

## **BILL ANALYSIS**

Senate Research Center

H.B. 3703  
By: Klick et al. (Campbell)  
Health & Human Services  
5/13/2019  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2015, the state legislature enacted the Texas Compassionate-Use Act and authorized low-THC cannabis to be prescribed to treat a patient with intractable epilepsy. There have been calls to make certain updates to that act and to make more conditions eligible for treatment using low-THC cannabis. H.B. 3703 seeks to respond to those calls.

H.B. 3703 amends current law relating to the dispensing, administration, and use of low-THC cannabis; authorizes low-THC cannabis research; and authorizes a fee.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission (executive commissioner) in SECTION 3 (Section 481.252, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the executive commissioner is rescinded in SECTION 8 (Subchapter G, Chapter 481, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 37, Education Code, by adding Section 37.0015, as follows:

Sec. 37.0015. LOW-THC CANNABIS. Prohibits a student for whom low-THC cannabis was prescribed under Chapter 169 (Authority to Prescribe Low-THC Cannabis to Certain Patients For Compassionate Use), Occupations Code, notwithstanding any other provision of this chapter (Discipline; Law and Order), from being subject to suspension, expulsion, placement in a disciplinary alternative education program, or any other form of discipline solely because the student possessed, used, or was under the influence of the low-THC cannabis.

SECTION 2. Amends Section 481.062(a), Health and Safety Code, to delete existing text authorizing a Department of State Health Services official, a medical school researcher, or a research program participant to possess tetrahydrocannabinol or one of its derivatives as authorized under Subchapter G (Therapeutic Research Program) without registering with the Federal Drug Enforcement Administration and to make nonsubstantive changes to this subsection.

SECTION 3. Amends Chapter 481, Health and Safety Code, by adding Subchapter G-1, as follows:

#### **SUBCHAPTER G-1. LOW-THC CANNABIS RESEARCH PROGRAM**

Sec. 481.251. DEFINITIONS. Defines "commission" as the Health and Human Services Commission (HHSC) for purposes of this subchapter. Defines "health-related institution" and "low-THC cannabis."

Sec. 481.252. **LOW-THC CANNABIS RESEARCH PROGRAM.** (a) Requires the executive commissioner of HHSC (executive commissioner) by rule, subject to Section 481.253, to establish a low-THC cannabis research program to be conducted by one or more health-related institutions in this state.

(b) Authorizes the executive commissioner, in adopting rules under this section, to provide:

(1) procedures for a health-related institution in this state to apply to HHSC for a permit to conduct low-THC cannabis research under the program established by this subchapter;

(2) criteria for granting a permit to a health-related institution to conduct low-THC cannabis research;

(3) any applicable fees for a permit to conduct low-THC cannabis research;

(4) limitations concerning the medical conditions for which low-THC cannabis research is authorized to be conducted under the program;

(5) restrictions related to facilities where low-THC cannabis research is authorized to be conducted; and

(6) any other conditions related to low-THC cannabis research that are necessary to comply with federal law regarding cannabis research with human subjects.

Sec. 481.253. **COMPLIANCE WITH FEDERAL LAW.** (a) Requires the executive commissioner to make or assist a health-related institution seeking to conduct research into low-THC cannabis in making all necessary applications to appropriate federal agencies to establish the program under this subchapter in compliance with federal law.

(b) Provides that HHSC is not required to establish the program under this subchapter if a registration or license required by federal law to operate the program cannot be obtained.

SECTION 4. Amends Section 487.101, Health and Safety Code, as follows:

Sec. 487.101. New heading: **LICENSE REQUIRED; DISPENSING LOCATIONS.** (a) Creates this subsection from existing text and makes no further changes to this subsection.

(b) Authorizes a dispensing organization to operate more than one dispensing location under a single license issued by the Department of Public Safety of the State of Texas (DPS) under this chapter if DPS determines that more than one dispensing location is necessary to meet patient access needs.

SECTION 5. Amends Section 487.107, Health and Safety Code, by adding Subsection (c) to require a dispensing organization, on request of DPS, to provide to DPS a sample suitable for testing of low-THC cannabis dispensed by the organization.

SECTION 6. Amends Section 169.001(3), Occupations Code, to redefine "low-THC cannabis" as the plant *Cannabis sativa* L., and any part of that plant or any compound, manufacture, salt, derivative, mixture, preparation, resin, or oil of that plant that contains not more than 0.5 percent by weight of tetrahydrocannabinols, rather than contains not more than 0.5 percent by weight of tetrahydrocannabinols and not less than 10 percent by weight of cannabidiol, and to make nonsubstantive changes to this subdivision.

SECTION 7. Amends Sections 169.002 and 169.003, Occupations Code, as follows:

Sec. 169.002. New heading: PHYSICIAN QUALIFIED TO PRESCRIBE LOW-THC CANNABIS TO PATIENTS WITH CERTAIN MEDICAL CONDITIONS. (a) Makes no changes to this subsection.

(b) Provides that a physician is qualified to prescribe low-THC cannabis to a patient with epilepsy, multiple sclerosis, or spasticity only if the physician, rather than providing that a physician is qualified to prescribe low-THC cannabis to a patient with intractable epilepsy if the physician:

(1) makes no changes to this subdivision;

(2) dedicates a significant portion of clinical practice to the evaluation and treatment of that patient's medical condition, rather than the evaluation and treatment of epilepsy; and

(3) is certified:

(A) by the American Board of Psychiatry and Neurology; or

(i) and (ii) Deletes these subparagraphs relating to certification by the American Board of Psychiatry and Neurology in epilepsy or neurology or neurology with special qualification in child neurology and to the physician being otherwise qualified for the examination for certification in epilepsy;

(B) makes no changes to this paragraph.

Sec. 169.003. PRESCRIPTION OF LOW-THC CANNABIS. Creates Subdivision (2)(A)(i) from existing text. Authorizes a physician described by Section 169.002 to prescribe low-THC cannabis to a patient if, rather than to prescribe low-THC cannabis to alleviate a patient's seizures if:

(1) makes a nonsubstantive change to this subdivision;

(2) makes no changes to this subdivision; and

(3) the physician certifies to DPS that:

(A) the patient is diagnosed with:

(i) epilepsy, rather than intractable epilepsy;

(ii) multiple sclerosis; or

(iii) spasticity;

(B) makes no changes to this paragraph; and

(C) a second physician licensed in this state, rather than a second physician qualified to prescribe low-THC cannabis under Section 169.002, has concurred with the determination under Paragraph (B) (relating to a physician determining that the risk of the medical use of low-THC cannabis by the patient is reasonable in light of the potential benefit for the patient), and the second physician's concurrence is recorded in the patient's medical record.

SECTION 8. (a) Repealer: Subchapter G (Therapeutic Research Program), Chapter 481, Health and Safety Code.

(b) Repealer: Section 169.001(2) (relating to defining "intractable epilepsy"),  
Occupations Code.

SECTION 9. Effective date: September 1, 2019.