

Regular Session, 2014

HOUSE BILL NO. 720

BY REPRESENTATIVES HONORE AND BADON AND SENATOR MILLS

CONTROLLED SUBSTANCES: Authorizes the use of medical marijuana in Louisiana

1 AN ACT

2 To amend and reenact Part X-E of Chapter 4 of Title 40 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 40:1046.1 through 1046.16, relative to the
4 therapeutic use of marijuana; to enact the Louisiana Therapeutic Use of Marijuana
5 Act; to provide for the authority to prescribe therapeutic marijuana; to provide for
6 the dispensing of therapeutic marijuana; to provide for definitions; to create the
7 Therapeutic Marijuana Utilization Review Board; to provide for the powers and
8 duties of the board; to provide for the composition of the board; to provide for
9 rulemaking; to create the Louisiana Therapeutic Use of Marijuana Fund; to provide
10 for suitability to obtain a license to prescribe, dispense, or produce therapeutic
11 marijuana; to provide standards and criteria for a therapeutic marijuana treatment
12 facility; to provide for limitations on the number of therapeutic marijuana treatment
13 facilities and production facilities; to provide standards and criteria for therapeutic
14 marijuana producers and production facilities; to provide for exemptions from
15 certain criminal provisions; to provide for application and licensing fees; to provide
16 for applicability; to provide for the qualifications and licensing of physicians to
17 prescribe therapeutic marijuana; to provide for the qualifications and licensing of
18 therapeutic marijuana production facilities, therapeutic marijuana producers, and
19 therapeutic marijuana dispensers; and to provide for related matters.

20 Be it enacted by the Legislature of Louisiana:

1 Section 1. Part X-E of Chapter 4 of Title 40 of the Louisiana Revised Statutes of
2 1950, comprised of R.S. 40:1046.1 through 1046.16, is hereby amended and reenacted to
3 read as follows:

4 PART X-E. THERAPEUTIC USE OF MARIJUANA

5 ~~§1046. Prescription of marijuana for therapeutic use; rules and regulations;~~
6 ~~secretary of health and hospitals~~

7 ~~A. Notwithstanding any other provision of this Part, a physician licensed to~~
8 ~~practice medicine in this state and who is also registered to prescribe Schedule I~~
9 ~~substances with the Drug Enforcement Administration may prescribe marijuana,~~
10 ~~tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols for~~
11 ~~therapeutic use by patients clinically diagnosed as suffering from glaucoma,~~
12 ~~symptoms resulting from the administration of chemotherapy cancer treatment, and~~
13 ~~spastic quadriplegia in accordance with rules and regulations promulgated by the~~
14 ~~secretary of health and hospitals and in accordance with FDA and DEA~~
15 ~~administrative guidelines for procurement of the controlled substance from the~~
16 ~~National Institute on Drug Abuse.~~

17 ~~B. The secretary of health and hospitals, by January 1, 1992, shall~~
18 ~~promulgate rules and regulations, authorizing physicians licensed to practice in this~~
19 ~~state to prescribe marijuana for therapeutic use by patients as described in Subsection~~
20 ~~A of this Section.~~

21 §1046.1. Short title

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

24 §1046.2. Legislative findings

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

27 B. Since 1978, the Louisiana Legislature enacted three Acts authorizing the
28 use of marijuana for medical purposes: Act No. 725 of the 1978 Regular Session,

1 Act No. 800 of the 1981 Regular Session, and Act No. 874 of the 1991 Regular
2 Session.

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

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

11 §1046.3. Definitions

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

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

16 (3) "Physician" means a person licensed to practice medicine in the state of
17 Louisiana who is a certified neurologist, oncologist, or ophthalmologist with whom
18 the patient has a bona fide physician-patient relationship and who is the physician
19 responsible for the ongoing treatment of a patient's debilitating medical condition;
20 provided, however, that such ongoing treatment shall not be limited to the provision
21 of authorization for a patient to use therapeutic marijuana or consultation solely for
22 that purpose.

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

27 (5) "Qualifying patient" means a resident of this state who is at least twenty-
28 one years of age and who suffers from a qualifying medical condition and has been

1 provided with a prescription for therapeutic marijuana by a physician who has a bona
2 fide physician-patient relationship with that patient.

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

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

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

19 §1046.4. Prescription for therapeutic marijuana; limitations

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

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

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

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

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

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

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

12 §1046.5. Therapeutic Marijuana Utilization Review Board; creation; membership

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

15 B. The board shall consist of the following members:

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

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

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

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

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

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

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

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

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

1 (10) Two members appointed by the governor.

2 C. Members of the board shall serve without compensation.

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

5 §1046.6. Powers and duties of the board

6 A. The board shall:

7 (1) Work in conjunction with the commissioner of the Department of
8 Agriculture and Forestry, the Louisiana Board of Pharmacy, and the Louisiana Board
9 of Medical Examiners to facilitate the necessary licensing to prescribe, produce, and
10 dispense therapeutic marijuana in Louisiana. This shall include accepting and
11 approving the recommendations for licensing by the entities provided for in R.S.
12 40:1046.8.

13 (2) Meet at least quarterly and may meet upon the call of the chairman or any
14 three members. Meetings of the board shall be open to the public in accordance with
15 law.

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

20 (4) Prepare and submit electronically an annual report to the legislature and
21 the governor regarding the therapeutic use of marijuana in the state of Louisiana.

22 The report shall include at a minimum:

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

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

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

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

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

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

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

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

11 (10) Review and make recommendations for the approval of the medical
12 conditions to be added to the list of qualifying medical conditions that qualify for the
13 therapeutic use of marijuana.

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

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

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

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

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

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

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

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

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

11 (a) The ability to maintain adequate control against the diversion, theft, and
12 loss of therapeutic marijuana acquired or possessed by the treatment center or
13 production facility.

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

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

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

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

23 (9) The establishment of standards, procedures, and protocols for
24 determining the amount of usable therapeutic marijuana that is necessary to
25 constitute an adequate supply to ensure uninterrupted availability for a period of one
26 month, including amounts for topical treatments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 §1046.7. Louisiana Therapeutic Use of Marijuana Fund

11 A. The Louisiana Therapeutic Use of Marijuana Fund, hereinafter referred
12 to as the "fund", is hereby created in the state treasury. Interest earned on the
13 investment of monies in the fund shall be deposited in and credited to the fund.
14 Unexpended and unencumbered monies in the fund at the close of each fiscal year
15 shall remain in the fund. Monies in the fund shall be appropriated, administered, and
16 used solely and exclusively for purposes of this Part.

17 B. The fund shall be comprised of all fines, fees, and other monies
18 appropriated, donated, or otherwise made available to provide funding for the
19 provisions of the Louisiana Therapeutic Use of Marijuana Act. All of such monies
20 required to be deposited in the state treasury in accordance with Article VII, Section
21 9(A) of the Constitution of Louisiana shall be deposited in the fund after first
22 meeting the requirements of Article VII, Section 9(B) of the Constitution of
23 Louisiana relative to the Bond Security and Redemption Fund.

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

26 D. The fund shall be administered by the board as authorized by the
27 provisions of this Part. The board is hereby authorized to establish such accounts or
28 sub-accounts within the fund as deemed necessary to comply with the provisions of
29 the Louisiana Therapeutic Use of Marijuana Act. The board shall not comingle the

1 monies in the fund established in this Section with any other monies or funds of the
2 board for any reason.

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

7 §1046.8. Suitability for licensing; qualifications for licensing

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

11 B. To be suitable, an applicant shall be:

12 (1) A resident of the state.

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

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

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

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

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

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

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

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

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

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

7 (b) Any offense involving a controlled dangerous substance.

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

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

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

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

18 §1046.9. License applications; licensing authority

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

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

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

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

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

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

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

5 §1046.10. Licensing fees

6 A. License application fees shall be as follows:

7 (1) Therapeutic marijuana treatment facility \$5,000

8 (2) Therapeutic marijuana production facility \$10,000

9 (3) Therapeutic marijuana producer \$2,000

10 (4) Physician license to prescribe therapeutic marijuana \$250

11 (5) Pharmacist license to function as therapeutic marijuana dispenser \$200

12 B. The fees shall be deposited into the Louisiana Therapeutic Use of
13 Marijuana Fund and shall be used to reimburse the respective licensing authorities
14 for expenses incurred for the issuance of licenses as provided for by this Part.

15 C. Fees for the renewal of licenses shall be as follows:

16 (1) Therapeutic marijuana treatment facility \$2,500

17 (2) Therapeutic marijuana production facility \$5,000

18 (3) Therapeutic marijuana producer \$1,000

19 (4) Physician license to prescribe therapeutic marijuana \$175

20 (5) Pharmacist license to function as therapeutic marijuana dispenser \$100

21 §1046.11. Qualifications for physician licensing to prescribe therapeutic marijuana

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

25 (1) The physician has been certified as a neurologist, oncologist, or
26 ophthamologist.

27 (2) The physician meets the suitability requirements as provided for in R.S.
28 40:1046.7.

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

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

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

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

9 (7) The physician has paid any application or licensing fees as provided for
10 by the provisions of this Part.

11 §1046.12. Qualifications for licensing of therapeutic marijuana dispensing agent

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

15 (1) The pharmacist meets the suitability requirements as provided for in R.S.
16 40:1046.7.

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

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

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

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

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

27 (7) The pharmacist has paid any application or licensing fees as provided for
28 by the provisions of this Part.

1 §1046.13. Therapeutic marijuana treatment facility; number of facilities; permit
2 requirements

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

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

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

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

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

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

20 (6) The applicant has paid any application or licensing fees as provided for
21 by the provisions of this Part.

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

25 §1046.14. Therapeutic marijuana production facilities; number of facilities

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

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

3 (2) The owner of the facility demonstrates the financial capacity to build and
4 operate a therapeutic marijuana production facility.

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

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

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

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

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

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

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

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

23 §1046.15. Exemption from criminal prosecution

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

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

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

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

12 §1046.16. Therapeutic marijuana not covered by health insurance

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

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

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

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Honore

HB No. 720

Abstract: Authorizes the production, prescribing, and distribution of therapeutic marijuana in Louisiana.

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 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 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.

- (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 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. 40:1046.1-1046.16)