

2018 Regular Session

HOUSE BILL NO. 579

BY REPRESENTATIVE JAMES

PHARMACISTS: Provides relative to the authorization for therapeutic use of marijuana

1 AN ACT

2 To amend and reenact R.S. 40:1046(A) and (G) and R.S. 40:1046(A) and (G) as amended
3 and reenacted by Section 2 of Act No. 96 of the 2016 Regular Session of the
4 Legislature of Louisiana, relative to the authorization of marijuana for therapeutic
5 use; to provide for the duties and authorization of the Louisiana State Board of
6 Medical Examiners and the Louisiana Board of Pharmacy with respect to the
7 therapeutic use of marijuana; to provide for definitions; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:1046(A) and (G) are hereby amended and and reenacted to read
11 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~~

1 Pharmacy except for inhalation, and raw or crude marijuana, tetrahydrocannabinols,
2 or a chemical derivative of tetrahydrocannabinols marijuana or marijuana
3 preparations for therapeutic use by patients clinically diagnosed as suffering from a
4 debilitating medical condition.

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

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

15 (c) The Louisiana State Board of Medical Examiners shall adopt rules
16 relating to the approval or denial of additional qualifying conditions.

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

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

1 medical condition, he may recommend the form of medical marijuana provided for
2 in this Part for use by the patient as medically necessary.

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

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

15 (5) Any member of the public may petition the Louisiana State Board of
16 Medical Examiners for the addition of serious medical conditions and medical
17 marijuana treatment options.

18 (6) The Louisiana State Board of Medical Examiners shall submit to the
19 Senate and House committees on health and welfare on an annual basis not less than
20 sixty days prior to the beginning of the regular session of the legislature a report as
21 to any additional diseases or medical conditions that ~~should~~ will be added to the list
22 of eligible diseases and conditions for recommendation pursuant to review of public
23 notice and comment.

24 * * *

25 G.(1) The Louisiana Board of Pharmacy shall develop an annual,
26 nontransferable specialty license for a pharmacy to dispense recommended
27 marijuana for therapeutic use and shall limit the number of such licenses granted in
28 the state to no more than ten licensees. The Louisiana Board of Pharmacy shall

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

3 (2) Pharmacists licensed pursuant to this Section may dispense marijuana
4 preparations and marijuana paraphernalia to patients enrolled in the state-sponsored
5 medical marijuana program in Louisiana, their caregivers, and minor patients'
6 domiciliary parents.

7 (3) Licensed dispensing pharmacies may not dispense raw or crude
8 marijuana to a patient or a parent or caregiver of a patient.

9 (4) No patient enrolled in the state-sponsored medical marijuana program
10 may smoke marijuana or marijuana preparations. A qualifying patient may vaporize
11 marijuana preparations.

12 (5)(a) For the purposes of this Subsection, "marijuana paraphernalia" means
13 objects used, intended for use, or designated for use in preparing, storing, ingesting,
14 vaporizing, or otherwise introducing medical marijuana into the human body. The
15 term does not include objects meant for smoking marijuana.

16 (b) For the purposes of this Subsection, "marijuana preparations" means any
17 form authorized by and consistent with the rules adopted by the Louisiana Board of
18 Pharmacy.

19 (c) For the purposes of this Subsection, "vaporize" means heating below the
20 point of combustion.

21 * * *

22 Section 2. R.S. 40:1046(A) and (G) as amended and reenacted by Section 2 of Act
23 No. 96 of the 2016 Regular Session of the Legislature of Louisiana are hereby amended and
24 reenacted to read as follows:

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

26 §1046. Prescription of marijuana for therapeutic use; rules and regulations;
27 Louisiana Board of Pharmacy and the adoption of rules and
28 regulations relating to the dispensing of prescribed marijuana for

1 therapeutic use; the Department of Agriculture and Forestry and the
2 licensure of a production facility

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

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

26 **(b) Intractable pain means a pain state in which the cause of the**
27 **pain cannot be removed or otherwise treated with the consent of the**
28 **patient and which, in the generally accepted course of medical practice,**
29 **no relief or cure of the cause of the pain is possible, or none has been**

1 found after reasonable efforts. It is pain so chronic and severe as to
2 otherwise warrant an opiate prescription.

3 (c) The Louisiana State Board of Medical Examiners shall adopt
4 rules relating to the approval or denial of additional qualifying
5 conditions.

6 ~~(b)~~ (d) If the United States Food and Drug Administration
7 approves the use of medical marijuana in the same form provided for in
8 this Part for any debilitating medical condition specifically identified in
9 this Paragraph, that medical condition shall no longer be covered by the
10 provisions of this Part.

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

24 (3) For purposes of this Part, "prescribe" or "prescription"
25 means an order from a physician domiciled in Louisiana and licensed
26 and in good standing with the Louisiana Board of Medical Examiners
27 and authorized by the board to prescribe medical marijuana that is
28 patient-specific and disease-specific in accordance with Paragraph (2) of
29 this Subsection, and is communicated by any means allowed by the

1 **Louisiana Board of Pharmacy to a Louisiana-licensed pharmacist in a**
2 **Louisiana-permitted dispensing pharmacy as described in Subsection G**
3 **of this Section, and is preserved on file as required by Louisiana law or**
4 **federal law regarding medical marijuana.**

5 **(4) Physicians shall may prescribe the use of medical marijuana**
6 **for treatment of debilitating medical conditions in accordance with rules**
7 **and regulations promulgated by the Louisiana State Board of Medical**
8 **Examiners.**

9 **(5) Any member of the public may petition the Louisiana State**
10 **Board of Medical Examiners for the addition of serious medical**
11 **conditions and medical marijuana treatment options.**

12 **~~(5)~~ (6) The Louisiana State Board of Medical Examiners shall**
13 **submit to the Senate and House committees on health and welfare on an**
14 **annual basis not less than sixty days prior to the beginning of the regular**
15 **session of the legislature a report as to any additional diseases or medical**
16 **conditions that should will be added to the list of eligible diseases and**
17 **conditions for recommendation pursuant to review of public notice and**
18 **comment.**

19 * * *

20 **±G.(1)** The Louisiana Board of Pharmacy shall develop an annual,
21 nontransferable specialty license for a pharmacy to dispense prescribed
22 marijuana for therapeutic use and shall limit the number of such licenses
23 granted in the state to no more than ten licensees. The Louisiana Board of
24 Pharmacy shall develop rules and regulations regarding the geographical
25 locations of dispensing pharmacies in Louisiana.

26 **(2) Pharmacists licensed pursuant to this Section may dispense**
27 **marijuana preparations and marijuana paraphernalia to patients**
28 **enrolled in the state-sponsored medical marijuana program in**
29 **Louisiana, their caregivers, and minor patients' domiciliary parents.**

1 **(3) Licensed dispensing pharmacies may not dispense raw or**
2 **crude marijuana a patient or a parent or caregiver of a patient.**

3 **(4) No patient enrolled in the state-sponsored medical marijuana**
4 **program may smoke marijuana or marijuana preparations. A qualifying**
5 **patient may vaporize marijuana preparations.**

6 **(5)(a) For the purposes of this Subsection, "marijuana**
7 **paraphernalia" means objects used, intended for use, or designated for**
8 **use in preparing, storing, ingesting, vaporizing, or otherwise introducing**
9 **medical marijuana into the human body. The term does not include**
10 **objects meant for smoking marijuana.**

11 **(b) For the purposes of this Subsection, "marijuana**
12 **preparations" means any form authorized by and consistent with the**
13 **rules adopted by the Louisiana Board of Pharmacy.**

14 **(c) For the purposes of this Subsection, "vaporize" means**
15 **heating below the point of combustion.**

16 * * *

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 579 Engrossed 2018 Regular Session James

Abstract: Provides relative to the conditions for which medical marijuana may be recommended or prescribed.

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 revises present law to authorize physicians who are domiciled in La. and licensed by and in good standing with the La. State Board of Medical Examiners to recommend marijuana or marijuana preparations for therapeutic use by patients clinically

diagnosed as suffering from a debilitating medical condition. Adds the following to the set of conditions for which medical marijuana may be recommended:

- (1) Glaucoma.
- (2) Severe muscle spasms.
- (3) Intractable pain.
- (4) Post-traumatic stress disorder.

Proposed law defines "intractable pain" as a pain state in which the cause of the pain cannot be removed or otherwise treated with the consent of the patient and which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. Provides further that intractable pain is pain so chronic and severe as to otherwise warrant an opiate prescription.

Proposed law provides that any member of the public may petition the La. State Board of Medical Examiners for the addition of serious medical conditions and medical marijuana treatment options.

Present law requires the La. Board of Pharmacy to develop an annual, nontransferable specialty license for a pharmacy to dispense recommended marijuana for therapeutic use. Provides that the number of such licenses shall be no more than ten. Proposed law retains present law and authorizes pharmacists licensed pursuant to present law to dispense marijuana preparations and marijuana paraphernalia to patients, their caregivers, and minor patients' domiciliary parents.

Proposed law stipulates that licensed marijuana dispensing pharmacies may not dispense raw or crude marijuana a patient or a parent or caregiver of a patient.

Proposed law prohibits smoking but allows vaporizing of marijuana or marijuana preparations.

Proposed law establishes the following defined terms and corresponding definitions for purposes of proposed law:

- (1) "Marijuana paraphernalia" means objects used, intended for use, or designated for use in preparing, storing, ingesting, vaporizing, or otherwise introducing medical marijuana into the human body. The term does not include objects meant for smoking marijuana.
- (2) "Marijuana preparations" means any form authorized by and consistent with the rules adopted by the La. Board of Pharmacy.
- (3) "Vaporize" means heating below the point of combustion.

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 revises present law to authorize physicians who are domiciled in La. and licensed by and in good standing with the La. State Board of Medical Examiners to prescribe marijuana or marijuana preparations for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition. Adds the following to the set of conditions for which medical marijuana may be prescribed:

- (1) Glaucoma.
- (2) Severe muscle spasms.
- (3) Intractable pain.
- (4) Post-traumatic stress disorder.

Proposed law defines "intractable pain" as a pain state in which the cause of the pain cannot be removed or otherwise treated with the consent of the patient and which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. Provides further that intractable pain is pain so chronic and severe as to otherwise warrant an opiate prescription.

Proposed law provides that any member of the public may petition the La. State Board of Medical Examiners for the addition of serious medical conditions and medical marijuana treatment options.

Present law requires the La. Board of Pharmacy to develop an annual, nontransferable specialty license for a pharmacy to dispense prescribed marijuana for therapeutic use. Provides that the number of such licenses shall be no more than ten. Proposed law retains present law and authorizes pharmacists licensed pursuant to present law to dispense marijuana preparations and marijuana paraphernalia to patients, their caregivers, and minor patients' domiciliary parents.

Proposed law stipulates that licensed marijuana dispensing pharmacies may not dispense raw or crude marijuana a patient or a parent or caregiver of a patient.

Proposed law prohibits smoking but allows vaporizing of marijuana or marijuana preparations.

Proposed law establishes the following defined terms and corresponding definitions for purposes of proposed law:

- (1) "Marijuana paraphernalia" means objects used, intended for use, or designated for use in preparing, storing, ingesting, vaporizing, or otherwise introducing medical marijuana into the human body. The term does not include objects meant for smoking marijuana.
- (2) "Marijuana preparations" means any form authorized by and consistent with the rules adopted by the La. Board of Pharmacy.
- (3) "Vaporize" means heating below the point of combustion.

(Amends R.S. 40:1046(A) and (G) and R.S. 40:1046(A) and (G) as amended and reenacted by Section 2 of Act No. 96 of the 2016 R.S.)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Revise proposed law defining "marijuana preparations" to provide that such preparations can be any form authorized by and consistent with the rules adopted by the La. Board of Pharmacy.
2. Amend present law relative to prescription of medical marijuana to reflect amendments proposed law makes in present law relative to recommendation of medical marijuana.
3. Make technical changes.