

ACT No. 708

2018 Regular Session

HOUSE BILL NO. 579

BY REPRESENTATIVES JAMES AND COX

1 AN ACT

2 To amend and reenact R.S. 40:1046(A)(1) and (2) and (J), and R.S. 40:1046(A)(1) and (2)
3 and (J) as amended and reenacted by Section 2 of Act No. 96 of the 2016 Regular
4 Session of the Legislature of Louisiana and to enact R.S. 40:1046(K) and R.S.
5 40:1046(K) of Section 2 of Act No. 96 of the 2016 Regular Session of the
6 Legislature of Louisiana, relative to the authorization of marijuana for therapeutic
7 use; to provide for debilitating medical conditions; to provide for definitions; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:1046(A)(1) and (2) and (J) are hereby amended and and reenacted
11 and R.S. 40:1046(K) is hereby enacted to read as follows:

12 §1046. Recommendation of marijuana for therapeutic use; rules and regulations;
13 Louisiana Board of Pharmacy and the adoption of rules and regulations
14 relating to the dispensing of recommended marijuana for therapeutic use; the
15 Department of Agriculture and Forestry and the licensure of a production
16 facility

17 A.(1) Notwithstanding any other provision of this Part, a physician licensed
18 by and in good standing with the Louisiana State Board of Medical Examiners to
19 practice medicine in this state and who is domiciled in this state may recommend,
20 in any form as permitted by the rules and regulations of the Louisiana Board of
21 Pharmacy except for inhalation, and raw or crude marijuana, tetrahydrocannabinols,

1 or a chemical derivative of tetrahydrocannabinols for therapeutic use by patients
2 clinically diagnosed as suffering from a debilitating medical condition.

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

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

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

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

29 * * *

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

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

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

6 Section 2. R.S. 40:1046(A)(1) and (2) and (J) as amended and reenacted by Section
 7 2 of Act No. 96 of the 2016 Regular Session of the Legislature of Louisiana are hereby
 8 amended and reenacted and R.S. 40:1046(K) is hereby enacted to read as follows:

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

10 §1046. Prescription of marijuana for therapeutic use; rules and regulations;
 11 Louisiana Board of Pharmacy and the adoption of rules and
 12 regulations relating to the dispensing of prescribed marijuana for
 13 therapeutic use; the Department of Agriculture and Forestry and the
 14 licensure of a production facility

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

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

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

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

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

* * *

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

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____