

Part X-E. Therapeutic Use of Marijuana

[Editor's Note: A prior Part X-A, Therapeutic Use of Marijuana, consisting of R.S. 40:1021 to 40:1026, was repealed by Act 662 of 1989 Legislature, effective July 7, 1989. Act 874 of 1991 Legislature re-established Part X-A, Therapeutic Use of Marijuana. Act 676 of 2006 Legislature re-designated this Part as Part X-E. Subsequent amendments are noted herein. Act 261 of 2015 Legislature designated as "The Alison Neustrom Act."]

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

- A. Notwithstanding any other provision of this Part, a physician licensed to practice medicine in this state may prescribe, in any form as permitted by the rules and regulations of the Louisiana Board of Pharmacy except for inhalation, and raw or crude marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols for therapeutic use by patients clinically diagnosed as suffering from glaucoma, symptoms resulting from the administration of chemotherapy cancer treatment, and spastic quadriplegia in accordance with rules and regulations promulgated by the Louisiana State Board of Medical Examiners. The Louisiana State Board of Medical Examiners shall submit to the Senate and House committees on health and welfare on an annual basis not less than sixty days prior to the beginning of the regular session of the legislature a report as to any additional diseases or medical conditions that should be added to the list of eligible diseases and conditions for prescription.
- B. The Louisiana State Board of Medical Examiners shall promulgate rules and regulations authorizing physicians licensed to practice in this state to prescribe marijuana for therapeutic use by patients as described in Subsection A of this Section no later than January 1, 2016.

(Added by Act 874 of 1991 Legislature, effective September 6, 1991; amended Act 261 of 2015 Legislature, effective June 29, 2015)

- C. (1) The Louisiana Board of Pharmacy shall adopt rules relating to the dispensing of prescribed marijuana for therapeutic use no later than December 1, 2016. The Louisiana Board of Pharmacy shall seek input from groups including but not limited to the following:
 - (a) The Louisiana District Attorneys Association.
 - (b) Professional law enforcement associations, organizations, and commissions.
- (2) The rules shall include but not be limited to:
 - (a) Standards, procedures, and protocols for the effective use of prescribed marijuana for therapeutic use as authorized by state law and related rules and regulations.
 - (b) Standards, procedures, and protocols for the dispensing and tracking of prescribed therapeutic marijuana in Louisiana.
 - (c) Procedures and protocols to provide that no prescribed therapeutic marijuana may be dispensed from, produced from, obtained from, sold to, or transferred to a location outside of this state.
 - (d) The establishment of standards, procedures, and protocols for determining the amount of usable prescribed therapeutic marijuana that is necessary to constitute an adequate supply to ensure uninterrupted availability for a period of one month, including amounts for topical treatments.
 - (e) The establishment of standards, procedures, and protocols to ensure that all prescribed therapeutic marijuana dispensed is consistently pharmaceutical grade.
 - (f) The establishment of standards and procedures for the revocation, suspension, and nonrenewal of licenses.
 - (g) The establishment of other licensing, renewal, and operational standards which are deemed necessary by the Louisiana Board of Pharmacy.
 - (h) The establishment of standards and procedures for testing prescribed therapeutic marijuana samples for levels of tetrahydrocannabinols (THC) or other testing parameters deemed appropriate by the Louisiana Board of Pharmacy.
 - (i) The establishment of health, safety, and security requirements for dispensers of prescribed therapeutic marijuana.
 - (j) Licensure of dispensers of prescribed therapeutic marijuana.
 - (k) The establishment of financial requirements for applicants of therapeutic marijuana dispensing pharmacy license under which each applicant demonstrates the following:
 - (i) The financial capacity to operate a therapeutic marijuana dispensing pharmacy.
 - (ii) The ability to maintain an escrow account to a financial institution headquartered in Louisiana in an amount of two million dollars, if required by the Louisiana Board of

Pharmacy.

- D. The Louisiana Board of Pharmacy shall submit a report to the legislature no later than January 1, 2016, with recommendations on possible fee amounts relative to the provisions of this Section.
- E. All rules shall be adopted in accordance with the provisions of the Administrative Procedure Act.
- F. Nothing in this Section shall be construed to prohibit the Louisiana State Board of Medical Examiners or the Louisiana Pharmacy Board from adopting emergency rules as otherwise provided for in the Administrative Procedure Act.
- G. Marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols prescribed pursuant to this Section shall be dispensed in person from a licensed pharmacy in good standing located in Louisiana.
- H. A prescriber and dispenser of marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols pursuant to this Section shall review the patient's information in the Prescription Monitoring Program database prior to the prescribing and dispensing thereof.
- I. The Louisiana Board of Pharmacy shall develop an annual, nontransferable specialty license for a pharmacy to dispense prescribed marijuana for therapeutic use and shall limit the number of such licenses granted in the state to no more than ten licenses. The Louisiana Board of Pharmacy shall develop rules and regulations regarding the geographical locations of dispensing pharmacies in Louisiana.
- J.
 - (1) The Department of Agriculture and Forestry shall develop the rules and regulations regarding the production of prescribed therapeutic marijuana and the facility producing therapeutic marijuana. The rules and regulations shall include but not be limited to the procedures for application, qualifications, eligibility, background checks, and standards for suitability for a license and penalties for violations of the rules and regulations.
 - (2) The Department of Agriculture and Forestry shall develop an annual, nontransferable specialty license for the production of prescribed marijuana for therapeutic use and shall limit the number of such licenses granted in the state to no more than one license. The Louisiana State University Agricultural Center and the Southern University Agricultural Center shall have the right of first refusal to be licensed as the production facility, either separately or jointly. If neither of the centers exercise this option, the license shall be awarded pursuant to the requirements provided for in Paragraphs (3) through (5) of this Subsection.
 - (3) The license shall be limited to one geographic location as provided for in rule by the Department of Agriculture and Forestry. The geographic location shall be a public record subject to disclosure under the Public Records Law, R.S. 44:1 et seq. The licensee shall permit inspection of the production facility by any elected member of the Louisiana Legislature upon request after receipt of reasonable notice.
 - (4)
 - (a) The Department of Agriculture and Forestry shall grant the license pursuant to a contract awarded through a competitive sealed bid or a competitive sealed proposal as provided for in R.S. 39:1594 and 1595. The contract for the license shall be subject to the Louisiana Procurement Code and shall not be subject to any exceptions to or other variances from the Louisiana Procurement Code. The contract shall not be awarded under the sole source procurement provisions provided for in R.S. 39:1597.
 - (b) Any contract for the license awarded pursuant to this Subsection shall not exceed five years.
 - (c) Any contract, memorandum of understanding, or cooperative endeavor agreement entered into pursuant to this Section shall be a public record subject to disclosure under the Public Records Law, R.S. 44:1 et seq.
 - (d) Any contract, memorandum of understanding, or cooperative endeavor agreement entered into for services for the cultivation or processing in any way of marijuana pursuant to this Section shall be a public record subject to disclosure under the Public Records Law, R.S. 44:1 et seq.
 - (e) No person licensed pursuant to this Subsection shall subcontract for services for the cultivation or processing in any way of marijuana if the subcontractor, or any of the service providers in the chain of subcontractors, is owned wholly or in part by any state employee or member of a state employee's immediate family, including but not limited to any legislator, statewide public official, university or community or technical college employee, Louisiana State University Agricultural Center employee, or Southern University Agricultural Center employee. For the purposes of this Paragraph, "immediate family" has the same meaning as provided in R.S. 42:1102.
 - (f) Any bid for the license awarded pursuant to this Subsection shall include proof of the financial capability of the bidder to operate a therapeutic marijuana production facility including but not limited to a net worth of not less than one million dollars.
 - (5) No person licensed pursuant to this Subsection shall give or receive anything of value in connection

with any contract, memorandum of understanding, or cooperative endeavor agreement executed pursuant to this Subsection except the value that is expressed in the contract, memorandum of understanding, or cooperative endeavor agreement.

- (6) (a) The Department of Agriculture and Forestry shall collect the following information from each licensee:
 - (i) The amount of gross marijuana produced by the licensee during each calendar year.
 - (ii) The details of all production costs including but not limited to seed, fertilizer, labor, advisory services, construction, and irrigation.
 - (iii) The details of any items or services for which the licensee subcontracted and the costs of each subcontractor directly or indirectly working for the contractor.
 - (iv) The amount of therapeutic chemicals produced resulting from the marijuana grown pursuant to this Section.
 - (v) The amounts paid each year to the licensee related to the licensee's production of therapeutic marijuana pursuant to this Section.
 - (vi) The amount of therapeutic marijuana distributed to each pharmacy licensed to dispense therapeutic marijuana in this state during each calendar year.
 - (b) The Department of Agriculture and Forestry shall provide the information collected pursuant to this Paragraph for the previous calendar year in the form of a written report to the Louisiana Legislature no later than February first of each year. The department shall also make a copy of the report required by this Subparagraph available to the public on the Internet.
 - (7) No company that has made a contribution to a candidate in a Louisiana election governed by the provisions of the Campaign Finance Disclosure Act within the five years prior to bidding for the license, or is controlled wholly or in part by a person who made such a contribution within the five years prior to the company bidding for the license, may be eligible for the license.
 - (8) The Department of Agriculture and Forestry shall submit a report to the legislature no later than January 1, 2016, with recommendations on possible fee amounts relative to the provisions of this Section.
 - K. The levels of THC in any marijuana produced pursuant to this Section shall be reduced to the lowest acceptable therapeutic levels available through scientifically accepted methods.
 - L. The provisions of this Section shall terminate on January 1, 2020.
- (Added by Act 261 of 2015 Legislature, effective June 29, 2015)*

(end of Part X-E of Chapter 4)