2022 Regular Session

HOUSE BILL NO. 190

1

## BY REPRESENTATIVES TRAVIS JOHNSON AND GLOVER

2	To amend and reenact R.S. 40:966(F)(1), (7), and (8)(a), 1046(A)(1), (2)(a)(xviii), (xxii),
3	and (b), (3), (4), (5)(b), (6), and (C)(1), 1168.2(2) through (5), and
4	1168.3(A)(1)(b)(iii), (iv), and (2)(b) and to enact R.S. 40:1046(B), relative to the
5	recommendation to patients of marijuana for therapeutic use, known also as medical
6	marijuana; to provide relative to licensed health professionals who may recommend
7	medical marijuana to patients; to authorize nurse practitioners with prescriptive
8	authority to recommend medical marijuana to patients; to authorize medical
9	psychologists to recommend medical marijuana to patients; to revise references to
10	licensed health professionals who may recommend medical marijuana to patients
11	within laws providing for immunity from prosecution for possession of marijuana;
12	to revise references to licensed health professionals who may recommend medical
13	marijuana to patients within laws providing for a data system for the collection and
14	analysis of clinical information associated with use of medical marijuana; and to
15	provide for related matters.
16	Be it enacted by the Legislature of Louisiana:
17	Section 1. R.S. 40:966(F)(1), (7), and (8)(a), 1046(A)(1), (2)(a)(xviii), (xxii), and
18	(b), (3), (4), (5)(b), (6), and (C)(1), 1168.2(2) through (5), and 1168.3(A)(1)(b)(iii), (iv), and
19	(2)(b) are hereby amended and reenacted and R.S. 40:1046(B) is hereby enacted to read as
20	follows:

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§966. Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; possession of marijuana, synthetic cannabinoids, and heroin

\* \* \*

F. Immunity from prosecution. (1) Any person who is a patient of the state-sponsored medical marijuana program in Louisiana, and possesses medical marijuana in a form permissible under R.S. 40:1046 for a condition enumerated therein, a caregiver as defined in R.S. 15:1503, or any person who is a domiciliary parent of a minor child who possesses medical marijuana on behalf of his minor child in a form permissible under R.S. 40:1046 for a condition enumerated therein pursuant to a legitimate medical marijuana prescription or recommendation issued by a physician licensed by and in good standing with the Louisiana State Board of Medical Examiners licensed health professional authorized by R.S. 40:1046(B) to recommend medical marijuana to patients, shall be exempt from the provisions of this Section. This Paragraph shall not prevent the arrest or prosecution of any person for diversion of marijuana or any of its derivatives or other conduct outside the scope of the state-sponsored medical marijuana program.

\* \* \*

(7) Any physician licensed health professional authorized by R.S. 40:1046(B) to recommend medical marijuana to patients who provides information on marijuana for therapeutic use within a bona fide doctor-patient clinician-patient relationship or who issues a recommendation to a patient for marijuana for therapeutic use pursuant to R.S. 40:1046 shall be exempt from the prohibitions provided in this Section for possession and distribution of marijuana. This Paragraph shall not prohibit the arrest or prosecution of any person for diversion of medical marijuana or any other conduct outside the scope of the state-sanctioned medical marijuana program provided for in R.S. 40:1046.

(8)(a) The defenses in Paragraph (1) of this Subsection shall be raised by reproducing a patient's medical records that have been created by his attending physician, that contain the legitimate recommendation to possess marijuana for

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1	therapeutic use in a form permissible under R.S. 40:1046 issued by a licensed health
2	professional authorized by R.S. 40:1046(B) to recommend medical marijuana to
3	patients.
4	* * *
5	§1046. Recommendation and dispensing of marijuana for therapeutic use; rules and
6	regulations of the Louisiana State Board of Medical Examiners and
7	Louisiana Board of Pharmacy; production facility licensing by the
8	Department of Agriculture and Forestry
9	A.(1) Notwithstanding any other provision of this Part, any physician
10	licensed by and in good standing with the Louisiana State Board of Medical
11	Examiners to practice medicine in this state clinician authorized by the provisions
12	of Subsection B of this Section to recommend medical marijuana, referred to in this
13	Section as an "authorized clinician", may recommend, in any form as permitted by
14	the rules and regulations of the Louisiana Board of Pharmacy, raw or crude
15	marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols
16	for therapeutic use by any patient clinically diagnosed as suffering from a
17	debilitating medical condition. Nothing in this Paragraph shall be construed to
18	prevent the Louisiana Board of Pharmacy from permitting, by rule, medical
19	marijuana in a form to be administered by metered-dose inhaler. For purposes of this
20	Section, "metered-dose inhaler" means a device that delivers a specific amount of
21	medication to the lungs, in the form of a short burst of medicine that is usually
22	self-administered by the patient via inhalation.
23	(2)(a) For purposes of this Subsection, "debilitating medical condition"
24	means any of the following:
25	* * *
26	(xviii) A concussion diagnosed by a physician an authorized clinician.
27	* * *
28	(xxii) Any condition not otherwise specified in this Subparagraph that a
29	physician an authorized clinician, in his medical clinical opinion, considers

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debilitating to an individual patient and is qualified through his medical clinical education and training to treat.

(b) No physician authorized clinician shall recommend medical marijuana for treatment of any condition associated with autism spectrum disorder for a patient who is under the age of eighteen unless the physician clinician complies with the provisions of this Section and consults with a pediatric subspecialist. For purposes of this Subparagraph a pediatric subspecialist is an individual licensed to practice medicine in any state in the United States who provides care to patients with autism spectrum disorder.

\* \* \*

- (3) For purposes of this Part, "recommend" or "recommended" means an opinion of any physician licensed by and in good standing with the Louisiana State Board of Medical Examiners authorized clinician, provided within a bona fide doctor-patient clinician-patient relationship, that, in the sincere judgment of the physician clinician, therapeutic cannabis may be helpful to the patient's condition or symptoms and is communicated by any means allowed by the Louisiana Board of Pharmacy.
- (4) Any physician licensed by and in good standing with the Louisiana State Board of Medical Examiners to practice medicine in Louisiana authorized clinician may recommend medical marijuana to any patient suffering from a debilitating medical condition with whom he shares a bona fide doctor-patient clinician-patient relationship.

(5)

24 \* \* \*

(b) No pharmacy authorized to dispense marijuana for therapeutic use in accordance with the provisions of this Section shall dispense raw or crude marijuana to any person under twenty-one years of age without a recommendation from a physician an authorized clinician specifically recommending marijuana in raw or crude form for that person.

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1	(6) Physicians <u>Authorized clinicians</u> shall report adverse events and health
2	outcomes associated with a patient's use of medical marijuana to the data system
3	provided for in R.S. 40:1168.1 et seq.
4	B. All of the following licensed health professionals are hereby authorized
5	to recommend medical marijuana to patients and, for purposes of this Part, shall be
6	deemed "authorized clinicians":
7	(1) Any physician licensed by and in good standing with the Louisiana State
8	Board of Medical Examiners to practice medicine in this state.
9	(2) Any nurse practitioner licensed by and in good standing with the
10	Louisiana State Board of Nursing to practice advanced practice registered nursing
1	in this state and who has prescriptive authority conferred by the Louisiana State
12	Board of Nursing.
13	(3) Any medical psychologist licensed by and in good standing with the
14	Louisiana State Board of Medical Examiners to practice medical psychology in this
15	state.
16	C.(1) The Louisiana Board of Pharmacy shall adopt rules relating to the
17	dispensing of recommended marijuana for therapeutic use. Any rules published by
18	the Louisiana Board of Pharmacy on or before January 1, 2016, that describe the
19	pharmacist as dispensing medical marijuana based on a physician's prescription
20	should be repromulgated to indicate that the physician or other authorized clinician
21	is "recommending" use of therapeutic marijuana.
22	* * *
23	§1168.2. Definitions
24	For purposes of this Subpart, the following terms have the meaning ascribed
25	to them in this Section:
26	* * *
27	(2) "Authorized clinician" means all of the following licensed health
28	professionals authorized pursuant to R.S. 40:1046 to recommend medical marijuana
29	to patients:

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1	(a) Any physician licensed by and in good standing with the Louisiana State
2	Board of Medical Examiners to practice medicine in this state.
3	(b) Any nurse practitioner licensed by and in good standing with the
4	Louisiana State Board of Nursing to practice advanced practice registered nursing
5	in this state and who has prescriptive authority conferred by the Louisiana State
6	Board of Nursing.
7	(c) Any medical psychologist licensed by and in good standing with the
8	Louisiana State Board of Medical Examiners to practice medical psychology in this
9	state.
10	(2) (3) "Board" means the Louisiana State Board of Medical Examiners.
11	(3) (4) "Data system" means the system authorized and provided for in R.S.
12	40:1168.3.
13	(4)(5) "Medical marijuana" means the therapeutic substance produced under
14	the authority of and in accordance with R.S. 40:1046.
15	(5) "Physician" has the meaning ascribed in R.S. 37:1262.
16	§1168.3. Data system; components; reporting; design in collaboration with medical
17	schools; public records exception
18	A. The board may create and maintain an electronic system for the collection
19	and analysis of clinical information associated with the use of medical marijuana by
20	patients. The system shall include, at minimum, the following components:
21	(1)
22	* * *
23	(b) The board shall design and administer the data system such that any of
24	the following persons may report an adverse event:
25	* * *
26	(iii) A physician An authorized clinician who prescribes or recommends
27	medical marijuana to a patient.
28	(iv) Any physician, medical psychologist, or advanced practice registered
29	nurse who treats a patient other than a physician an authorized clinician who
30	prescribes or recommends medical marijuana to the patient.

1	(2)	
2	* * *	
3	(b) The board shall design and administer the data system such that i	eporting
4	of health outcomes is limited to physicians authorized clinicians exclusive	ly.
5	* * *	
	SPEAKER OF THE HOUSE OF REPRESENTATIVE	S
	PRESIDENT OF THE SENATE	
	GOVERNOR OF THE STATE OF LOUISIANA	

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APPROVED: \_\_\_\_\_