
SENATE COMMITTEE AMENDMENTS

2016 Regular Session

Amendments proposed by Senate Committee on Health and Welfare to Original Senate Bill
No. 271 by Senator Mills

1 AMENDMENT NO. 1

2 On page 1, line 2, after "40:1046" insert "and to enact R.S. 40:1047"

3 AMENDMENT NO. 2

4 On page 1, line 4, after "agencies;" insert "to provide for criminal background history; to
5 provide for enactment of provisions upon reclassification by the United States Drug
6 Enforcement Administration;"

7 AMENDMENT NO. 3

8 On page 1, line 7, after "reenacted" insert "and R.S. 40:1047 is hereby enacted"

9 AMENDMENT NO. 4

10 On page 1, line 8, after "§1046." change "Prescription" to "**Recommendation**"

11 AMENDMENT NO. 5

12 On page 1, line 10, after "of" change "prescribed" to "**recommended**"

13 AMENDMENT NO. 6

14 On page 2, line 13, after "**syndrome,**" delete the remainder of the line

15 AMENDMENT NO. 7

16 On page 2, line 14, delete "**medical condition or its treatment that produces**"

17 AMENDMENT NO. 8

18 On page 2, line 15, after "**epilepsy,**" insert "**spasticity,**"

19 AMENDMENT NO. 9

20 On page 2, line 15, delete "**including those characteristic**" and on line 16 delete "**of**"

21 AMENDMENT NO. 10

22 On page 2, line 16, after "**Crohn's disease**" insert "**, muscular dystrophy**"

23 AMENDMENT NO. 11

24 On page 3, line 13, after "of" change "prescribed" to "**recommended**"

25 AMENDMENT NO. 12

26 On page 5, line 9, change "prescribed" to "**recommended**"

27 AMENDMENT NO. 13

28 On page 5, line 11, delete "prescriber and dispenser of" and insert "**person who**
29 **recommends and person who dispenses**"

1 AMENDMENT NO. 14

2 On page 5, line 14, change "prescribing" to "**recommending**"

3 AMENDMENT NO. 15

4 On page 5, line 16, change "prescribed" to "**recommended**"

5 AMENDMENT NO. 16

6 On page 5, line 22, change "prescribed" to "**recommended**"

7 AMENDMENT NO. 17

8 On page 5, line 27, after "(2)" insert "**(a)**"

9 AMENDMENT NO. 18

10 On page 5, line 28, change "prescribed" to "**recommended**"

11 AMENDMENT NO. 19

12 On page 5, line 29, after "use" insert a ":

13 AMENDMENT NO. 20

14 On page 5, line 29, delete "and" and insert "**Other than the licenses granted pursuant to**
15 **Subparagraph (b) of this Paragraph, the Department of Agriculture and Forestry**"

16 AMENDMENT NO. 21

17 On page 6, between lines 5 and 6, insert the following:

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

22 AMENDMENT NO. 22

23 On page 8, between lines 17 and 18, insert:

24 **"§1047. Louisiana Department of Agriculture and Forestry; authorization to**
25 **obtain criminal history record information**

26 **A. As used in this Part the following terms shall have the following**
27 **meaning:**

28 **(1) "Applicant" means a natural person, a corporation, limited liability**
29 **company, partnership, joint stock association, sole proprietorship, joint**
30 **venture, business association, cooperative association, professional corporation**
31 **or any other legal entity or organization through which business is conducted.**

32 **(2) "Bureau" means the Louisiana Bureau of Criminal Identification and**
33 **Information of the office of state police within the Department of Public Safety**
34 **and Corrections.**

35 **(3) "Criminal history record information" means information collected**
36 **by state and federal criminal justice agencies on individuals consisting of**
37 **identifiable descriptions and notations of arrests, detentions, indictments, bills**
38 **of information, or any formal criminal charges, and any disposition arising**
39 **therefrom, including sentencing, criminal correctional supervision, and release.**
40 **It shall not include intelligence information gathered for investigatory purposes**
41 **or any identification information which does not indicate involvement of the**
42 **individual in the criminal justice system.**

1 (4) "Department" means Louisiana Department of Agriculture and
 2 Forestry.

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

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

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

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

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

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

18 C. In accordance with the provisions and procedure prescribed by this
 19 Part, the department shall request and obtain state and national criminal
 20 history record information from the bureau and the FBI relative to any
 21 applicant for licensure whose fingerprints the department has obtained
 22 pursuant to this Part for the purpose of determining the applicant's suitability
 23 and eligibility for licensure.

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

30 E. Any and all state or national criminal history record information
 31 obtained by the department from the bureau or FBI which is not already a
 32 matter of public record shall be deemed nonpublic and confidential information
 33 restricted to the exclusive use by the department in evaluating the applicant's
 34 eligibility or disqualification for licensure. No such information or records
 35 related thereto shall, except with the written consent of the applicant or by
 36 order of a court of competent jurisdiction, be released or otherwise disclosed by
 37 the department to any other person or agency.

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

39 §1046. Prescription of marijuana for therapeutic use; rules and regulations;
 40 Louisiana Board of Pharmacy and the adoption of rules and
 41 regulations relating to the dispensing of prescribed marijuana for
 42 therapeutic use; the Department of Agriculture and Forestry and the
 43 licensure of a production facility

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

58 (2) For purposes of this Subsection, "debilitating medical condition"
 59 means cancer, glaucoma, positive status for human immunodeficiency virus,

1 acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure
 2 disorders, epilepsy, spasticity, severe muscle spasms, Crohn's disease or
 3 multiple sclerosis.

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

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

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

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

25 C.(1) The Louisiana Board of Pharmacy shall adopt rules relating to the
 26 dispensing of prescribed marijuana for therapeutic use no later than December 1,
 27 2016. The Louisiana Board of Pharmacy shall seek input from groups including but
 28 not limited to the following:

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

30 (b) ~~Professional law enforcement associations, organizations, and~~
 31 ~~commissions.~~

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

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

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

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

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

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

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

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

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

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

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

57 (k) The establishment of financial requirements for applicants of therapeutic
 58 marijuana dispensing pharmacy license under which each applicant demonstrates the
 59 following:

60 (i) The financial capacity to operate a therapeutic marijuana dispensing
 61 pharmacy.

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

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

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

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

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

15 ~~H.F.~~ A prescriber and dispenser of marijuana, tetrahydrocannabinols, or a
16 chemical derivative of tetrahydrocannabinols pursuant to this Section shall review
17 the patient's information in the Prescription Monitoring Program database prior to
18 the prescribing 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 marijuana
21 for therapeutic use and shall limit the number of such licenses granted in the state to
22 no more than ten licensees. The Louisiana Board of Pharmacy shall develop rules
23 and regulations regarding the geographical locations of dispensing pharmacies in
24 Louisiana.

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

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

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

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

50 (4)(a) The Department of Agriculture and Forestry shall grant the license
51 pursuant to a contract awarded through a competitive sealed bid or a competitive
52 sealed proposal as provided for in R.S. 39:1594 and 1595. The contract for the
53 license shall be subject to the Louisiana Procurement Code and shall not be subject
54 to any exceptions to or other variances from the Louisiana Procurement Code. The
55 contract shall not be awarded under the sole source procurement provisions provided
56 for in R.S. 39:1597.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 AMENDMENT NO. 23

55 On page 8, line 18, after "Section" change "2" to "3"

56 AMENDMENT NO. 24

57 On page 8, after line 22, insert:

1 "Section 4. The provisions of Section 1 of this Act amending and reenacting R.S.
2 40:1046 shall become null and void and of no effect upon the reclassification by the United
3 States Drug Enforcement Administration of marijuana from a Schedule I drug to a Schedule
4 II drug under the authority of the Controlled Substances Act, 21 U.S.C. §801 et seq., at
5 which time the provisions of Section 2 of this Act amending and reenacting R.S. 40:1046
6 shall become effective."