medical marijuana in the same form provided for in this Part
- 13 for any debilitating medical condition specifically identified in this
- 14 Paragraph, that medical condition shall no longer be covered by the
- 15 provisions of this Part.
- 16 (c) If the United States Food and Drug Administration approves
- 17 the use of medical marijuana in a form or derivative different than
- 18 provided for in this Part for any debilitating medical condition
- 19 specifically identified in this Paragraph, the disease state shall remain
- 20 covered by the provisions of this Part. The patient shall first be treated
- 21 by the approved form or derivative of medical marijuana through
- 22 utilization of step therapy or fail first protocols. If, after use of the
- 23 United States Food and Drug Administration approved form or
- 24 derivative of medical marijuana, the physician determines that the
- 25 preferred treatment required under step therapy or fail first protocol
- 26 has been ineffective in the treatment of the patient's debilitating medical
- 27 condition, he may prescribe the form of medical marijuana provided for
- 28 in this Part for use by the patient as medically necessary.

1 **(3) For purposes of this Part, "prescribe" or "prescription"**
2 **means an order from a physician domiciled in Louisiana and licensed**
3 **and in good standing with the Louisiana Board of Medical Examiners**
4 **and authorized by the board to prescribe medical marijuana that is**
5 **patient-specific and disease-specific in accordance with Paragraph (2) of**
6 **this Subsection, and is communicated by any means allowed by the**
7 **Louisiana Board of Pharmacy to a Louisiana-licensed pharmacist in a**
8 **Louisiana-permitted dispensing pharmacy as described in Subsection G**
9 **of this Section, and is preserved on file as required by Louisiana law or**
10 **federal law regarding medical marijuana.**

11 **(4) Physicians shall prescribe the use of medical marijuana for**
12 **treatment of debilitating medical conditions in accordance with rules**
13 **and regulations promulgated by the Louisiana State Board of Medical**
14 **Examiners.**

15 **(5) The Louisiana State Board of Medical Examiners shall submit**
16 **to the Senate and House committees on health and welfare on an annual**
17 **basis not less than sixty days prior to the beginning of the regular session**
18 **of the legislature a report as to any additional diseases or medical**
19 **conditions that should be added to the list of eligible diseases and**
20 **conditions for recommendation.**

21 B. The Louisiana State Board of Medical Examiners shall promulgate
22 rules and regulations authorizing physicians licensed to practice in this state
23 to prescribe marijuana for therapeutic use by patients as described in
24 Subsection A of this Section ~~no later than January 1, 2016.~~

25 C.(1) The Louisiana Board of Pharmacy shall adopt rules relating to
26 the dispensing of prescribed marijuana for therapeutic use ~~no later than~~
27 ~~December 1, 2016.~~ The Louisiana Board of Pharmacy shall seek input from
28 groups including but not limited to the following:

29 ~~(a) The Louisiana District Attorneys Association.~~

1 ~~(b) Professional law enforcement associations, organizations, and~~
2 ~~commissions.~~

3 (2) The rules shall include but not be limited to:

4 (a) Standards, procedures, and protocols for the effective use of
5 prescribed marijuana for therapeutic use as authorized by state law and
6 related rules and regulations.

7 (b) Standards, procedures, and protocols for the dispensing and
8 tracking of prescribed therapeutic marijuana in Louisiana.

9 (c) Procedures and protocols to provide that no prescribed therapeutic
10 marijuana may be dispensed from, produced from, obtained from, sold to, or
11 transferred to a location outside of this state.

12 (d) The establishment of standards, procedures, and protocols for
13 determining the amount of usable prescribed therapeutic marijuana that is
14 necessary to constitute an adequate supply to ensure uninterrupted
15 availability for a period of one month, including amounts for topical
16 treatments.

17 (e) The establishment of standards, procedures, and protocols to
18 ensure that all prescribed therapeutic marijuana dispensed is consistently
19 pharmaceutical grade.

20 (f) The establishment of standards and procedures for the revocation,
21 suspension, and nonrenewal of licenses.

22 (g) The establishment of other licensing, renewal, and operational
23 standards which are deemed necessary by the Louisiana Board of Pharmacy.

24 (h) The establishment of standards and procedures for testing
25 prescribed therapeutic marijuana samples for levels of tetrahydrocannabinol
26 (THC) or other testing parameters deemed appropriate by the Louisiana
27 Board of Pharmacy.

28 (i) The establishment of health, safety, and security requirements for
29 dispensers of prescribed therapeutic marijuana.

1 (j) Licensure of dispensers of prescribed therapeutic marijuana.

2 (k) The establishment of financial requirements for applicants of
3 therapeutic marijuana dispensing pharmacy license under which each
4 applicant demonstrates the following:

5 (i) The financial capacity to operate a therapeutic marijuana
6 dispensing pharmacy.

7 (ii) The ability to maintain an escrow account in a financial institution
8 headquartered in Louisiana in an amount of two million dollars, if required
9 by the Louisiana Board of Pharmacy.

10 ~~D. The Louisiana Board of Pharmacy shall submit a report to the~~
11 ~~legislature no later than January 1, 2016, with recommendations on possible~~
12 ~~fee amounts relative to the provisions of this Section.~~

13 ~~E. All rules shall be adopted in accordance with the provisions of the~~
14 ~~Administrative Procedure Act.~~

15 F.D. Nothing in this Section shall be construed to prohibit the
16 Louisiana State Board of Medical Examiners or the Louisiana Board of
17 Pharmacy from adopting emergency rules as otherwise provided for in the
18 Administrative Procedure Act.

19 G.E. Marijuana, tetrahydrocannabinols, or a chemical derivative of
20 tetrahydrocannabinols prescribed pursuant to this Section shall be dispensed
21 in person from a licensed pharmacy in good standing located in Louisiana.

22 H.F. A prescriber and dispenser of marijuana, tetrahydrocannabinols,
23 or a chemical derivative of tetrahydrocannabinols pursuant to this Section
24 shall review the patient's information in the Prescription Monitoring Program
25 database prior to the prescribing and dispensing thereof.

26 I.G. The Louisiana Board of Pharmacy shall develop an annual,
27 nontransferable specialty license for a pharmacy to dispense prescribed
28 marijuana for therapeutic use and shall limit the number of such licenses
29 granted in the state to no more than ten licensees. The Louisiana Board of

1 Pharmacy shall develop rules and regulations regarding the geographical
2 locations of dispensing pharmacies in Louisiana.

3 ~~J.(1)~~ **H.(1)(a)** The Department of Agriculture and Forestry shall
4 develop the rules and regulations regarding the **extraction, processing, and**
5 **production of prescribed therapeutic marijuana and the facility producing**
6 **therapeutic marijuana. The rules and regulations shall include but not be**
7 **limited to both of the following minimum standards:**

8 **(i) In order to mitigate the risk of bacterial contamination, food-**
9 **grade ethanol extraction shall be used.**

10 **(ii) The extraction and refining process shall produce a product**
11 **that is food safe and capable of producing pharmaceutical-grade**
12 **products.**

13 **(b) The rules and regulations shall also include but** not be limited
14 to the procedures for application, qualifications, eligibility, background
15 checks, and standards for suitability for a license and penalties for violations
16 of the rules and regulations.

17 **(2)(a)** The Department of Agriculture and Forestry shall develop an
18 annual, nontransferable specialty license for the production of prescribed
19 marijuana for therapeutic use, ~~and~~ **Other than the licenses granted**
20 **pursuant to Subparagraph (b) of this Paragraph, the Department of**
21 **Agriculture and Forestry** shall limit the number of such licenses granted in
22 the state to no more than one licensee. The Louisiana State University
23 Agricultural Center and the Southern University Agricultural Center shall
24 have the right of first refusal to be licensed as the production facility, either
25 separately or jointly. If neither of the centers exercise this option, the license
26 shall be awarded pursuant to the requirements provided for in Paragraphs (3)
27 through (5) of this Subsection.

28 **(b) Prior to September 1, 2016, the Louisiana State University**
29 **Agricultural Center and the Southern University Agricultural Center**

1 **shall each provide written notice to the commissioner of agriculture and**
2 **forestry of their intent to be licensed as a production facility, either**
3 **separately or jointly.**

4 (3) The license shall be limited to one geographic location as
5 provided for in rule by the Department of Agriculture and Forestry. The
6 geographic location shall be a public record subject to disclosure under the
7 Public Records Law, R.S. 44:1 et seq. The licensee shall permit inspection
8 of the production facility by any elected member of the Louisiana Legislature
9 upon request after receipt of reasonable notice.

10 (4)(a) The Department of Agriculture and Forestry shall grant the
11 license pursuant to a contract awarded through a competitive sealed bid or a
12 competitive sealed proposal as provided for in R.S. 39:1594 and 1595. The
13 contract for the license shall be subject to the Louisiana Procurement Code
14 and shall not be subject to any exceptions to or other variances from the
15 Louisiana Procurement Code. The contract shall not be awarded under the
16 sole source procurement provisions provided for in R.S. 39:1597.

17 (b) Any contract for the license awarded pursuant to this Subsection
18 shall not exceed five years.

19 (c) Any contract, memorandum of understanding, or cooperative
20 endeavor agreement entered into pursuant to this Section shall be a public
21 record subject to disclosure under the Public Records Law, R.S. 44:1 et seq.

22 (d) Any contract, memorandum of understanding, or cooperative
23 endeavor agreement entered into for services for the cultivation or processing
24 in any way of marijuana pursuant to this Section shall be a public record
25 subject to disclosure under the Public Records Law, R.S. 44:1 et seq.

26 (e) No person licensed pursuant to this Subsection shall subcontract
27 for services for the cultivation or processing in any way of marijuana if the
28 subcontractor, or any of the service providers in the chain of subcontractors,
29 is owned wholly or in part by any state employee or member of a state

1 employee's immediate family, including but not limited to any legislator,
2 statewide public official, university or community or technical college
3 employee, Louisiana State University Agricultural Center employee, or
4 Southern University Agricultural Center employee. For the purposes of this
5 Paragraph, "immediate family" has the same meaning as provided in R.S.
6 42:1102.

7 (f) Any bid for the license awarded pursuant to this Subsection shall
8 include proof of the financial capability of the bidder to operate a therapeutic
9 marijuana production facility including but not limited to a net worth of not
10 less than one million dollars.

11 (5) No person licensed pursuant to this Subsection shall give or
12 receive anything of value in connection with any contract, memorandum of
13 understanding, or cooperative endeavor agreement executed pursuant to this
14 Subsection except the value that is expressed in the contract, memorandum
15 of understanding, or cooperative endeavor agreement.

16 (6)(a) The Department of Agriculture shall collect the following
17 information from each licensee:

18 (i) The amount of gross marijuana produced by the licensee during
19 each calendar year.

20 (ii) The details of all production costs including but not limited to
21 seed, fertilizer, labor, advisory services, construction, and irrigation.

22 (iii) The details of any items or services for which the licensee
23 subcontracted and the costs of each subcontractor directly or indirectly
24 working for the contractor.

25 (iv) The amount of therapeutic chemicals produced resulting from the
26 marijuana grown pursuant to this Section.

27 (v) The amounts paid each year to the licensee related to the
28 licensee's production of therapeutic marijuana pursuant to this Section.

1 (vi) The amount of therapeutic marijuana distributed to each
2 pharmacy licensed to dispense therapeutic marijuana in this state during each
3 calendar year.

4 (b) The Department of Agriculture and Forestry shall provide the
5 information collected pursuant to this Paragraph for the previous calendar
6 year in the form of a written report to the Louisiana Legislature no later than
7 February first of each year. The department shall also make a copy of the
8 report required by this Subparagraph available to the public on the Internet.

9 (7) No company that has made a contribution to a candidate in a
10 Louisiana election governed by the provisions of the Campaign Finance
11 Disclosure Act within the five years prior to bidding for the license, or is
12 controlled wholly or in part by a person who made such a contribution within
13 the five years prior to the company bidding for the license, may be eligible
14 for the license.

15 ~~(8) The Department of Agriculture and Forestry shall submit a report~~
16 ~~to the legislature no later than January 1, 2016, with recommendations on~~
17 ~~possible fee amounts relative to the provisions of this Section.~~

18 ~~K.I.~~ The levels of THC in any marijuana produced pursuant to this
19 Section shall be reduced to the lowest acceptable therapeutic levels available
20 through scientifically accepted methods.

21 ~~L.J.~~ The provisions of this Section shall terminate on January 1,
22 2020.

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 627 Original 2018 Regular Session Lyons

Abstract: Authorizes the recommendation or prescription of medical marijuana in treating certain health conditions associated with autism spectrum disorder.

Recommendation of Medical Marijuana

Present law authorizes physicians who are domiciled in La. and licensed by and in good standing with the La. State Board of Medical Examiners to recommend tetrahydrocannabinols (commonly referred to as "medical marijuana"), or chemical derivatives thereof, for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition. Defines "debilitating medical condition" to mean cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, Crohn's disease, muscular dystrophy, or multiple sclerosis.

Proposed law retains present law and adds the following conditions associated with autism spectrum disorder as conditions for which physicians may recommend treatment with medical marijuana:

- (1) Repetitive or self-stimulatory behavior of such severity that the physical health of the person with autism is jeopardized.
- (2) Avoidance of others or inability to communicate of such severity that the physical health of the person with autism is jeopardized.
- (3) Self-injuring behavior.
- (4) Physically aggressive or destructive behavior.

Prescription of Medical Marijuana

Present law authorizes physicians who are domiciled in La. and licensed by and in good standing with the La. State Board of Medical Examiners to prescribe, rather than recommend, medical marijuana for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition if and when the U.S. Drug Enforcement Administration reclassifies marijuana from a Schedule I drug to a Schedule II drug, thereby allowing the drug to be legally prescribed. Defines "debilitating medical condition" to mean cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, Crohn's disease, muscular dystrophy, or multiple sclerosis.

Proposed law retains present law and adds the following conditions associated with autism spectrum disorder as conditions for which physicians may prescribe treatment with medical marijuana if and when such prescribing becomes legal:

- (1) Repetitive or self-stimulatory behavior of such severity that the physical health of the person with autism is jeopardized.
- (2) Avoidance of others or inability to communicate of such severity that the physical health of the person with autism is jeopardized.
- (3) Self-injuring behavior.
- (4) Physically aggressive or destructive behavior.

(Amends R.S. 40:1046(A)(2)(a) and §2 of Act No. 96 of 2016 R.S.)