

2015 Regular Session

SENATE BILL NO. 143

BY SENATOR MILLS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PHARMACISTS. Provides relative to prescribed marijuana for therapeutic uses and the development of rules and regulations by the Louisiana Board of Pharmacy and the Louisiana State Board of Medical Examiners. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 40:1046, relative to the therapeutic use of marijuana; to provide
3 for the adoption of rules and regulations relating to the prescribing, dispensing, and
4 producing of marijuana for therapeutic use; to provide for a deadline to adopt rules
5 and regulations; to provide for a report to the legislature; to provide for the location
6 of the place of dispensing; to provide for the use of the Prescription Monitoring
7 Program; to provide for licensure of a production facility; to provide for an effective
8 date; to provide for a termination date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:1046 is hereby amended and reenacted to read as follows:

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

17 A. Notwithstanding any other provision of this Part, a physician licensed to

1 practice medicine in this state ~~and who is also registered to prescribe Schedule I~~
2 ~~substances with the Drug Enforcement Administration~~ may prescribe, **in any form**
3 **as permitted by the rules and regulations of the Louisiana Board of Pharmacy**
4 **except for inhalation, and raw or crude** marijuana, tetrahydrocannabinols, or a
5 chemical derivative of tetrahydrocannabinols for therapeutic use by patients
6 clinically diagnosed as suffering from glaucoma, symptoms resulting from the
7 administration of chemotherapy cancer treatment, and spastic quadriplegia in
8 accordance with rules and regulations promulgated by the ~~secretary of health and~~
9 ~~hospitals and in accordance with FDA and DEA administrative guidelines for~~
10 ~~procurement of the controlled substance from the National Institute on Drug Abuse~~
11 **Louisiana State Board of Medical Examiners. The Louisiana State Board of**
12 **Medical Examiners shall submit to the Senate and House committees on health**
13 **and welfare on an annual basis not less than sixty days prior to the beginning**
14 **of the regular session of the legislature a report as to any additional diseases or**
15 **medical conditions that should be added to the list of eligible diseases and**
16 **conditions for prescription.**

17 B. The ~~secretary of health and hospitals, by January 1, 1992~~ **Louisiana State**
18 **Board of Medical Examiners** shall promulgate rules and regulations; authorizing
19 physicians licensed to practice in this state to prescribe marijuana for therapeutic use
20 by patients as described in Subsection A of this Section **no later than January 1,**
21 **2016.**

22 **C.(1) The Louisiana Board of Pharmacy shall adopt rules relating to the**
23 **dispensing of prescribed marijuana for therapeutic use no later than December**
24 **1, 2016. The Louisiana Board of Pharmacy shall seek input from groups**
25 **including but not limited to the following:**

26 **(a) The Louisiana District Attorneys Association.**

27 **(b) Professional law enforcement associations, organizations, and**
28 **commissions.**

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

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

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

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

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

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

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

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

20 (h) The establishment of standards and procedures for testing prescribed
21 therapeutic marijuana samples for levels of tetrahydrocannabinol (THC) or
22 other testing parameters deemed appropriate by the Louisiana Board of
23 Pharmacy.

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

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

27 (k) The establishment of financial requirements for applicants of
28 therapeutic marijuana dispensing pharmacy license under which each applicant
29 demonstrates the following:

1 (i) The financial capacity to operate a therapeutic marijuana dispensing
2 pharmacy.

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

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

9 E. All rules shall be adopted in accordance with the provisions of the
10 Administrative Procedure Act.

11 F. Nothing in this Section shall be construed to prohibit the Louisiana
12 State Board of Medical Examiners or the Louisiana Pharmacy Board from
13 adopting emergency rules as otherwise provided for in the Administrative
14 Procedure Act.

15 G. Marijuana, tetrahydrocannabinols, or a chemical derivative of
16 tetrahydrocannabinols prescribed pursuant to this Section shall be dispensed
17 in person from a licensed pharmacy in good standing located in Louisiana.

18 H. A prescriber and dispenser of marijuana, tetrahydrocannabinols, or
19 a chemical derivative of tetrahydrocannabinols pursuant to this Section shall
20 review the patient's information in the Prescription Monitoring Program
21 database prior to the prescribing and dispensing thereof.

22 I. The Louisiana Board of Pharmacy shall develop an annual,
23 nontransferable specialty license for a pharmacy to dispense prescribed
24 marijuana for therapeutic use and shall limit the number of such licenses
25 granted in the state to no more than ten licensees. The Louisiana Board of
26 Pharmacy shall develop rules and regulations regarding the geographical
27 locations of dispensing pharmacies in Louisiana.

28 J.(1) The Department of Agriculture and Forestry shall develop the rules
29 and regulations regarding the production of prescribed therapeutic marijuana

1 and the facility producing therapeutic marijuana.

2 (2) The Department of Agriculture and Forestry shall develop an annual,
 3 nontransferable specialty license for the production of prescribed marijuana for
 4 therapeutic use and shall limit the number of such licenses granted in the state
 5 to no more than one licensee. Such a license shall be limited to one geographic
 6 location as provided by the Department of Agriculture and Forestry.

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

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

11 Section 2. This Act shall become effective upon signature by the governor or, if not
 12 signed by the governor, upon expiration of the time for bills to become law without signature
 13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 14 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 15 effective on the day following such approval.

The original instrument was prepared by Christopher D. Adams. The following digest, which does not constitute a part of the legislative instrument, was prepared by Linda Nugent.

DIGEST

SB 143 Reengrossed

2015 Regular Session

Mills

Present law provides 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.

Proposed 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.

Proposed 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.

Present law provides the secretary of health and hospitals, by January 1, 1992, shall promulgate rules and regulations authorizing physicians licensed to practice in this state to

prescribe marijuana for therapeutic use by patients as described in present law.

Proposed law amends present law by removing the secretary of health and hospitals as the party promulgating the rules and regulations and placing the responsibility of promulgating the rules and regulations with the LSBME. Proposed law gives LSBME until January 1, 2016, to promulgate the rules and regulations.

Proposed law provides the Louisiana Board of Pharmacy (LBP) shall adopt rules relating to the dispensing of prescribed marijuana for therapeutic use no later than December 1, 2016, and LBP shall seek input from groups including but not limited to the following:

- (1) The Louisiana District Attorneys Association.
- (2) Professional law enforcement associations organizations and commissions.
- (3) The Department of Agriculture and Forestry.

Proposed law provides the rules shall include but not be limited to:

- (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 \$2.0 million escrow account in a Louisiana bank.

Proposed law provides LBP shall submit a report to the legislature no later than January 1, 2016, with recommendations on possible fee amounts to provide for the provisions of the

proposed law.

Proposed law provides the all rules and regulations promulgated pursuant to proposed law shall be adopted in accordance with the provisions of the Administrative Procedure Act.

Proposed law provides nothing in the proposed law shall be construed to prohibit LSBME or LBP from adopting emergency rules as otherwise provided for in the Administrative Procedure Act.

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

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

Proposed 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.

Proposed law provides The Department of Agriculture and Forestry shall develop the rules and regulations regarding the production of prescribed therapeutic marijuana and the facility producing therapeutic marijuana.

Proposed 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 and to no more than one geographic location.

Proposed 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 provisions of proposed law.

Provides for the termination of proposed law on January 1, 2020.

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

(Amends R.S. 40:1046)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Provides for prescribed marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols in any form except for inhalation and raw or crude.
2. Provides for an annual report from LSBME as to adding additional diseases or conditions.
3. Provides for LBP being responsible for rules and regulations for dispensing.
4. Provides for the Department of Agriculture and Forestry being responsible for rules and regulations relative to production.

5. Provides type of pharmacy that can dispense.
6. Provides for use of the Prescription Monitoring Program by prescribers and dispensers.
7. Provides for an annual, nontransferable speciality license for a dispensing pharmacy and for a production facility.
8. Provides for the Department of Agriculture and Forestry submitting recommendations to the legislature regarding fees.

Senate Floor Amendments to engrossed bill

1. Changes the La. Sheriffs' Assn. and LCLE to professional law enforcement associations, organizations and commissions.
2. Adds financial requirements for applicants of a license for dispensing pharmacies.
3. Requires the LBP to develop rules regarding the geographical locations of dispensing pharmacies
4. Specifies that the license for production of marijuana be limited to one geographic location.
5. Adds a Jan. 1, 2020, termination date for the proposed law.
6. Removes language requiring the licensed prescribing physician to also be registered with the DEA.