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

AN ACT

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

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1046(A) and (G) are hereby amended and reenacted to read as follows:

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

A.(1) Notwithstanding any other provision of this Part, a physician licensed by and in good standing with the Louisiana State Board of Medical Examiners to practice medicine in this state and who is domiciled in this state may recommend,
in any form as permitted by the rules and regulations of the Louisiana Board of Pharmacy except for inhalation, and raw or crude marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition.

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

(b) Intractable pain means 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. It is pain so chronic and severe as to otherwise warrant an opiate prescription.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Intractable pain means 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. It is pain so chronic and severe as to otherwise warrant an opiate prescription.

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

(d) If the United States Food and Drug Administration approves the use of medical marijuana in the same form provided for in this Part for any debilitating medical condition specifically identified in this Paragraph, that medical condition shall no longer be covered by the provisions of this Part.
If the United States Food and Drug Administration approves the use of medical marijuana in a form or derivative different than provided for in this Part for any debilitating medical condition specifically identified in this Paragraph, the disease state shall remain covered by the provisions of this Part. The patient shall first be treated by the approved form or derivative of medical marijuana through utilization of step therapy or fail first protocols. If, after use of the United States Food and Drug Administration approved form or derivative of medical marijuana, the physician determines that the preferred treatment required under step therapy or fail first protocol has been ineffective in the treatment of the patient's debilitating medical condition, he may prescribe the form of medical marijuana provided for in this Part for use by the patient as medically necessary.

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

(4) Physicians may prescribe the use of medical marijuana for treatment of debilitating medical conditions in accordance with rules and regulations promulgated by the Louisiana State Board of Medical Examiners.
(5) Any member of the public may petition the Louisiana State Board of Medical Examiners for the addition of serious medical conditions and medical marijuana treatment options.

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

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I. G.(1) The Louisiana Board of Pharmacy 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. The Louisiana Board of Pharmacy shall develop rules and regulations regarding the geographical locations of dispensing pharmacies in Louisiana.

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

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

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J. Notwithstanding any other provision of law to the contrary, employers and their worker's compensation insurers shall not be obliged or ordered to pay for medical marijuana in claims arising under Title 23 of the Louisiana Revised Statutes of 1950, the Louisiana Workers' Compensation Law.
K. The provisions of this Section shall terminate on January 1, 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 579 Reengrossed 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 adds the following to the set of conditions for which medical marijuana may be recommended:

1. Glaucoma.
2. Severe muscle spasms.
3. Intractable pain.
5. Parkinson's disease.

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 medical marijuana to patients, their caregivers, and minor patients' domiciliary parents.

Proposed law prohibits licensed marijuana dispensing pharmacies from dispensing raw or crude marijuana to a patient or their parent or caregiver.
Proposed law stipulates that employers and their worker's compensation insurers shall not be obliged or ordered to pay for recommended medical marijuana in claims arising under present law relative to worker's compensation.

**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 medical marijuana to patients, their caregivers, and minor patients’ domiciliary parents.

Proposed law prohibits licensed marijuana dispensing pharmacies from dispensing raw or crude marijuana to a patient or their parent or caregiver.

Proposed law stipulates that employers and their worker's compensation insurers shall not be obliged or ordered to pay for recommended medical marijuana in claims arising under present law relative to worker's compensation.

(Amends R.S. 40:1046(A), (G), and (J) and R.S. 40:1046(A), (G), (J) as amended and reenacted by §2 of Act No. 96 of the 2016 R.S.; Adds R.S. 40:1046(K) and R.S. 40:1046(K) of §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.

The House Floor Amendments to the engrossed bill:

1. Restore present law authorizing physicians to recommend or prescribe marijuana for therapeutic use in any form as permitted by rules and regulations of the La. Board of Pharmacy except for inhalation, and except for raw or crude marijuana.

2. Delete proposed law referring to marijuana preparations, marijuana paraphernalia, and vaporization of marijuana.

3. Add Parkinson's disease to the set of conditions for which medical marijuana may be recommended.

4. Stipulate that employers and their worker's compensation insurers shall not be obliged or ordered to pay for recommended or prescribed medical marijuana in claims arising under present law relative to worker's compensation.

5. Make technical changes.

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