

## HOUSE SUMMARY OF SENATE AMENDMENTS

HB 697

2022 Regular Session

Magee

MEDICAL MARIJUANA: Reforms the state systems for regulating the production of marijuana for therapeutic use and for the dispensing of such product

### Synopsis of Senate Amendments

1. Revises proposed law on awarding of a minimum number of marijuana pharmacy licenses by the La. Board of Pharmacy to require that the board award one license per region, according to the regional system provided in proposed law, plus one additional license to the region with the highest population density as of Aug. 1, 2022.
2. Changes the regional structure established in proposed law for allocation of marijuana pharmacy licenses from regions corresponding to the state's ten human services districts and authorities to regions corresponding to the nine administrative regions of the La. Dept. of Health.
3. Requires the La. Board of Pharmacy to consider the status of a marijuana pharmacy applicant as a minority-, woman-, or veteran-owned business as a primary factor in awarding a license.
4. Increases the regional patient count threshold qualifying a region for an additional marijuana pharmacy from 2,500 new patients to 3,500 new patients.
5. Designates the additional marijuana pharmacies which may be established in any region based on increasing patient counts as "satellite locations." Defines "satellite location" as an additional marijuana pharmacy location operated by a marijuana pharmacy licensee within the licensee's geographic region but physically separate from the location of the originally licensed marijuana pharmacy.
6. Revises procedure established in proposed law for establishment of additional marijuana pharmacies to provide as follows:
  - a. If the marijuana pharmacy licensee opens a satellite location and the original location and the satellite location are each serving 3,500 active, qualified patients, then the La. Board of Pharmacy shall allow the marijuana pharmacy licensee in that region to open one additional location as a second satellite location in that region.
  - b. If a marijuana pharmacy licensee declines to open a second satellite location, then the La. Board of Pharmacy may issue an additional marijuana pharmacy license in that region to open one marijuana pharmacy location in lieu of the original licensee's second satellite location in that region.
  - c. The La. Board of Pharmacy shall consider any unserved parishes within the region when approving a satellite location or additional marijuana pharmacy for licensure.
7. Stipulates that, in total, no more than 30 marijuana pharmacy locations, including satellite locations, may approved by the La. Board of Pharmacy pursuant to proposed law.
8. Stipulates that proposed law shall not be construed to do any of the following:

- a. Authorize a marijuana pharmacy licensee to open more than two satellite locations in a single region.
  - b. Require the closure of any marijuana pharmacy location, including a satellite location, if the active, qualified patient count drops below 3,500 after the location is approved by the La. Board of Pharmacy.
9. Provides that applicants, other than the agricultural chemistry laboratory of the La. Dept. of Agriculture and Forestry, for therapeutic marijuana laboratory licenses created by proposed law may provide the following as proof of required accreditation:
- a. Documentation that the owner has operated a state-approved, active medical marijuana laboratory in another state for at least the past 12 months.
  - b. Accreditation by the International Organization for Standardization (ISO) or other accrediting entity approved by the La. Dept. of Health or a pending application for ISO accreditation. Provides, however, that if the accreditation is not achieved within nine months of the department's inspection, the department shall not accept any additional certificates of analysis from the laboratory until the accreditation is received.
10. Revises proposed law relative to testing of therapeutic marijuana products to specify that each batch of finished product shall pass all applicable testing standards prior to transportation of the product to a marijuana pharmacy.
11. Repeals present law requiring that administrative rules of the La. Board of Pharmacy relative to dispensing of medical marijuana include the following:
- a. Standards, procedures, and protocols for determining the amount of usable recommended therapeutic marijuana that is necessary to constitute an adequate supply to ensure uninterrupted availability for a period of one month.
  - b. Standards, procedures, and protocols to ensure that all recommended therapeutic marijuana dispensed, except for raw or crude marijuana, is consistently pharmaceutical grade.
12. Repeals date-specific provisions of present law that have expired.
13. Changes the regulatory authority referred to in certain provisions of proposed law from the La. Board of Pharmacy to the La. Department of Health for consistency with previously adopted House amendments.
14. Changes the effective date of proposed law from date of signature by the governor or lapse of time for gubernatorial action to Aug. 1, 2022.
15. Makes technical changes.

### **Digest of Bill as Finally Passed by Senate**

Proposed law revises laws establishing and providing for a regulatory system for marijuana for therapeutic use, known commonly as medical marijuana, in the following ways:

- (1) Transfers duties for licensure and regulation of medical marijuana production

facilities from the La. Dept. of Agriculture and Forestry (LDAF) to the La. Dept. of Health (LDH).

- (2) Transfers duties with respect to testing of medical marijuana from LDAF to LDH.
- (3) Provides requirements and standards for laboratories that conduct testing of medical marijuana.
- (4) Provides for selection of marijuana production contractors by licensed producers of medical marijuana and for oversight and regulation of such contractors.
- (5) Repeals the ten-license limit on marijuana pharmacy licenses provided in present law. Provides instead for a minimum number of licenses (ten) along with a system for increasing the number of licenses issued contingent upon increases in medical marijuana patient counts.

Present law provides for licensure of marijuana pharmacies by the La. Board of Pharmacy ("board"). Provides that the board shall limit the number of such licenses granted in the state to no more than ten licensees. Proposed law revises present law by requiring the board to do the following:

- (1) Award a minimum of one license in each of nine regions established in proposed law.
- (2) Award one additional license to the region with the highest population density as of Aug. 1, 2022.
- (3) Award each license through a competitive process.
- (4) Consider the status of a marijuana pharmacy applicant as a minority-, woman-, or veteran-owned business as a primary factor in awarding a license.
- (5) Increase incrementally the number of licenses issued based upon increases in medical marijuana patient counts by region.

Proposed law provides that the regions among which the board shall allocate marijuana pharmacy licenses shall correspond to the sets of parishes comprising, respectively, the nine administrative regions of LDH.

Proposed law provides for the following system for incrementally increasing the number of marijuana pharmacy licenses issued by the board:

- (1) After 3,500 active, qualified patients are identified in the prescription monitoring program in a region, the board shall allow the marijuana pharmacy licensee in that region to open one additional marijuana pharmacy location as a satellite location in that region. Provides that for the purposes of proposed law, "satellite location" means an additional marijuana pharmacy location operated by a marijuana pharmacy licensee within the licensee's geographic region but physically separate from the location of the originally licensed marijuana pharmacy.
- (2) If the marijuana pharmacy licensee opens a satellite location and the original location and the satellite location are each serving 3,500 active, qualified patients, then the board shall allow the marijuana pharmacy licensee in that region to open one additional marijuana pharmacy location as a second satellite location in that region.
- (3) If a marijuana pharmacy licensee declines to open a second satellite location, then the board may issue an additional marijuana pharmacy license in that region to open one marijuana pharmacy location in lieu of the original licensee's second satellite location in that region.

- (4) The board shall consider any unserved parishes within the region when approving a satellite location or additional marijuana pharmacy for licensure.

Proposed law stipulates that, in total, no more than 30 marijuana pharmacy locations, including satellite locations, may be approved by the board pursuant to proposed law. Further stipulates that proposed law shall not be construed to do any of the following:

- (1) Authorize a marijuana pharmacy licensee to open more than two satellite locations in a single region.
- (2) Require the closure of any marijuana pharmacy location, including a satellite location, if the active, qualified patient count drops below 3,500 after the location is approved by the board.

Proposed law prohibits any marijuana pharmacy from locating within a 15-mile radius of another marijuana pharmacy, with the following exceptions:

- (1) In a region that encompasses any parish with a population of more than 350,000 persons according to the most recent federal decennial census, no marijuana pharmacy shall locate within a ten-mile radius of another marijuana pharmacy.
- (2) In a region that encompasses any municipality with a population of more than 350,000 persons according to the most recent federal decennial census, no marijuana pharmacy shall locate within a five-mile radius of another marijuana pharmacy.

Proposed law requires each marijuana pharmacy licensed in accordance with proposed law to offer home delivery to patients in each zip code within its region at least once per month.

Proposed law repeals present law requiring that administrative rules of the board relative to dispensing of medical marijuana include the following:

- (1) Standards, procedures, and protocols for determining the amount of usable recommended therapeutic marijuana that is necessary to constitute an adequate supply to ensure uninterrupted availability for a period of one month.
- (2) Standards, procedures, and protocols to ensure that all recommended therapeutic marijuana dispensed, except for raw or crude marijuana, is consistently pharmaceutical grade.

Proposed law recognizes and declares that both the Louisiana State University Agricultural Center (LSU Ag Center) and the Southern University Agricultural Center (SU Ag Center) timely exercised and asserted their intent to be licensed to produce recommended marijuana for therapeutic use in this state in accordance with the provisions of Act No. 261 of the 2015 RS. Repeals present law providing procedures for selection and licensing of a therapeutic marijuana producer in the event that neither the LSU Ag Center nor the SU Ag Center is licensed as a production facility.

Proposed law requires the LSU Ag Center and SU Ag Center to select and contract with only one contractor apiece for production of medical marijuana. Provides that the selection process and contracting provided for in proposed law shall be done in accordance with all applicable provisions of the La. Procurement Code (present law, R.S. 39:1551 et seq.). Requires each contractor and the university with which it contracts to execute an agreement for services.

Proposed law provides requirements and standards for marijuana production contractors of licensed producers of medical marijuana, including requirements and standards with respect to all of the following:

- (1) Initial inspections of contractor facilities.

- (2) Inspections of contractor facilities subsequent to initial inspections.
- (3) Security at contractor facilities.
- (4) Visitors at contractor facilities.
- (5) Data management by contractors.
- (6) Contractors' inventory.
- (8) Material safety data sheet requirements.
- (9) Transportation of therapeutic marijuana by contractors.

Proposed law provides that the licensed marijuana production facility or its contractor shall remit to the La. Department of Revenue the proceeds of the fee on gross sales of therapeutic marijuana established in present law (R.S. 40:1046(H)(8)(a)(iii)).

Proposed law requires that marijuana produced for therapeutic use be tested by a facility licensed by LDH in accordance with proposed law as a therapeutic marijuana laboratory. Requires that applicants for licensure as a therapeutic marijuana laboratory provide proof of accreditation to the department in accordance with standards and requirements of proposed law. Stipulates that the LDAF agricultural chemistry laboratory shall be exempt from the application process and deemed approved as a therapeutic marijuana laboratory.

Proposed law requires that each batch of finished therapeutic marijuana product pass all applicable testing requirements and standards provided in proposed law prior to transportation of the product to a marijuana pharmacy.

Proposed law requires LDAF to continue to conduct laboratory testing of marijuana produced for therapeutic use according to applicable rules and regulations in effect on the effective date of proposed law, unless otherwise provided for in rules of LDH, until at least two additional laboratories are approved by LDH and have both been operational for a minimum of six months to ensure a reliable, adequate, and uninterrupted supply of therapeutic marijuana to Louisiana patients.

Proposed law requires that LDH temporarily follow existing administrative rules relative to marijuana for therapeutic use promulgated by LDAF until such time as it adopts all necessary emergency rules and permanent rules relating to cultivation, extraction, processing, production, and transportation of such product.

Proposed law authorizes the University of Louisiana at Monroe to conduct research on marijuana for therapeutic use.

(Amends R.S. 40:1046(A)(1), (C)(1) and (2)(intro. para.), (G), and (H)(1), (2), (6)(a)(intro. para.) and (b), and (8)(a)(intro. para.) and (iii); Adds R.S. 40:1046(A)(7), (B), and 1046.1-1046.3; Repeals R.S. 40:1046(C)(2)(d), (e), and (h) and (H)(3)-(5))