SLS 14RS-578 **ORIGINAL**

Regular Session, 2014

SENATE BILL NO. 541

BY SENATOR MILLS AND REPRESENTATIVE HONORE

HEALTH CARE Provides for the use of marijuana for medicinal purposes. (8/1/14)

AN ACT

To amend and reenact Part X-E of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1046.1 through 1046.15 and to enact R.S. 36:259(OO), relative to the therapeutic use of marijuana; to enact the Louisiana Therapeutic Use of Marijuana Act; to provide for the authority to prescribe therapeutic marijuana; to provide for the dispensing of therapeutic marijuana; to provide for definitions; to create the Therapeutic Marijuana Utilization Review Board; to place the Therapeutic Marijuana Utilization Review Board within the Department of Health and Hospitals; to provide for the powers and duties of the board; to provide for the composition of the board; to provide for rulemaking; to create the Louisiana Therapeutic Use of Marijuana Fund; to provide for suitability to obtain a license to prescribe, dispense, or produce therapeutic marijuana; to provide standards and criteria for a therapeutic marijuana treatment facility; to provide for limitations on the number of therapeutic marijuana treatment facilities and production facilities; to provide standards and criteria for therapeutic marijuana producers and production facilities; to provide for exemptions from certain criminal provisions; to provide for applicability; to provide for the qualifications and licensing

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of physicians to prescribe therapeutic marijuana; to provide for the qualifications and licensing of therapeutic marijuana production facilities, therapeutic marijuana producers, and therapeutic marijuana dispensers; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:259(OO) is hereby enacted to read as follows:

§259. Transfer of agencies and functions to Department of Health and Hospitals

* * *

OO. The Therapeutic Marijuana Utilization Review Board (R.S. 40:1046.5) is placed within the Department of Health and Hospitals and shall exercise and perform its powers, duties, functions, and responsibilities as provided by or pursuant to law.

Section 2. Part X-E of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1046.1 through 1046.15, is hereby amended and reenacted to read as follows:

PART X-E. THERAPEUTIC USE OF MARIJUANA

~~§1046. Prescription of marijuana for therapeutic use; rules and regulations; secretary of health and hospitals~~

~~A. Notwithstanding any other provision of this Part, a physician licensed to practice medicine in this state and who is also registered to prescribe Schedule I substances with the Drug Enforcement Administration 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 and DEA administrative guidelines for procurement of the controlled substance from the National Institute on Drug Abuse.~~

~~B. The secretary of health and hospitals, by January 1, 1992, shall promulgate rules and regulations, authorizing physicians licensed to practice in this~~

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~~state to prescribe marijuana for therapeutic use by patients as described in Subsection A of this Section.~~

§1046.1. Short title

This Part may be referred to and cited as the "Louisiana Therapeutic Use of Marijuana Act".

§1046.2. Legislative findings

A. The Louisiana Uniform Controlled Dangerous Substances Law was enacted by Act No. 634 of the 1972 Regular Session of the Legislature.

B. Since 1978, the Louisiana Legislature enacted three Acts authorizing the use of marijuana for medical purposes: Act No. 725 of the 1978 Regular Session, Act No. 800 of the 1981 Regular Session, and Act No. 874 of the 1991 Regular Session.

C. The therapeutic use of marijuana has been authorized by Louisiana law since 1991, but Act 874 of that year failed to provide a mechanism to facilitate the dispensing or the purchasing of marijuana even though it could be prescribed under limited circumstances.

D. In an effort to provide for the maximum health opportunities for Louisiana citizens with certain qualifying illnesses and who are without therapeutic options, while at the same time ensuring the safety and welfare of Louisiana citizens, the Louisiana Legislature enacts the provisions of this Part.

§1046.3. Definitions

As used in this Part, the following terms shall have the following meanings:

(1) "Board" means the Therapeutic Marijuana Utilization Review Board.

(2) "Bona fide physician-patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care, and treatment of a patient's qualifying medical condition.

(3) "Physician" means a person licensed to practice medicine in the state

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of Louisiana who is a certified neurologist, oncologist, or ophthalmologist with whom the patient has a bona fide physician-patient relationship and who is the physician responsible for the ongoing treatment of a patient's debilitating medical condition; provided, however, that such ongoing treatment shall not be limited to the provision of authorization for a patient to use therapeutic marijuana or consultation solely for that purpose.

(4) "Qualifying medical condition" means one of the following conditions, if resistant to conventional medical therapy: a seizure disorder, including epilepsy, multiple sclerosis, glaucoma, severe nausea or vomiting resulting from the administration of chemotherapy, or terminal cancer.

(5) "Qualifying patient" means a resident of this state who is at least twenty-one years of age and who suffers from a qualifying medical condition and has been provided with a prescription for therapeutic marijuana by a physician who has a bona fide physician-patient relationship with that patient.

(6) "Therapeutic marijuana" means all parts of plants of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(7) "Therapeutic marijuana treatment center" means a Louisiana licensed pharmacy which has been issued a license pursuant to the provisions of this Part to perform activities necessary to provide qualifying patients with usable therapeutic marijuana and related paraphernalia in accordance with the provisions of this Part. This term shall include the pharmacy's owner and employees.

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(8) "Therapeutic use of marijuana" means the acquisition, possession, transport, or use of therapeutic marijuana or paraphernalia by a qualifying patient as authorized by this Part.

§1046.4. Prescription for therapeutic marijuana; limitations

A. Notwithstanding the provisions of R.S. 40:964 et seq., or any other provisions of law to the contrary, a physician as defined in this Part may prescribe therapeutic marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols for therapeutic use as authorized by the provisions of this Part if all of the following occur:

(1) The physician is a certified neurologist, oncologist, or ophthalmologist licensed to practice medicine in Louisiana.

(2) The physician is registered to prescribe controlled dangerous substances with the United States Drug Enforcement Administration.

(3) The physician has obtained a license to prescribe therapeutic marijuana as provided for by this Part.

(4) The physician has a bona fide physician-patient relationship with a patient who suffers from a qualifying medical condition and the physician determines that therapeutic marijuana is the best treatment option for that patient.

B. The prescriptive authority granted by the provisions of this Part shall only extend to certified neurologists, oncologists, and ophthalmologists as provided for by the provisions of this Part.

C. Therapeutic marijuana shall only be prescribed by physicians to qualifying patients for the treatment of a qualifying medical condition as provided for by the provisions of this Part.

§1046.5. Therapeutic Marijuana Utilization Review Board; creation; membership

A. The Therapeutic Marijuana Utilization Review Board is hereby created within the Department of Health and Hospitals.

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B. The board shall consist of the following members:

(1) The state health officer who shall serve as chairman.

(2) The commissioner of the Department of Agriculture and Forestry who shall serve as vice chairman.

(3) The secretary of the Department of Health and Hospitals or his designee.

(4) The executive director of the Louisiana Board of Pharmacy.

(5) The executive director of the Louisiana State Board of Medical Examiners.

(6) The chairman of the Senate Committee on Health and Welfare or his designee.

(7) The chairman of the House Committee on Health and Welfare or his designee.

(8) The president of the Louisiana State Medical Society or his designee.

(9) The director of the Louisiana State Police Crime Laboratory or his designee.

(10) Two members appointed by the governor.

C. Members of the board shall serve without compensation.

D. The Department of Health and Hospitals shall provide the staff and facilities needed by the board to accomplish its duties as provided in this Part.

§1046.6. Powers and duties of the board

A. The board shall:

(1) Work in conjunction with the commissioner of the Department of Agriculture and Forestry, the Louisiana Board of Pharmacy, and the Louisiana Board of Medical Examiners to facilitate the necessary licensing to prescribe, produce, and dispense therapeutic marijuana in Louisiana. This shall include accepting and approving the recommendations for licensing by the entities provided for in R.S. 40:1046.8.

(2) Meet at least quarterly and may meet upon the call of the chairman

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or any three members. Meetings of the board shall be open to the public in accordance with law.

(3) Review and establish standards, procedures, and protocols for determining the amounts of therapeutic marijuana that may be reasonably necessary to ensure uninterrupted availability for a period of one month for qualifying patients, including amounts for topical treatments.

(4) Prepare and submit electronically an annual report to the legislature and the governor regarding the therapeutic use of marijuana in the state of Louisiana. The report shall include at a minimum:

(a) Recommendations for all needed changes in the law regarding the therapeutic use of marijuana in Louisiana.

(b) A complete report on the receipt and expenditure of all funds received.

(c) Comprehensive data regarding the number of qualifying patients, therapeutic marijuana treatment centers, producers, production facilities, physicians, and dispensers, and the quantities of marijuana that have been prescribed for therapeutic use as provided for by this Part.

(5) Perform other duties related to the therapeutic use of marijuana upon the request of the governor or legislature.

(6) Establish and modify, as necessary, a plan of organization to administer the provisions of this Part efficiently and thoroughly.

(7) Analyze and review investigative and audit reports and findings.

(8) Issue a written response to any formal request from the governor and the legislature or any committee thereof.

(9) Appear before any committee of the legislature upon request of the president of the Senate, the speaker of the House, or the chairman of any legislative standing committee.

(10) Review and make recommendations for the approval of the medical conditions to be added to the list of qualifying medical conditions that qualify

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for the therapeutic use of marijuana.

(11) Work in conjunction with the Louisiana State Police Crime Laboratory to develop procedures for testing therapeutic marijuana samples for levels of tetrahydrocannabinol (THC) or other testing parameters deemed appropriate by the board.

(12) Maintain a list of all physicians, therapeutic marijuana treatment centers, therapeutic marijuana dispensers, therapeutic marijuana producers, and therapeutic marijuana production facilities licensed in Louisiana pursuant to the provisions of this Part.

B. The board shall adopt rules pursuant to the Administrative Procedure Act. Rules of the board shall be subject to legislative oversight and review. The legislative review of the rules shall be conducted by the Senate Committee on Health and Welfare and the House Committee on Health and Welfare.

C. The rules adopted pursuant to Subsection B of this Section shall include but shall not be limited to the following:

(1) Standards, procedures, and protocols for the effective use of therapeutic marijuana as authorized by the provisions of this Part.

(2) Standards, procedures, and protocols for the production, prescribing, and dispensing of therapeutic marijuana in Louisiana.

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

(4) A description of the areas in this state where therapeutic marijuana treatment centers shall not be located.

(5) Health, safety, and security requirements for therapeutic marijuana treatment centers, and therapeutic marijuana production facilities which may include but are not limited to:

(a) The ability to maintain adequate control against the diversion, theft,

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and loss of therapeutic marijuana acquired or possessed by the treatment center or production facility.

(b) The ability to maintain the knowledge, understanding, judgment, procedures, security controls, and ethics to ensure optimal safety and accuracy in the production, dispensing, and use of therapeutic marijuana.

(6) The establishment of standards and procedures for the revocation, suspension, and nonrenewal of licenses issued pursuant to this Part.

(7) The establishment of standards and procedures for the denial of licenses authorized pursuant to this Part.

(8) The establishment of other licensing, renewal and operational standards deemed necessary by the board.

(9) The establishment of standards, procedures, and protocols for determining the amount of usable 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.

(10) The development of a distribution system for therapeutic marijuana use that provides for both of the following:

(a) Therapeutic marijuana production facilities within this state that are housed on secured grounds and operated by licensed producers.

(b) The distribution of marijuana for therapeutic use to qualifying patients by therapeutic marijuana treatment centers.

(11) Procedures and protocols to provide that no producer may cultivate marijuana for therapeutic use outside of Louisiana and to designate permissible locations for licensed producers in Louisiana.

(12) The establishment of financial requirements for applicants of therapeutic marijuana production facilities, producers, and treatment centers under which each applicant demonstrates the following:

(a) The financial capacity to build and operate a therapeutic marijuana production facility or treatment center.

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(b) The ability to maintain an escrow account in a financial institution in Louisiana in an amount of two million dollars, if required by the board.

(13) The establishment of health, safety, and security requirements for licensed producers, and production facilities which shall include but shall not be limited to a requirement that the applicant demonstrate all of the following:

(a) The ability to maintain adequate control against the diversion, theft, and loss of therapeutic marijuana produced at that production facility.

(b) The ability to cultivate pharmaceutical grade marijuana for therapeutic use in a secure indoor facility.

(14) The establishment of standards, procedures, and protocols to ensure that all therapeutic marijuana produced and distributed at a therapeutic marijuana treatment center as authorized by the provisions of this Part is consistently pharmaceutical grade.

(15) The establishment of standards and procedures for the revocation, suspension, and nonrenewal of licenses, provided the standards and procedures are consistent with the provisions this Part.

(16) The establishment of other licensing, renewal, and operational standards which are deemed necessary by the board.

(17) The establishment of standards, procedures, and protocols for the development of a Radio Frequency Identification (RFID) system, or Global Positioning System (GPS), or an equivalent inventory tracking program for the tracking of therapeutic marijuana.

(18) The establishment of standards and procedures for testing therapeutic marijuana samples for levels of tetrahydrocannabinol (THC) or other testing parameters deemed appropriate by the board.

§1046.7. Louisiana Therapeutic Use of Marijuana Fund

A. The Louisiana Therapeutic Use of Marijuana Fund, hereinafter referred to as the "fund", is hereby created in the state treasury. Interest earned on the investment of monies in the fund shall be deposited in and

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credited to the fund. Unexpended and unencumbered monies in the fund at the close of each fiscal year shall remain in the fund. Monies in the fund shall be appropriated, administered, and used solely and exclusively for purposes of this Part.

B. The fund shall be comprised of all fines, fees, and other monies appropriated, donated, or otherwise made available to provide funding for the provisions of the Louisiana Therapeutic Use of Marijuana Act. All of such monies required to be deposited in the state treasury in accordance with Article VII, Section 9(A) of the Constitution of Louisiana shall be deposited in the fund after first meeting the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund.

C. Monies in the fund shall be appropriated and used solely and exclusively to provide for the implementation of the provisions of this Part.

D. The fund shall be administered by the board as authorized by the provisions of this Part. The board is hereby authorized to establish such accounts or sub-accounts within the fund as deemed necessary to comply with the provisions of the Louisiana Therapeutic Use of Marijuana Act. The board shall not comingle the monies in the fund established in this Section with any other monies or funds of the board for any reason.

E. The Department of Agriculture and Forestry, the Louisiana Board of Medical Examiners, and the Louisiana Board of Pharmacy shall be reimbursed for any expenses those departments incur for the investigation and licensing functions they perform as provided for by this Part.

§1046.8. Suitability for licensing; qualifications for licensing

A. No person shall be eligible to obtain any license or obtain any other approval pursuant to the provisions of this Part unless the applicant has demonstrated by clear and convincing evidence that he is suitable as provided in this Section.

B. To be suitable, an applicant shall be:

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(1) A resident of the state.

(2) Twenty-one years of age or older.

(3) A person of good character, honesty, and integrity.

(4) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation and the use of therapeutic marijuana.

(5) A person who is capable of and likely to conduct the activities for which the applicant is licensed. This shall include the financial capability to conduct the activities for which the applicant is licensed.

(6) A person who does not owe the state or any local governing authority or any municipality any delinquent sales taxes, penalties, or interest, excluding items under formal appeal or protest as provided by law.

(7) A person who agrees in writing to hold harmless and indemnify the licensing authority, the state, or the board for any and all liability arising out of the issuance of the license authorized pursuant to this Part.

(8) A person who is not disqualified pursuant to the provisions of Subsection C of this Section.

C. No licensing authority provided for by this Part shall issue a license to any person who is disqualified on the basis of the following criteria:

(1) The conviction or a plea of guilty or nolo contendere by the applicant or any person required to be suitable under the provisions of this Part for any of the following:

(a) Any offense punishable by imprisonment of more than one year.

(b) Any offense involving a controlled dangerous substance.

(c) A crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:141.

(2) There is a current prosecution or pending charge against the person in any jurisdiction for any offense listed in Paragraph (1) of this Subsection.

(3) The person is not current in filing all applicable tax returns and in

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the payment of all taxes, penalties, and interest owed to the state of Louisiana or any political subdivision of Louisiana, excluding items under formal appeal.

(4) The failure to provide information and documentation to reveal any fact material to a suitability determination, or the supplying of information which is untrue or misleading as to a material fact pertaining to the suitability criteria.

§1046.9. License applications; licensing authority

A. An application for any license as authorized by the provisions of this Part shall be made to the respective licensing authorities on forms furnished by those authorities.

B. The licenses provided for by this Part shall be issued for a term of two years by the following licensing authorities:

(1) A therapeutic marijuana treatment center license shall be issued by the Louisiana Board of Pharmacy.

(2) A therapeutic marijuana dispensing agent license shall be issued by the Louisiana Board of Pharmacy.

(3) A license to prescribe therapeutic marijuana shall be issued by the Louisiana Board of Medical Examiners.

(4) A therapeutic marijuana production facility license shall be issued by the commissioner of the Department of Agriculture and Forestry.

(5) A therapeutic marijuana producer license shall be issued by the commissioner of the Department of Agriculture and Forestry.

§1046.10. Qualifications for physician licensing to prescribe therapeutic marijuana

The Louisiana Board of Medical Examiners shall issue a license to prescribe therapeutic marijuana to a qualified physician upon satisfaction of all of the following criteria:

(1) The physician has been certified as a neurologist, oncologist, or ophthalmologist.

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(2) The physician meets the suitability requirements as provided for in R.S. 40:1046.7.

(3) The physician holds a current and unrestricted license in good standing to practice medicine issued by the Louisiana State Board of Medical Examiners.

(4) The physician holds a controlled dangerous substance permit issued by the Louisiana Board of Pharmacy.

(5) The physician holds a controlled dangerous substance permit and registration issued by the state and the United States Drug Enforcement Agency.

(6) The physician is in compliance with any criteria established by rules adopted by the Therapeutic Marijuana Utilization Review Board.

§1046.11. Qualifications for licensing of therapeutic marijuana dispensing agent

The Louisiana Board of Pharmacy shall issue a license to dispense therapeutic marijuana to a qualified pharmacist upon satisfaction of all of the following criteria:

(1) The pharmacist meets the suitability requirements as provided for in R.S. 40:1046.7.

(2) The pharmacist is a resident of this state for not less than six months.

(3) The pharmacist is currently licensed to engage in the practice of pharmacy in this state.

(4) The pharmacist is actively engaged in the practice of pharmacy in this state and is employed by, or is the owner of, a therapeutic marijuana treatment center.

(5) The pharmacist has at least five years of experience in the practice of pharmacy in this state.

(6) The pharmacist is in compliance with any criteria established by rules adopted by the Therapeutic Marijuana Utilization Review Board.

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§1046.12. Therapeutic marijuana treatment facility; number of facilities; permit requirements

A. The Louisiana Board of Pharmacy shall issue a license to an applicant to operate a therapeutic marijuana treatment facility upon satisfaction of all of the following criteria:

(1) The owner of the facility meets the suitability requirements as provided for in R.S. 40:1046.7.

(2) The facility employs a therapeutic marijuana dispensing agent who is a pharmacist licensed by the Louisiana Board of Pharmacy and also has been issued a current and valid license to dispense therapeutic marijuana pursuant to the provisions of R.S. 40:1046.

(3) The therapeutic marijuana treatment facility is a pharmacy in good standing and has been issued a pharmacy permit from the Louisiana Board of Pharmacy.

(4) The owner of the therapeutic marijuana treatment facility is the holder of a valid and current controlled dangerous substances permit issued by the Louisiana Board of Pharmacy.

(5) The facility is in compliance with any criteria established by rules adopted by the Therapeutic Marijuana Utilization Review Board.

B. There shall be a maximum of ten therapeutic marijuana treatment facilities in the state of Louisiana. One facility shall be located in each human services district as provided for in R.S. 28:912(B).

§1046.13. Therapeutic marijuana production facilities; number of facilities

A. The commissioner of the Department of Agriculture and Forestry shall issue a license to an applicant to operate a therapeutic marijuana production facility upon satisfaction of all of the following criteria:

(1) The owner of the facility meets the suitability requirements as provided for in R.S. 40:1046.7.

(2) The owner of the facility demonstrates the financial capacity to build

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and operate a therapeutic marijuana production facility.

(3) The owner of the facility demonstrates the ability to maintain an escrow account in a financial institution in Louisiana in an amount of two million dollars if required by the board.

(4) The owner of the facility demonstrates all of the following:

(a) The ability to maintain adequate control against the diversion, theft, and loss of therapeutic marijuana produced at that production facility.

(b) The ability to cultivate pharmaceutical grade marijuana for therapeutic use in a secure indoor facility.

(c) The ability to produce and cultivate therapeutic marijuana with a guaranteed tetrahydrocannabinol (THC) percentage level as established by the board.

(d) The ability to provide for secured inventory and computer inventory tracking of all therapeutic marijuana produced at that facility.

(5) The owner of the facility establishes standards and protocols to ensure that all therapeutic marijuana produced and distributed at a therapeutic marijuana treatment center as authorized by the provisions of this Part is consistently pharmaceutical grade.

B. There shall be a maximum of six marijuana production facilities in the state, one for each congressional district.

§1046.14. Exemption from criminal prosecution

A. No patient who has a prescription for therapeutic marijuana shall be arrested or prosecuted for possession of marijuana in violation of R.S. 40:966(E) if the patient is in possession of the marijuana pursuant to the provisions of this Part.

B. No therapeutic marijuana dispenser, therapeutic marijuana producer, or any employee of a therapeutic marijuana treatment facility or therapeutic marijuana production facility shall be prosecuted for the production, manufacturing, dispensing or distributing marijuana or possession

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with intent to produce, manufacture, dispense or distribute marijuana in violation of R.S. 40:966(A) if the dispensing agent or the employee is in the course and scope of his employment and in compliance with the provisions of this Part.

C. The provisions of this Section shall not be construed to exempt a therapeutic marijuana dispenser, producer, or employee of a therapeutic marijuana treatment facility or production facility from any criminal provisions provided for in the Uniform Controlled Dangerous Substances Act or in any other provision of law if the dispenser, producer, or their employees are not in compliance with the provisions of this Part and the activity is directly related to the course and scope of their duties as provided by this Part.

§1046.15. Therapeutic marijuana not covered by health insurance

The provisions of this Part shall not be construed to require any insurance company, health maintenance organization, or any other health insurance issuer to cover, reimburse, or provide for any costs associated with the expenses of obtaining therapeutic marijuana or any items, services, supplies, or paraphernalia related to the use of therapeutic marijuana as authorized by the provisions of this Part.

Section 2. No license shall be issued as authorized by the provisions of this Part until the Louisiana Therapeutic Utilization Review Board has adopted all rules required to implement the provisions of this Part.

Section 3. The provisions of this Act shall be effective on January 1, 2015.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christopher D. Adams.

DIGEST

Mills (SB 541)

Present law authorizes the prescribing of therapeutic marijuana for certain medical conditions.

Proposed law deletes present law.

Proposed law provides that a physician as defined may prescribe therapeutic marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols for therapeutic use

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if all of the following occur:

(1) The physician is a certified neurologist, oncologist, or ophthalmologist licensed to practice medicine in Louisiana.

(2) The physician is registered to prescribe controlled dangerous substances with the DEA.

(3) The physician has obtained a license to prescribe therapeutic marijuana.

(4) The physician has a bonafide physician-patient relationship with a patient who suffers from a qualifying medical condition and the physician determines that therapeutic marijuana is the best treatment option for that patient.

Proposed law provides that the prescriptive authority shall only extend to certified neurologists, oncologists, and ophthalmologists and shall only be prescribed for the treatment of a qualifying medical condition.

Proposed law creates the Therapeutic Marijuana Utilization Review Board and provides for its membership.

Proposed law provides that the board shall have rulemaking authority and shall work in conjunction with the commissioner of the Dept. of Agriculture and Forestry, the Louisiana Board of Pharmacy, and the Louisiana Board of Medical Examiners to facilitate the necessary licensing to prescribe, produce, and dispense therapeutic marijuana in Louisiana.

Proposed law places the Therapeutic Marijuana Utilization Review Board within the Department of Health and Hospitals.

Proposed law provides that the Dept. of Health and Hospitals shall supply staffing and facilities to assist the board in administering the provisions of proposed law.

Proposed law establishes criteria and licensing qualifications for therapeutic marijuana dispensers, therapeutic marijuana treatment facilities, therapeutic marijuana producers, therapeutic marijuana production facilities, and physicians licensed to prescribe therapeutic marijuana and authorizes the board to develop the policies to implement proposed law through the adoption of rules.

Proposed law provides that the House and Senate committees on health and welfare shall have oversight over rules adopted by the Therapeutic Marijuana Utilization Review Board.

Proposed law provides that the applicant for any license must be determined to be suitable which means that the applicant is:

(1) A resident of the state.

(2) 21 years of age or older.

(3) A person of good character, honesty, and integrity.

(4) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest.

(5) A person who is capable of and likely to conduct the activities for which the applicant is licensed.

(6) A person who does not owe the state or any local governing authority or any municipality any delinquent sales taxes, penalties, or interest.

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(7) A person who agrees in writing to hold harmless and indemnify the licensing authority, the state, or the board for any and all liability arising out of the issuance of the license.

(8) A person who is not disqualified.

Proposed law provides that a person will be disqualified from obtaining a license based upon any of the following:

(1) The conviction or a plea of guilty or nolo contendere by the applicant for any offense punishable by imprisonment of more than one year, any offense involving a controlled dangerous substance, or a crime of violence or a sex offense.

(2) The person is not current in filing all applicable tax returns and in the payment of all taxes, penalties, and interest owed to the state of Louisiana or any political subdivision of Louisiana, excluding items under formal appeal.

(3) The failure to provide information and documentation to reveal any fact material to a suitability determination, or the supplying of information which is untrue or misleading as to a material fact pertaining to the suitability criteria.

Provides that the licenses provided for by proposed law shall be issued by the following licensing authorities:

(1) A therapeutic marijuana treatment center license shall be issued by the Louisiana Board of Pharmacy.

(2) A therapeutic marijuana dispensing agent license shall be issued by the Louisiana Board of Pharmacy.

(3) A license to prescribe therapeutic marijuana shall be issued by the Louisiana Board of Medical Examiners.

(4) A therapeutic marijuana production facility license shall be issued by the commissioner of the Dept. of Agriculture and Forestry.

(5) A therapeutic marijuana producer license shall be issued by the commissioner of the Dept. of Agriculture and Forestry.

Proposed law provides for the creation of the Louisiana Therapeutic Use of Marijuana Fund. Provides that the fund shall be administered by the board.

Proposed law provides that the Dept. of Agriculture and Forestry, the Louisiana Board of Medical Examiners, and the Louisiana Board of Pharmacy shall be reimbursed for any expenses those departments incur for the investigation and licensing functions.

Proposed law provides for an exemption from prosecution if a person is in possession or producing, manufacturing, dispensing, or distributing therapeutic marijuana as authorized by proposed law.

Proposed law provides that therapeutic marijuana shall not be covered by health insurance.

Proposed law provides that no licenses shall be issued until all rules have been adopted.

Effective January 1, 2015.

(Amends R.S. 40:1046.1-1046.15; adds R.S. 36:259(OO))

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