

2016 Regular Session

SENATE BILL NO. 271

BY SENATOR MILLS

PHARMACISTS. Provides for medical marijuana. (gov sig)

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AN ACT

To amend and reenact R.S. 40:1046 and to enact R.S. 40:1047, relative to medical marijuana; to provide for physician requirements; to provide for definitions; to provide for rulemaking requirements; to provide for responsibilities of certain licensing boards and agencies; to provide for criminal background history; to provide for enactment of provisions upon reclassification by the United States Drug Enforcement Administration; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1046 is hereby amended and reenacted and R.S. 40:1047 is hereby enacted to read as follows:

§1046. ~~Prescription~~ **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 ~~prescribed~~ **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

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

15 (2) For purposes of this Subsection, "debilitating medical condition"
16 means cancer, glaucoma, positive status for human immunodeficiency virus,
17 acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure
18 disorders, epilepsy, spasticity, severe muscle spasms, Crohn's disease, muscular
19 dystrophy or multiple sclerosis.

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

29 (4) Physicians shall recommend use of medical marijuana for treatment

1 of debilitating medical conditions in accordance with rules and regulations
 2 promulgated by the Louisiana State Board of Medical Examiners.

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

8 B. The Louisiana State Board of Medical Examiners shall promulgate rules
 9 and regulations authorizing physicians licensed to practice in this state to ~~prescribe~~
 10 recommend marijuana for therapeutic use by patients as described in Subsection A
 11 of this Section ~~no later than January 1, 2016.~~ Any rules published by the Louisiana
 12 State Board of Medical Examiners on or before January 1, 2016, that describe
 13 the physician's authority to prescribe should be repromulgated to indicate that
 14 he is "recommending" use of therapeutic marijuana.

15 C.(1) The Louisiana Board of Pharmacy shall adopt rules relating to the
 16 dispensing of ~~prescribed~~ recommended marijuana for therapeutic use ~~no later than~~
 17 ~~December 1, 2016.~~ Any rules published by the Louisiana Board of Pharmacy on
 18 or before January 1, 2016, that describe the pharmacist as dispensing medical
 19 marijuana based on a physician's prescription should be repromulgated to
 20 indicate that the physician is "recommending" use of therapeutic marijuana.

21 ~~The Louisiana Board of Pharmacy shall seek input from groups including but not~~
 22 ~~limited to the following:~~

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

24 ~~(b) Professional law enforcement associations, organizations, and~~
 25 ~~commissions.~~

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

27 (a) Standards, procedures, and protocols for the effective use of ~~prescribed~~
 28 recommended marijuana for therapeutic use as authorized by state law and related
 29 rules and regulations.

1 (b) Standards, procedures, and protocols for the dispensing and tracking of
2 ~~prescribed~~ **recommended** therapeutic marijuana in Louisiana.

3 (c) Procedures and protocols to provide that no ~~prescribed~~ **recommended**
4 therapeutic marijuana may be dispensed from, produced from, obtained from, sold
5 to, or transferred to a location outside of this state.

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

10 (e) The establishment of standards, procedures, and protocols to ensure that
11 all ~~prescribed~~ **recommended** therapeutic marijuana dispensed is consistently
12 pharmaceutical grade.

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

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

17 (h) The establishment of standards and procedures for testing ~~prescribed~~
18 **recommended** therapeutic marijuana samples for levels of tetrahydrocannabinol
19 (THC) or other testing parameters deemed appropriate by the Louisiana Board of
20 Pharmacy.

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

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

24 (k) The establishment of financial requirements for applicants of therapeutic
25 marijuana dispensing pharmacy license under which each applicant demonstrates the
26 following:

27 (i) The financial capacity to operate a therapeutic marijuana dispensing
28 pharmacy.

29 (ii) The ability to maintain an escrow account in a financial institution

1 headquartered in Louisiana in an amount of two million dollars, if required by the
2 Louisiana Board of Pharmacy.

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

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

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

11 ~~G.E.~~ Marijuana, tetrahydrocannabinols, or a chemical derivative of
12 tetrahydrocannabinols ~~prescribed~~ **recommended** pursuant to this Section shall be
13 dispensed in person from a licensed pharmacy in good standing located in Louisiana.

14 ~~H.F.~~ A ~~prescriber and dispenser of~~ **person who recommends and person**
15 **who dispenses** marijuana, tetrahydrocannabinols, or a chemical derivative of
16 tetrahydrocannabinols pursuant to this Section shall review the patient's information
17 in the Prescription Monitoring Program database prior to the ~~prescribing~~
18 **recommending** and dispensing thereof.

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

25 ~~J.H.~~(1) The Department of Agriculture and Forestry shall develop the rules
26 and regulations regarding the production of ~~prescribed~~ **recommended** therapeutic
27 marijuana and the facility producing therapeutic marijuana. The rules and regulations
28 shall include but not be limited to the procedures for application, qualifications,
29 eligibility, background checks, and standards for suitability for a license and

1 penalties for violations of the rules and regulations.

2 (2)(a) The Department of Agriculture and Forestry shall develop an annual,
3 nontransferable specialty license for the production of ~~prescribed~~ recommended
4 marijuana for therapeutic use, ~~and~~ Other than the licenses granted pursuant to
5 Subparagraph (b) of this Paragraph, the Department of Agriculture and
6 Forestry shall limit the number of such licenses granted in the state to no more than
7 one licensee. The Louisiana State University Agricultural Center and the Southern
8 University Agricultural Center shall have the right of first refusal to be licensed as
9 the production facility, either separately or jointly. If neither of the centers exercise
10 this option, the license shall be awarded pursuant to the requirements provided for
11 in Paragraphs (3) through (5) of this Subsection.

12 (b) Prior to September 1, 2016, the Louisiana State University
13 Agricultural Center and the Southern University Agricultural Center shall each
14 provide written notice to the commissioner of agriculture and forestry of their
15 intent to be licensed as a production facility, either separately or jointly.

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

21 (4)(a) The Department of Agriculture and Forestry shall grant the license
22 pursuant to a contract awarded through a competitive sealed bid or a competitive
23 sealed proposal as provided for in R.S. 39:1594 and 1595. The contract for the
24 license shall be subject to the Louisiana Procurement Code and shall not be subject
25 to any exceptions to or other variances from the Louisiana Procurement Code. The
26 contract shall not be awarded under the sole source procurement provisions provided
27 for in R.S. 39:1597.

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

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

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

8 (e) No person licensed pursuant to this Subsection shall subcontract for
9 services for the cultivation or processing in any way of marijuana if the
10 subcontractor, or any of the service providers in the chain of subcontractors, is
11 owned wholly or in part by any state employee or member of a state employee's
12 immediate family, including but not limited to any legislator, statewide public
13 official, university or community or technical college employee, Louisiana State
14 University Agricultural Center employee, or Southern University Agricultural Center
15 employee. For the purposes of this Paragraph, "immediate family" has the same
16 meaning as provided in R.S. 42:1102.

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

21 (5) No person licensed pursuant to this Subsection shall give or receive
22 anything of value in connection with any contract, memorandum of understanding,
23 or cooperative endeavor agreement executed pursuant to this Subsection except the
24 value that is expressed in the contract, memorandum of understanding, or
25 cooperative endeavor agreement.

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

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

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

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

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

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

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

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

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

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

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

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

28 **§1047. Louisiana Department of Agriculture and Forestry; authorization to**
29 **obtain criminal history record information**

1 A. As used in this Part the following terms shall have the following
2 meaning:

3 (1) "Applicant" means a natural person, a corporation, limited liability
4 company, partnership, joint stock association, sole proprietorship, joint
5 venture, business association, cooperative association, professional corporation
6 or any other legal entity or organization through which business is conducted.

7 (2) "Bureau" means the Louisiana Bureau of Criminal Identification and
8 Information of the office of state police within the Department of Public Safety
9 and Corrections.

10 (3) "Criminal history record information" means information collected
11 by state and federal criminal justice agencies on individuals consisting of
12 identifiable descriptions and notations of arrests, detentions, indictments, bills
13 of information, or any formal criminal charges, and any disposition arising
14 therefrom, including sentencing, criminal correctional supervision, and release.
15 It shall not include intelligence information gathered for investigatory purposes
16 or any identification information which does not indicate involvement of the
17 individual in the criminal justice system.

18 (4) "Department" means Louisiana Department of Agriculture and
19 Forestry.

20 (5) "FBI" means the Federal Bureau of Investigation of the United States
21 Department of Justice.

22 (6) "Licensure" means any license or permit that the department is
23 authorized to issue for the production of prescribed therapeutic marijuana and
24 the facility producing therapeutic marijuana.

25 B. In addition to any other requirements established by department
26 rules, the department shall require an applicant, as a condition of eligibility for
27 licensure:

28 (1) To submit a full set of fingerprints, in a form and manner prescribed
29 by the department.

1 **(2) To permit the department to request and obtain state and national**
2 **criminal history record information on the applicant.**

3 **(3) To pay the reasonable costs to be incurred by the department in**
4 **requesting and obtaining state and national criminal history record information**
5 **on the applicant.**

6 **C. In accordance with the provisions and procedure prescribed by this**
7 **Part, the department shall request and obtain state and national criminal**
8 **history record information from the bureau and the FBI relative to any**
9 **applicant for licensure whose fingerprints the department has obtained**
10 **pursuant to this Part for the purpose of determining the applicant's suitability**
11 **and eligibility for licensure.**

12 **D. Upon request by the department and upon submission of an**
13 **applicant's fingerprints, and such other identifying information as may be**
14 **required, the bureau shall survey its criminal history records and identification**
15 **files and make a simultaneous request of the FBI for like information from**
16 **other jurisdictions. The bureau may charge the department a reasonable**
17 **processing fee for conducting and reporting on any such search.**

18 **E. Any and all state or national criminal history record information**
19 **obtained by the department from the bureau or FBI which is not already a**
20 **matter of public record shall be deemed nonpublic and confidential information**
21 **restricted to the exclusive use by the department in evaluating the applicant's**
22 **eligibility or disqualification for licensure. No such information or records**
23 **related thereto shall, except with the written consent of the applicant or by**
24 **order of a court of competent jurisdiction, be released or otherwise disclosed by**
25 **the department to any other person or agency.**

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

27 §1046. Prescription of marijuana for therapeutic use; rules and regulations;

28 Louisiana Board of Pharmacy and the adoption of rules and

29 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 licensed
4 **by and in good standing with the Louisiana State Board of Medical Examiners**
5 to practice medicine in this state **and who is domiciled in this state** may prescribe,
6 in any form as permitted by the rules and regulations of the Louisiana Board of
7 Pharmacy except for inhalation, and raw or crude marijuana, tetrahydrocannabinols,
8 or a chemical derivative of tetrahydrocannabinols for therapeutic use by patients
9 clinically diagnosed as suffering from **a debilitating medical condition** ~~glaucoma,~~
10 ~~symptoms resulting from the administration of chemotherapy cancer treatment, and~~
11 ~~spastic quadriplegia in accordance with rules and regulations promulgated by the~~
12 ~~Louisiana State Board of Medical Examiners. The Louisiana State Board of Medical~~
13 ~~Examiners shall submit to the Senate and House committees on health and welfare~~
14 ~~on an 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 conditions~~
16 ~~that should be added to the list of eligible diseases and conditions for prescription.~~

17 **(2) For purposes of this Subsection, "debilitating medical condition"**
18 **means cancer, glaucoma, positive status for human immunodeficiency virus,**
19 **acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure**
20 **disorders, epilepsy, spasticity, severe muscle spasms, Crohn's disease or**
21 **multiple sclerosis.**

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

1 by Louisiana law or federal law regarding medical marijuana.

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

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

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

14 C.(1) The Louisiana Board of Pharmacy shall adopt rules relating to the
15 dispensing of prescribed marijuana for therapeutic use ~~no later than December 1,~~
16 ~~2016.~~ The Louisiana Board of Pharmacy shall seek input from groups including but
17 not limited to the following:

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

19 ~~(b) Professional law enforcement associations, organizations, and~~
20 ~~commissions.~~

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

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

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

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

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

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

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

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

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

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

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

17 (k) The establishment of financial requirements for applicants of therapeutic
18 marijuana dispensing pharmacy license under which each applicant demonstrates the
19 following:

20 (i) The financial capacity to operate a therapeutic marijuana dispensing
21 pharmacy.

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

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

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

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

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

7 ~~H.F.~~ A prescriber and dispenser of marijuana, tetrahydrocannabinols, or a
8 chemical derivative of tetrahydrocannabinols pursuant to this Section shall review
9 the patient's information in the Prescription Monitoring Program database prior to
10 the prescribing and dispensing thereof.

11 ~~I.G.~~ The Louisiana Board of Pharmacy shall develop an annual,
12 nontransferable specialty license for a pharmacy to dispense prescribed marijuana
13 for therapeutic use and shall limit the number of such licenses granted in the state to
14 no more than ten licensees. The Louisiana Board of Pharmacy shall develop rules
15 and regulations regarding the geographical locations of dispensing pharmacies in
16 Louisiana.

17 ~~J.H.~~(1) The Department of Agriculture and Forestry shall develop the rules
18 and regulations regarding the production of prescribed therapeutic marijuana and the
19 facility producing therapeutic marijuana. The rules and regulations shall include but
20 not be limited to the procedures for application, qualifications, eligibility,
21 background checks, and standards for suitability for a license and penalties for
22 violations of the rules and regulations.

23 (2)~~(a)~~ The Department of Agriculture and Forestry shall develop an annual,
24 nontransferable specialty license for the production of prescribed marijuana for
25 therapeutic use, and Other than the licenses granted pursuant to Subparagraph
26 (b) of this Paragraph, the Department of Agriculture and Forestry shall limit the
27 number of such licenses granted in the state to no more than one licensee. The
28 Louisiana State University Agricultural Center and the Southern University
29 Agricultural Center shall have the right of first refusal to be licensed as the

1 production facility, either separately or jointly. If neither of the centers exercise this
2 option, the license shall be awarded pursuant to the requirements provided for in
3 Paragraphs (3) through (5) of this Subsection.

4 **(b) Prior to September 1, 2016, the Louisiana State University**
5 **Agricultural Center and the Southern University Agricultural Center shall each**
6 **provide written notice to the commissioner of agriculture and forestry of their**
7 **intent to be licensed as a production facility, either separately or jointly.**

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

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

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

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

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

29 (e) No person licensed pursuant to this Subsection shall subcontract for

1 services for the cultivation or processing in any way of marijuana if the
2 subcontractor, or any of the service providers in the chain of subcontractors, is
3 owned wholly or in part by any state employee or member of a state employee's
4 immediate family, including but not limited to any legislator, statewide public
5 official, university or community or technical college employee, Louisiana State
6 University Agricultural Center employee, or Southern University Agricultural Center
7 employee. For the purposes of this Paragraph, "immediate family" has the same
8 meaning as provided in R.S. 42:1102.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 Section 3. This Section and Section 1 of this Act shall become effective upon
21 signature by the governor or, if not signed by the governor, upon expiration of the time for
22 bills to become law without signature by the governor, as provided by Article III, Section
23 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved
24 by the legislature, this Act shall become effective on the day following such approval.

25 Section 4. This Section and Section 2 of this Act shall become effective and become
26 operative if and when the United States Drug Enforcement Administration reclassifies
27 marijuana from a Schedule I drug to a Schedule II drug under the authority of the Controlled
28 Substances Act, 21 U.S.C. §801 et seq., at which time the provisions of Section 1 of this Act
29 amending and reenacting R.S. 40:1046 shall become null and void and of no effect.

The original instrument was prepared by Christine Arbo Peck. The following digest, which does not constitute a part of the legislative instrument, was prepared by McHenry Lee.

DIGEST

SB 271 Reengrossed

2016 Regular Session

Mills

Present law provides for medical marijuana to be prescribed. Proposed law changes prescribed to recommended.

Present law provides that medical marijuana can be prescribed for glaucoma, symptoms resulting from the administration of chemotherapy cancer treatment and spastic quadriplegia.

Proposed law changes the disease states to debilitating medical conditions (cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, severe muscle spasms, Crohn's disease, muscular dystrophy or multiple sclerosis).

Proposed law adds a definition of "recommend" or "recommended" as 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 recommend medical marijuana that is patient-specific and disease-specific in accordance with present law 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 present law and is preserved on file as required by Louisiana law or federal law regarding medical marijuana.

Present law required the recommending physician to be licensed to practice medicine in this state. Proposed law requires the recommending physician to be licensed by the Louisiana State Board of Medical Examiners, in good standing with the board and domiciled in Louisiana.

Proposed law clarifies that the Louisiana State University Agricultural Center and the Southern University Agricultural Center shall have separate licenses if they exercise their right of first refusal and that they need to make that determination by September 1, 2016.

Proposed law adds authorization for the Department of Agriculture and Forestry to obtain criminal history record information on applicants for licensure as a producer of therapeutic marijuana.

Present law provides for reporting and rule promulgation deadlines that have passed. Proposed law repeals deadlines that have passed and instructs the boards to update their rules to reflect the change in proposed law from prescribed to recommended.

Provides a separate effective date for certain provisions of the law that if the U.S. DEA reclassifies marijuana from a Schedule I drug to a Schedule II drug, proposed law will change from authorizing the recommendation by a physician for use of medical marijuana to a prescription by a physician for use of medical marijuana.

Certain provisions of proposed law authorizing the recommendation by a physician for use of medical marijuana will be effective upon signature of the governor or upon lapse of time for gubernatorial action.

(Amends R.S. 40:1046; adds R.S. 40:1047)

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Adds spasticity and muscular dystrophy as disease states defined as debilitating medical conditions and removes ancillary language regarding disease state that could have been misinterpreted.
2. Adds provisions granting authorization for the Department of Agriculture and Forestry to obtain criminal history record information on applicants for licensure as a producer of medical marijuana.
3. Clarifies that the Louisiana State University Agricultural Center and the Southern University Agricultural Center shall have separate licenses if they exercise their right of first refusal and that they need to make that determination by September 1, 2016.
4. Provides an alternative effective date to change "recommend" to "prescribe" upon reclassification of marijuana from a Schedule I drug to a Schedule II drug by the United States Drug Enforcement Administration.

Senate Floor Amendments to engrossed bill

1. Changes enacting provision.
2. Makes technical changes.