

By: Menéndez

S.B. No. 79

A BILL TO BE ENTITLED

1 AN ACT
2 relating to authorizing the possession, use, cultivation,
3 distribution, transportation, and delivery of medical cannabis for
4 medical use by qualifying patients with certain debilitating
5 medical conditions and the licensing of dispensing organizations
6 and testing facilities; authorizing fees.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Section [481.062\(a\)](#), Health and Safety Code, is
9 amended to read as follows:

10 (a) The following persons may possess a controlled
11 substance under this chapter without registering with the Federal
12 Drug Enforcement Administration:

13 (1) an agent or employee of a manufacturer,
14 distributor, analyzer, or dispenser of the controlled substance who
15 is registered with the Federal Drug Enforcement Administration and
16 acting in the usual course of business or employment;

17 (2) a common or contract carrier, a warehouseman, or
18 an employee of a carrier or warehouseman whose possession of the
19 controlled substance is in the usual course of business or
20 employment;

21 (3) an ultimate user or a person in possession of the
22 controlled substance under a lawful order of a practitioner or in
23 lawful possession of the controlled substance if it is listed in
24 Schedule V;

1 (4) an officer or employee of this state, another
2 state, a political subdivision of this state or another state, or
3 the United States who is lawfully engaged in the enforcement of a
4 law relating to a controlled substance or drug or to a customs law
5 and authorized to possess the controlled substance in the discharge
6 of the person's official duties;

7 (5) if the substance is tetrahydrocannabinol or one of
8 its derivatives:

9 (A) a Department of State Health Services
10 official, a medical school researcher, or a research program
11 participant possessing the substance as authorized under
12 Subchapter G; or

13 (B) a practitioner or an ultimate user possessing
14 the substance as a participant in a federally approved therapeutic
15 research program that the commissioner has reviewed and found, in
16 writing, to contain a medically responsible research protocol; or

17 (6) a person possessing medical cannabis, as defined
18 by Section 169.001, Occupations Code, who is authorized to possess
19 medical cannabis [~~dispensing organization licensed~~] under Chapter
20 487 [~~that possesses low-THC cannabis~~].

21 SECTION 2. Sections 481.111(e) and (f), Health and Safety
22 Code, are amended to read as follows:

23 (e) Sections 481.120, 481.121, 481.122, and 481.125 do not
24 apply to a person who engages in the acquisition, possession,
25 production, cultivation, delivery, or disposal of a raw material
26 used in or by-product created by the production or cultivation of
27 medical [~~low-THC~~] cannabis if the person:

1 (1) for an offense involving possession only of
2 marihuana or drug paraphernalia, is a cardholder or nonresident
3 cardholder authorized under Chapter 487 to possess medical cannabis
4 for medical use by a qualifying patient [~~for whom low-THC cannabis~~
5 ~~is prescribed under Chapter 169, Occupations Code, or the patient's~~
6 ~~legal guardian,~~] and the person possesses no more than the
7 allowable amount of medical [~~low-THC~~] cannabis, as determined under
8 Section 487.081 [~~obtained under a valid prescription from a~~
9 ~~dispensing organization~~]; or

10 (2) is a director, manager, or employee of a
11 dispensing organization or cannabis testing facility and the
12 person, solely in performing the person's regular duties at the
13 organization or facility, acquires, possesses, produces,
14 cultivates, dispenses, or disposes of:

15 (A) in reasonable quantities, any medical
16 [~~low-THC~~] cannabis or raw materials used in or by-products created
17 by the production or cultivation of medical [~~low-THC~~] cannabis; or

18 (B) any drug paraphernalia used in the
19 acquisition, possession, production, cultivation, delivery, or
20 disposal of medical [~~low-THC~~] cannabis.

21 (f) For purposes of Subsection (e):

22 (1) "Cannabis testing facility," "cardholder,"
23 "dispensing organization," and "nonresident cardholder" have the
24 meanings [~~"Dispensing organization" has the meaning~~] assigned by
25 Section 487.001.

26 (2) "Medical cannabis," "medical use," and
27 "qualifying patient" have the meanings [~~"Low-THC cannabis" has the~~

1 ~~meaning~~] assigned by Section 169.001, Occupations Code.

2 SECTION 3. Section 487.001, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 487.001. DEFINITIONS. In this chapter:

5 (1) "Cannabis testing facility" means an independent
6 entity licensed by the department under this chapter to analyze the
7 safety and potency of medical cannabis.

8 (2) "Cardholder" means a qualifying patient or a
9 registered caregiver who is issued a registry identification card.

10 (3) "Debilitating medical condition," "medical
11 cannabis," "medical practitioner," "medical use," and "qualifying
12 patient" have the meanings assigned by Section 169.001, Occupations
13 Code.

14 (4) "Department" means the Department of Public
15 Safety.

16 (5) [~~2~~] "Director" means the public safety director
17 of the department.

18 (6) [~~3~~] "Dispensing organization" means an
19 organization licensed by the department to cultivate, process, and
20 dispense medical [~~low-THC~~] cannabis to a patient for whom medical
21 use [~~low-THC cannabis~~] is recommended [~~prescribed~~] under Chapter
22 169, Occupations Code.

23 (7) "Drug paraphernalia" has the meaning assigned by
24 Section 481.002.

25 (8) "Nonresident cardholder" means a person who is not
26 a resident of this state and who:

27 (A) has been diagnosed with a debilitating

1 medical condition and issued a currently valid registry
2 identification card or the equivalent under the laws of another
3 state, district, territory, commonwealth, insular possession of
4 the United States, or country recognized by the United States, that
5 authorizes medical use by the person in the jurisdiction of
6 issuance; or

7 (B) is the parent, legal guardian, or conservator
8 of a person described by Paragraph (A).

9 (9) "Registered caregiver" means a person who:

10 (A) is at least 21 years of age or a parent, legal
11 guardian, or conservator of a qualifying patient;

12 (B) has significant responsibility for managing
13 the medical care of a qualifying patient listed on the
14 compassionate-use registry; and

15 (C) has been issued a registry identification
16 card identifying the person as a registered caregiver of a
17 qualifying patient listed on the compassionate-use registry.

18 (10) "Registry identification card" means a document
19 issued by the department that identifies a person as:

20 (A) a qualifying patient listed on the
21 compassionate-use registry; or

22 (B) a registered caregiver of a qualifying
23 patient listed on the compassionate-use registry.

24 (11) "Written certification" means a document
25 produced under Section 169.002, Occupations Code.

26 ~~[(4) "Low-THC cannabis" has the meaning assigned by~~
27 ~~Section 169.001, Occupations Code.]~~

1 SECTION 4. Chapter 487, Health and Safety Code, is amended
2 by adding Subchapter A-1 to read as follows:

3 SUBCHAPTER A-1. PROTECTIONS RELATED TO MEDICAL USE OF CANNABIS

4 Sec. 487.021. PROTECTION FROM LEGAL ACTION. (a) This
5 section applies to a person who is:

6 (1) a cardholder;

7 (2) a nonresident cardholder;

8 (3) a dispensing organization;

9 (4) a cannabis testing facility; or

10 (5) a director, manager, or employee of a dispensing
11 organization or of a cannabis testing facility who is registered
12 with the department under Section 487.053.

13 (b) Notwithstanding any other law, a person described by
14 Subsection (a) is not subject to arrest, prosecution, or penalty in
15 any manner, or denial of any right or privilege, including any civil
16 penalty or disciplinary action by a court or occupational or
17 professional licensing board or bureau, for conduct involving
18 medical use that is authorized under this chapter, department rule,
19 or Chapter 169, Occupations Code.

20 Sec. 487.022. NO PRESUMPTION OF CHILD ABUSE, NEGLECT, OR
21 ENDANGERMENT. A person described by Section 487.021(a) may not be
22 presumed to have engaged in conduct constituting child abuse,
23 neglect, or endangerment solely because the person engaged in
24 conduct involving medical use that is authorized under this
25 chapter, department rule, or Chapter 169, Occupations Code.

26 Sec. 487.023. NO DENIAL OF PARENTAL RIGHTS. The fact that a
27 person described by Section 487.021(a) engages in conduct

1 authorized under this chapter, department rule, or Chapter 169,
2 Occupations Code, does not in itself constitute grounds for
3 denying, limiting, or restricting conservatorship or possession of
4 or access to a child under Title 5, Family Code.

5 Sec. 487.024. NO SEIZURE OR FORFEITURE. Property used in
6 the cultivation, distribution, transportation, and delivery of
7 medical cannabis for medical use that is authorized under this
8 chapter, department rule, or Chapter 169, Occupations Code, is not
9 contraband for purposes of Chapter 59, Code of Criminal Procedure,
10 and is not subject to seizure or forfeiture under that chapter or
11 other law solely for the use of the property in those authorized
12 activities.

13 Sec. 487.025. NO PROSECUTION FOR PROVISION OF
14 PARAPHERNALIA. A person is not subject to arrest, prosecution, or
15 the imposition of any sentence or penalty for the delivery,
16 possession with intent to deliver, or manufacture of any item that
17 meets the definition of drug paraphernalia, if that item is
18 delivered, possessed with intent to deliver, or manufactured for
19 the sole purpose of providing that item to a cardholder or
20 nonresident cardholder for medical use under this chapter,
21 department rule, or Chapter 169, Occupations Code.

22 SECTION 5. Section 487.052, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 487.052. RULES. (a) The director shall adopt any
25 rules necessary for the administration and enforcement of this
26 chapter.

27 (b) The director shall adopt reasonable [~~including~~] rules

1 imposing fees under this chapter in amounts sufficient to cover the
2 cost of administering this chapter. Fees collected under a rule
3 adopted under this chapter may be used only for the administration
4 of this chapter.

5 (c) The director shall adopt rules in accordance with
6 Section 487.081 governing the allowable amount of medical cannabis
7 a cardholder or nonresident cardholder may possess for medical use
8 by a qualifying patient.

9 (d) The director by rule shall adopt labeling requirements
10 for medical cannabis.

11 (e) The director shall adopt rules establishing security
12 requirements concerning the cultivation of medical cannabis by a
13 cardholder.

14 (f) The director shall adopt reasonable rules governing
15 access to medical cannabis by nonresident cardholders.

16 SECTION 6. The heading to Section 487.053, Health and
17 Safety Code, is amended to read as follows:

18 Sec. 487.053. LICENSING OF DISPENSING ORGANIZATIONS AND
19 CANNABIS TESTING FACILITIES; REGISTRATION OF CERTAIN ASSOCIATED
20 INDIVIDUALS.

21 SECTION 7. Section 487.053(a), Health and Safety Code, is
22 amended to read as follows:

23 (a) The department shall:

24 (1) issue or renew a license to operate as:

25 (A) a dispensing organization to each applicant
26 who satisfies the requirements established under this chapter for
27 licensure as a dispensing organization; and

1 (B) a cannabis testing facility to each applicant
2 who satisfies the requirements established under this chapter for
3 licensure as a cannabis testing facility; and

4 (2) register directors, managers, and employees of
5 each:

6 (A) dispensing organization; and

7 (B) cannabis testing facility.

8 SECTION 8. Section 487.054, Health and Safety Code, is
9 amended to read as follows:

10 Sec. 487.054. COMPASSIONATE-USE REGISTRY. (a) The
11 department shall establish and maintain a secure online
12 compassionate-use registry that contains:

13 (1) the name of each individual who is issued a
14 registry identification card and each nonresident cardholder who
15 receives medical cannabis from a dispensing organization;

16 (2) the name of each medical practitioner who
17 recommends medical use to a qualifying patient and [~~physician who~~
18 ~~registers as the prescriber for a patient under Section 169.004,~~
19 ~~Occupations Code,~~] the name and date of birth of that [~~the~~
20 ~~patient~~], ~~the dosage prescribed, the means of administration~~
21 ~~ordered, and the total amount of low-THC cannabis required to fill~~
22 ~~the patient's prescription]; and~~

23 (3) [~~(2)~~] a record of each amount of medical [~~low-THC~~
24 ~~cannabis~~ dispensed by a dispensing organization to a cardholder or
25 nonresident cardholder [~~patient under a prescription~~].

26 (b) The department shall ensure the registry:

27 (1) is designed to prevent more than one medical

1 practitioner [~~qualified physician~~] from registering as the
2 recommending medical practitioner [~~prescriber~~] for a single
3 patient; and

4 (2) is accessible to law enforcement agencies and
5 dispensing organizations for the purpose of verifying whether a
6 person is authorized under this chapter to receive medical cannabis
7 [~~patient is one for whom low-THC cannabis is prescribed and whether~~
8 ~~the patient's prescriptions have been filled; and~~

9 [~~(3) allows a physician qualified to prescribe low-THC~~
10 ~~cannabis under Section 169.002, Occupations Code, to input safety~~
11 ~~and efficacy data derived from the treatment of patients for whom~~
12 ~~low-THC cannabis is prescribed under Chapter 169, Occupations~~
13 ~~Code].~~

14 SECTION 9. Subchapter B, Chapter 487, Health and Safety
15 Code, is amended by adding Sections 487.055 and 487.056 to read as
16 follows:

17 Sec. 487.055. LICENSING AND REGULATION OF CANNABIS TESTING
18 FACILITIES. The director shall adopt all rules necessary for:

19 (1) the licensing and regulation of cannabis testing
20 facilities and the directors, managers, and employees of those
21 facilities;

22 (2) the operation of cannabis testing facilities; and

23 (3) the testing of the safety and potency of medical
24 cannabis.

25 Sec. 487.056. APPLICATION FOR REGISTRY IDENTIFICATION
26 CARD. (a) The director by rule shall adopt an application for a
27 registry identification card:

1 by a qualifying patient, which may not be fewer than six cannabis
2 plants. The amount of medical cannabis, edible products that
3 contain medical cannabis, or products infused with medical cannabis
4 that are produced from the allowable number of cannabis plants may
5 be possessed for medical use by a cardholder or nonresident
6 cardholder on the site where those plants are cultivated,
7 regardless of whether the amount possessed on that site exceeds the
8 quantity otherwise provided as the allowable amount of medical
9 cannabis for the qualifying patient by a rule adopted under this
10 section.

11 (c) The director by rule shall specify the quantity of
12 medical cannabis other than cannabis plants, edible products that
13 contain medical cannabis, or products infused with medical
14 cannabis, that, except as otherwise provided by Subsection (b) or
15 (e), may be possessed by a cardholder or nonresident cardholder for
16 medical use by a qualifying patient, which may not be less than 2.5
17 ounces.

18 (d) The director by rule shall specify the quantity of
19 edible products that contain medical cannabis or products infused
20 with medical cannabis that, except as otherwise provided by
21 Subsection (b) or (e), may be possessed by a cardholder or
22 nonresident cardholder for medical use by a qualifying patient.

23 (e) If a medical practitioner recommends in the qualifying
24 patient's written certification a different amount of medical
25 cannabis than the amount provided by rule adopted under this
26 section, the amount recommended by the written certification is
27 the allowable amount of medical cannabis for that qualifying

1 patient.

2 Sec. 487.082. ACCESS TO MEDICAL CANNABIS BEFORE REGISTRY
3 IDENTIFICATION CARD ISSUED. An applicant for a registry
4 identification card may receive medical cannabis from a dispensing
5 organization before the department issues a registry
6 identification card on providing:

7 (1) proof that the application was submitted to the
8 department and any application fees were paid; and

9 (2) a copy of the applicant's written certification.

10 Sec. 487.083. ACCESS TO MEDICAL CANNABIS BEFORE DECEMBER 1,
11 2017. (a) On or before December 1, 2017, notwithstanding a
12 contrary provision of this chapter, a qualifying patient or a
13 caregiver with significant responsibility for managing the
14 well-being of a qualifying patient may obtain medical cannabis from
15 a dispensing organization on providing:

16 (1) for a qualifying patient, a copy of the qualifying
17 patient's written certification; or

18 (2) for a caregiver of the qualifying patient:

19 (A) a copy of the qualifying patient's written
20 certification; and

21 (B) an affidavit stating:

22 (i) that the caregiver is the qualifying
23 patient's parent or guardian; or

24 (ii) that the caregiver has significant
25 responsibility for managing the well-being of the qualifying
26 patient and that is signed by the qualifying patient or the
27 qualifying patient's parent or guardian, if the qualifying patient

1 is a minor.

2 (b) This section expires December 1, 2017.

3 SECTION 11. Section 487.102, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 487.102. ELIGIBILITY FOR LICENSE. An applicant for a
6 license to operate as a dispensing organization is eligible for the
7 license if:

8 (1) as determined by the department, the applicant
9 possesses:

10 (A) the technical and technological ability to
11 cultivate and produce medical [~~low-THC~~] cannabis;

12 (B) the ability to secure:

13 (i) the resources and personnel necessary
14 to operate as a dispensing organization; and

15 (ii) premises reasonably located to allow
16 patients listed on the compassionate-use registry access to the
17 organization through existing infrastructure;

18 (C) the ability to maintain accountability for
19 the raw materials, the finished product, and any by-products used
20 or produced in the cultivation or production of medical [~~low-THC~~]
21 cannabis to prevent unlawful access to or unlawful diversion or
22 possession of those materials, products, or by-products; and

23 (D) the financial ability to maintain operations
24 for not less than two years from the date of application;

25 (2) each director, manager, or employee of the
26 applicant is registered under Subchapter D; and

27 (3) the applicant satisfies any additional criteria

1 determined by the director to be necessary to safely implement this
2 chapter.

3 SECTION 12. Subchapter C, Chapter 487, Health and Safety
4 Code, is amended by adding Section 487.1025 to read as follows:

5 Sec. 487.1025. ANNUAL LICENSE FEE. The director shall
6 charge an annual license fee set initially by the director in an
7 amount not to exceed \$5,000. The director shall annually adjust for
8 inflation the annual license fee.

9 SECTION 13. Section 487.103, Health and Safety Code, is
10 amended by adding Subsection (a-1) to read as follows:

11 (a-1) The director shall set the application fee charged
12 under Subsection (a) initially in an amount not to exceed \$2,500.
13 The director shall annually adjust for inflation the application
14 fee.

15 SECTION 14. Section 487.104(a), Health and Safety Code, is
16 amended to read as follows:

17 (a) The department shall issue or renew a license to operate
18 as a dispensing organization only if:

19 (1) the department determines the applicant meets the
20 eligibility requirements described by Section 487.102; and

21 (2) issuance or renewal of the license is necessary to
22 ensure reasonable statewide access to, and the availability of,
23 medical [~~low-THC~~] cannabis for patients registered in the
24 compassionate-use registry and for whom medical [~~low-THC~~] cannabis
25 is recommended [~~prescribed~~] under Chapter 169, Occupations Code.

26 SECTION 15. Section 487.107, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 487.107. DUTIES RELATING TO DISPENSING MEDICAL
2 CANNABIS [~~PRESCRIPTION~~]. (a) Before dispensing medical [~~low-THC~~]
3 cannabis to a person authorized under this chapter to receive
4 medical [~~for whom the low-THC~~] cannabis [~~is prescribed under~~
5 ~~Chapter 169, Occupations Code~~], the dispensing organization must
6 verify that [~~the prescription presented~~]:

7 (1) the person receiving the medical cannabis is [~~for~~]
8 a cardholder [~~person~~] listed [~~as a patient~~] in the
9 compassionate-use registry or a nonresident cardholder;

10 (2) the medical cannabis, including any edible
11 products that contain medical cannabis and any products infused
12 with medical cannabis, has been properly tested and properly
13 labeled in accordance with standards established by the department
14 [~~matches the entry in the compassionate-use registry with respect~~
15 ~~to the total amount of low-THC cannabis required to fill the~~
16 ~~prescription~~]; and

17 (3) the amount of medical cannabis dispensed to the
18 person would not cause the person to possess more than the allowable
19 amount of medical cannabis for the qualifying patient, as
20 determined under Section 487.081 [~~has not previously been filled by~~
21 ~~a dispensing organization as indicated by an entry in the~~
22 ~~compassionate-use registry~~].

23 (b) After dispensing medical [~~low-THC~~] cannabis to a
24 cardholder or nonresident cardholder [~~patient for whom the low-THC~~
25 ~~cannabis is prescribed under Chapter 169, Occupations Code~~], the
26 dispensing organization shall record in the compassionate-use
27 registry the name and address of the individual to whom the medical

1 cannabis is dispensed, the form and quantity of medical [~~low-THC~~
2 cannabis dispensed, and the date and time of dispensation.

3 SECTION 16. Section 487.108(c), Health and Safety Code, is
4 amended to read as follows:

5 (c) After suspending or revoking a license issued under this
6 chapter, the director may seize or place under seal all medical
7 [~~low-THC~~] cannabis and drug paraphernalia owned or possessed by the
8 dispensing organization. If the director orders the revocation of
9 the license, a disposition may not be made of the seized or sealed
10 medical [~~low-THC~~] cannabis or drug paraphernalia until the time for
11 administrative appeal of the order has elapsed or until all appeals
12 have been concluded. When a revocation order becomes final, all
13 medical [~~low-THC~~] cannabis and drug paraphernalia may be forfeited
14 to the state as provided under Subchapter E, Chapter 481.

15 SECTION 17. Section 487.151, Health and Safety Code, is
16 amended by adding Subsection (a-1) to read as follows:

17 (a-1) An individual who is a director, manager, or employee
18 of a cannabis testing facility must apply for and obtain a
19 registration under this section.

20 SECTION 18. Section 487.201, Health and Safety Code, is
21 amended to read as follows:

22 Sec. 487.201. COUNTIES AND MUNICIPALITIES MAY NOT PROHIBIT
23 MEDICAL [~~LOW-THC~~] CANNABIS. A municipality, county, or other
24 political subdivision may not enact, adopt, or enforce a rule,
25 ordinance, order, resolution, or other regulation that prohibits
26 the cultivation, production, dispensing, or possession of medical
27 [~~low-THC~~] cannabis, as authorized by this chapter.

1 SECTION 19. The heading to Chapter 169, Occupations Code,
2 is amended to read as follows:

3 CHAPTER 169. AUTHORITY TO RECOMMEND MEDICAL [~~PRESCRIBE~~
4 ~~LOW-THC~~] CANNABIS TO CERTAIN PATIENTS FOR COMPASSIONATE USE

5 SECTION 20. Sections 169.001, 169.002, and 169.004,
6 Occupations Code, are amended to read as follows:

7 Sec. 169.001. DEFINITIONS. In this chapter:

8 (1) "Debilitating medical condition" means:

9 (A) cancer, glaucoma, positive status for human
10 immunodeficiency virus, acquired immune deficiency syndrome,
11 hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,
12 ulcerative colitis, agitation of Alzheimer's disease,
13 post-traumatic stress disorder, autism, sickle cell anemia, severe
14 fibromyalgia, spinal cord disease, spinal cord injury, traumatic
15 brain injury or post-concussion syndrome, chronic traumatic
16 encephalopathy, Parkinson's disease, muscular dystrophy, or
17 Huntington's disease;

18 (B) a chronic medical condition that produces, or
19 the treatment of a chronic medical condition that produces:

20 (i) cachexia or wasting syndrome;

21 (ii) severe pain;

22 (iii) severe nausea;

23 (iv) seizures, including those
24 characteristic of epilepsy; or

25 (v) severe and persistent muscle spasms,
26 including those characteristic of multiple sclerosis; or

27 (C) any other medical condition approved as a

1 debilitating medical condition by department rule or any symptom
2 caused by the treatment of a medical condition that is approved as a
3 debilitating medical condition by department rule.

4 (2) "Department" means the Department of Public
5 Safety.

6 ~~[(2) "Intractable epilepsy" means a seizure disorder in~~
7 ~~which the patient's seizures have been treated by two or more~~
8 ~~appropriately chosen and maximally titrated antiepileptic drugs~~
9 ~~that have failed to control the seizures.]~~

10 (3) Medical [~~Low-THC~~] cannabis" means the plant
11 Cannabis sativa L., and any part of that plant or any compound,
12 manufacture, salt, derivative, mixture, preparation, resin, or oil
13 of that plant [~~that contains:~~

14 ~~[(A) not more than 0.5 percent by weight of~~
15 ~~tetrahydrocannabinols; and~~

16 ~~[(B) not less than 10 percent by weight of~~
17 ~~cannabidiol].~~

18 (4) "Medical practitioner" means:

19 (A) a licensed physician;

20 (B) an advanced practice registered nurse who has
21 been delegated prescriptive authority in accordance with
22 Subchapter B, Chapter 157; or

23 (C) a physician assistant who has been delegated
24 prescriptive authority in accordance with Subchapter B, Chapter
25 157.

26 (5) [(4)] "Medical use" means the ingestion of medical
27 [by a means of administration other than by smoking of a prescribed

1 ~~amount of low-THC~~] cannabis by a qualifying patient to treat or
2 alleviate the patient's debilitating medical condition [~~person for~~
3 ~~whom low-THC cannabis is prescribed under this chapter~~].

4 (6) "Qualifying patient" means a person who has been
5 diagnosed with a debilitating medical condition by a medical
6 practitioner.

7 [~~(5) "Smoking" means burning or igniting a substance~~
8 ~~and inhaling the smoke.~~]

9 Sec. 169.002. RECOMMENDATION FOR MEDICAL [~~PHYSICIAN~~
10 ~~QUALIFIED TO PRESCRIBE LOW-THC~~] CANNABIS BY MEDICAL PRACTITIONER.

11 (a) A medical practitioner may recommend medical cannabis to a
12 qualifying patient if the medical practitioner attests through
13 written certification that, in the medical practitioner's
14 professional opinion:

15 (1) the diagnosis of a debilitating medical condition
16 for the qualifying patient is correct;

17 (2) the qualifying patient is likely to receive
18 therapeutic or palliative benefit from the medical use of medical
19 cannabis to treat or alleviate the patient's debilitating medical
20 condition; and

21 (3) the potential benefits to the qualifying patient
22 of medical use outweigh the health risks of medical use.

23 (b) The written certification described by Subsection (a)
24 must:

25 (1) be dated and signed by the medical practitioner;

26 (2) specify the qualifying patient's debilitating
27 medical condition; and

1 (3) affirm that medical use was recommended in the
2 course of a bona fide practitioner-patient relationship between the
3 qualifying patient and the medical practitioner [~~Only a physician~~
4 ~~qualified as provided by this section may prescribe low-THC~~
5 ~~cannabis in accordance with this chapter.~~

6 ~~[(b) A physician is qualified to prescribe low-THC cannabis~~
7 ~~to a patient with intractable epilepsy if the physician:~~

8 ~~[(1) is licensed under this subtitle;~~

9 ~~[(2) dedicates a significant portion of clinical~~
10 ~~practice to the evaluation and treatment of epilepsy; and~~

11 ~~[(3) is certified:~~

12 ~~[(A) by the American Board of Psychiatry and~~
13 ~~Neurology in:~~

14 ~~[(i) epilepsy; or~~

15 ~~[(ii) neurology or neurology with special~~
16 ~~qualification in child neurology and is otherwise qualified for the~~
17 ~~examination for certification in epilepsy; or~~

18 ~~[(B) in neurophysiology by:~~

19 ~~[(i) the American Board of Psychiatry and~~
20 ~~Neurology; or~~

21 ~~[(ii) the American Board of Clinical~~
22 ~~Neurophysiology].~~

23 Sec. 169.004. [~~LOW-THC CANNABIS PRESCRIBER~~] REGISTRATION
24 OF RECOMMENDING MEDICAL PRACTITIONERS. Before a medical
25 practitioner [~~physician qualified to prescribe low-THC cannabis~~
26 ~~under Section 169.002~~] may recommend medical use [~~prescribe or~~
27 ~~renew a prescription for low-THC cannabis~~] for a qualifying patient

1 under this chapter, the practitioner [~~physician~~] must register as
2 the recommending medical practitioner [~~prescriber~~] for that
3 patient in the compassionate-use registry maintained by the
4 department under Section 487.054, Health and Safety Code. The
5 medical practitioner's [~~physician's~~] registration must indicate:

- 6 (1) the medical practitioner's [~~physician's~~] name; and
- 7 (2) the qualifying patient's name and date of birth[+
8 [~~(3) the dosage prescribed to the patient;~~
9 [~~(4) the means of administration ordered for the~~
10 ~~patient; and~~
11 [~~(5) the total amount of low-THC cannabis required to~~
12 ~~fill the patient's prescription]~~.

13 SECTION 21. Section 551.004, Occupations Code, is amended
14 by amending Subsection (a) and adding Subsection (a-1) to read as
15 follows:

- 16 (a) This subtitle does not apply to:
 - 17 (1) a practitioner licensed by the appropriate state
18 board who supplies a patient of the practitioner with a drug in a
19 manner authorized by state or federal law and who does not operate a
20 pharmacy for the retailing of prescription drugs;
 - 21 (2) a member of the faculty of a college of pharmacy
22 recognized by the board who is a pharmacist and who performs the
23 pharmacist's services only for the benefit of the college;
 - 24 (3) a person who procures prescription drugs for
25 lawful research, teaching, or testing and not for resale;
 - 26 (4) a home and community support services agency that
27 possesses a dangerous drug as authorized by Section 142.0061,

1 142.0062, or 142.0063, Health and Safety Code; or

2 (5) a dispensing organization~~[, as defined by Section~~
3 ~~487.001, Health and Safety Code,~~] that cultivates, processes, and
4 dispenses medical ~~[low-THC]~~ cannabis, as authorized by Chapter 487,
5 Health and Safety Code, to a cardholder or nonresident cardholder
6 ~~[patient listed in the compassionate-use registry established~~
7 ~~under that chapter]~~.

8 (a-1) For purposes of Subsection (a)(5), "cardholder,"
9 "dispensing organization," and "nonresident cardholder" have the
10 meanings assigned by Section 487.001, Health and Safety Code.

11 SECTION 22. Sections 169.003 and 169.005, Occupations Code,
12 are repealed.

13 SECTION 23. Not later than January 1, 2018, the public
14 safety director of the Department of Public Safety shall adopt
15 rules as required to implement, administer, and enforce Chapter
16 487, Health and Safety Code, as amended by this Act, including rules
17 relating to adopting an application for a registry identification
18 card, as required by Section 487.056, Health and Safety Code, as
19 added by this Act.

20 SECTION 24. (a) A license to operate as a dispensing
21 organization issued under Chapter 487, Health and Safety Code,
22 before the effective date of this Act continues to be valid after
23 the effective date of this Act until that license expires.

24 (b) The registration of a director, manager, or employee of
25 a dispensing organization under Subchapter D, Chapter 487, Health
26 and Safety Code, continues to be valid after the effective date of
27 this Act until that registration expires.

1 (c) As soon as practicable after the effective date of this
2 Act, the Department of Public Safety shall issue compassionate-use
3 registry cards to all individuals listed on that registry on the
4 effective date of this Act.

5 SECTION 25. This Act takes effect immediately if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this Act takes effect on the 91st day after the last day of
10 the legislative session.