86R26458 GCB-D

By:  Lucio III, Zerwas, Thompson of Harris, H.B. No. 1365

     Anchia, Larson, et al.

Substitute the following for H.B. No. 1365:

By:  Zedler C.S.H.B. No. 1365

A BILL TO BE ENTITLED

AN ACT

relating to authorizing the possession, use, cultivation, processing, distribution, transportation, research, testing, and delivery of low-THC cannabis for medical use by patients with certain debilitating medical conditions and the licensing of cannabis dispensing organizations, cannabis research organizations, and cannabis testing facilities; establishing the cannabis therapeutic research review board; authorizing fees.

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

SECTION 1.  Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0015 to read as follows:

Sec. 37.0015.  LOW-THC CANNABIS. Notwithstanding any other provision of this chapter, a student for whom low-THC cannabis was prescribed under Chapter 169, Occupations Code, may not be 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.  Section 481.062(a), Health and Safety Code, is amended to read as follows:

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

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

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

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

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

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

(A)  a Health and Human Services Commission [~~Department of State Health Services~~] official, a medical school researcher, or a research program participant possessing the substance as authorized under Subchapter G; or

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

(6)  a dispensing organization, cannabis research organization, or cannabis testing facility licensed under Subchapter C, Chapter 487, that possesses low-THC cannabis.

SECTION 3.  Sections 481.111(e) and (f), Health and Safety Code, are amended to read as follows:

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

(1)  for an offense involving possession only of marihuana or drug paraphernalia, is a patient for whom medical use [~~low-THC cannabis~~] is prescribed under Chapter 169, Occupations Code, or the patient's legal guardian, and the person possesses no more than the allowable amount of low-THC cannabis, as determined under Section 487.002 [~~obtained under a valid prescription from a dispensing organization~~]; or

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

(A)  in reasonable quantities, any low-THC cannabis or raw materials used in or by-products created by the production or cultivation of low-THC cannabis; or

(B)  any drug paraphernalia used in the acquisition, possession, production, cultivation, delivery, or disposal of low-THC cannabis.

(f)  For purposes of Subsection (e):

(1)  "Cannabis testing facility," "cannabis research organization," and "dispensing organization" have the meanings [~~"Dispensing organization" has the meaning~~] assigned by Section 487.001.

(2)  "Low-THC cannabis" and "medical use" have the meanings [~~"Low-THC cannabis" has the meaning~~] assigned by Section 169.001, Occupations Code.

SECTION 4.  Subchapter G, Chapter 481, Health and Safety Code, is amended to read as follows:

SUBCHAPTER G. CANNABIS THERAPEUTIC RESEARCH PROGRAM

Sec. 481.201.  RESEARCH PROGRAM; REVIEW BOARD. (a) A cannabis therapeutic research review board is established to administer the cannabis therapeutic research program under this subchapter. The executive commissioner shall assist the review board as provided by this subchapter [~~may establish a controlled substance therapeutic research program for the supervised use of tetrahydrocannabinols for medical and research purposes to be conducted in accordance with this chapter~~].

(b)  [~~If the executive commissioner establishes the program, the executive commissioner shall create a research program review board.~~] The review board members are appointed by the governor [~~executive commissioner~~] and serve staggered six-year terms. The terms of one-third of the members expire August 31 of each odd-numbered year [~~at the will of the executive commissioner~~].

(c)  The review board shall be composed of the following 12 members:

(1)  a licensed physician certified by the American Board of Ophthalmology;

(2)  a licensed physician certified by the American Board of Internal Medicine and certified in the subspecialty of medical oncology;

(3)  a licensed physician certified by the American Board of Psychiatry;

(4)  a licensed physician certified by the American Board of Surgery;

(5)  a licensed physician certified by the American Board of Radiology; [~~and~~]

(6)  a licensed attorney with experience in law pertaining to the practice of medicine;

(7)  a licensed physician certified by the American Board of Family Medicine;

(8)  a licensed physician certified by the American Osteopathic Association;

(9)  a licensed physician specializing in pain management certified by the American Board of Anesthesiology, the American Board of Psychiatry, the American Board of Neurology, or the American Board of Physical Medicine and Rehabilitation;

(10)  a licensed advanced practice registered nurse specializing in palliative care certified by the Hospice and Palliative Credentialing Center or a licensed physician specializing in palliative care certified by a member board of the American Board of Medical Specialties, the American Osteopathic Association, or the Hospice Medical Director Certification Board; and

(11)  two licensed physicians certified by the American Board of Psychiatry and Neurology.

(d)  The review board may create and appoint one or more advisory committees composed of patients, law enforcement officers, other medical professionals, and other persons who are knowledgeable about low-THC cannabis cultivation, processing, and regulation.

(e)  Members serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing official duties.

Sec. 481.202.  REVIEW BOARD POWERS AND DUTIES. (a) The review board shall review research proposals submitted [~~and medical case histories of persons recommended for participation in a research program~~] and determine which research programs and persons are most suitable for the therapy and research purposes of the program. The review board shall approve the research programs[~~, certify program participants,~~] and conduct periodic reviews of the research and participants.

(b)  Research programs may be conducted with a medical school, as defined by Section 61.501, Education Code, a hospital licensed under Chapter 241, or a general academic teaching institution, as defined by Section 61.003, Education Code, and may investigate the safety and efficacy of low-THC cannabis and other public health outcomes [~~The review board, after approval of the executive commissioner, may seek authorization to expand the research program to include diseases not covered by this subchapter~~].

(c)  The review board shall maintain a record of all persons in charge of approved research programs and of all persons who participate in the program as researchers or as patients. The record must indicate whether a patient is registered under Chapter 487.

(d)  The review board shall encourage multiple research goals, including:

(1)  objective scientific research into the safety and efficacy of low-THC cannabis;

(2)  developing medical guidelines for the appropriate administration of low-THC cannabis, to assist physicians and patients in evaluating the risks and benefits of low-THC cannabis, and to provide a scientific basis for future policies;

(3)  developing quality control, purity, and labeling standards for low-THC cannabis;

(4)  developing best practices for the safe and efficient cultivation of low-THC cannabis; and

(5)  analysis of genetic and healing properties of different varieties of cannabis. [~~The executive commissioner may terminate the distribution of tetrahydrocannabinols and their derivatives to a research program as the executive commissioner determines necessary.~~]

(e)  The review board shall require written reports that describe and assess the research findings by each approved research program, including research findings relating to the safety and efficacy of low-THC cannabis. In consultation with the Department of Public Safety, the review board shall report on the quality, diversity, and availability of low-THC cannabis. The review board shall submit a report on the status and findings of the research programs to the department not later than October 1 of each year.

(f)  The review board shall determine the formulations and dosages, including ratios of cannabinoids, that are medically appropriate for patients with particular debilitating medical conditions under Chapter 169, Occupations Code.

(g)  The review board may establish training criteria for the qualification of a physician under Section 169.002, Occupations Code.

(h)  If after review of published, peer-reviewed medical literature and research results under this subchapter, the review board determines that the likely benefit of medical use in the treatment or alleviation of a medical condition or symptom outweighs any likely harm to patients, that condition or symptom qualifies as a debilitating medical condition under Chapter 169, Occupations Code.

(i)  The review board shall conduct a continuing study of the laws relating to cannabis to facilitate statewide access to safe and effective low-THC cannabis and report the board's findings and recommendations to the legislature not later than the 90th day before the first day of each regular legislative session.

(j)  The review board may accept donations for research under this chapter and provide grants for research into low-THC cannabis use and health outcomes and scientific public education outreach to educate youth on the risks of using cannabis for nonmedical purposes or without the supervision of a health care provider.

Sec. 481.203.  PATIENT PARTICIPATION. (a)  A person may not be considered for participation as a recipient of low-THC cannabis [~~tetrahydrocannabinols and their derivatives~~] through a research program unless the person is recommended to a person in charge of an approved research program and the review board by a physician who is licensed by the Texas Medical Board and is attending the person.

(b)  A physician may [~~not~~] recommend a person for the research program if [~~unless~~] the person[~~:~~

[~~(1)  has glaucoma or cancer;~~

[~~(2)  is not responding to conventional treatment for glaucoma or cancer or is experiencing severe side effects from treatment; and~~

[~~(3)~~]  has a condition, symptoms, or side effects [~~from treatment~~] that may be alleviated by medical use of low-THC cannabis and the risk of the medical use of low-THC cannabis is reasonable in light of the potential benefit for the patient [~~tetrahydrocannabinols or their derivatives~~].

(c)  Each patient in a research program must provide informed consent in writing. If the patient lacks the mental or legal capacity to provide informed consent, a parent, guardian, or conservator may provide informed consent on the patient's behalf.

Sec. 481.204.  ACQUISITION AND DISTRIBUTION OF LOW-THC CANNABIS [~~CONTROLLED SUBSTANCES~~]. (a)  The executive commissioner shall acquire low-THC cannabis [~~the tetrahydrocannabinols and their derivatives~~] for use in the research program by contracting with the National Institute on Drug Abuse to receive tetrahydrocannabinols and their derivatives that are safe for human consumption according to the regulations adopted by the institute, the United States Food and Drug Administration, and the Federal Drug Enforcement Administration.

(b)  The executive commissioner shall supervise the distribution of low-THC cannabis [~~the tetrahydrocannabinols and their derivatives~~] to program participants.  The low-THC cannabis [~~tetrahydrocannabinols and derivatives of tetrahydrocannabinols~~] may be distributed only by the person in charge of the research program to physicians caring for program participant patients, under rules adopted by the executive commissioner in such a manner as to prevent unauthorized diversion of the substances and in compliance with all requirements of the Federal Drug Enforcement Administration.  The physician is responsible for dispensing the substances to patients.

(c)  Notwithstanding Subsections (a) and (b), a research program may use and patients may acquire low-THC cannabis produced by license holders under Chapter 487.

Sec. 481.205.  RULES; REPORTS. (a)  The executive commissioner shall adopt rules necessary for implementing the research program.

(b)  The [~~If the executive commissioner establishes a program under this subchapter, the~~] commissioner shall publish a report not later than January 1 of each odd-numbered year on the medical effectiveness of the use of low-THC cannabis [~~tetrahydrocannabinols and their derivatives~~] and any other medical findings of the research program.

SECTION 5.  Section 487.001, Health and Safety Code, is amended to read as follows:

Sec. 487.001.  DEFINITIONS.  In this chapter:

(1)  "Cannabis research organization" means an organization licensed by the department to conduct medical, scientific, or agricultural research on low-THC cannabis.

(2)  "Cannabis testing facility" means an independent entity licensed by the department under this chapter to analyze the content, safety, and potency of low-THC cannabis.

(3)  "Caregiver" means a person who has significant responsibility for managing the well-being of a registered patient.

(4)  "Debilitating medical condition" has the meaning assigned by Section 169.001, Occupations Code.

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

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

(7) [~~(3)~~]  "Dispensing organization" means an organization licensed by the department to cultivate, process, and dispense low-THC cannabis to a patient for whom low-THC cannabis is prescribed under Chapter 169, Occupations Code.

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

(9)  "Medical use" has the meaning assigned by Section 169.001, Occupations Code.

SECTION 6.  Subchapter A, Chapter 487, Health and Safety Code, is amended by adding Section 487.002 to read as follows:

Sec. 487.002.  ALLOWABLE AMOUNT OF LOW-THC CANNABIS. (a) The allowable amount of low-THC cannabis for a person for whom medical use is recommended under Chapter 169, Occupations Code, is a 30-day supply of the recommended dosage for a particular patient stated in terms of grams for low-THC cannabis in the form of dried flower and in terms of milligrams of tetrahydrocannabinols contained in oils or other products infused with low-THC cannabis.

(b)  Oils or other products infused with low-THC cannabis must be labeled in accordance with department rules to indicate the quantity of each cannabinoid and terpene contained in the oil or product for purposes of determining compliance with this section.

SECTION 7.  Chapter 487, Health and Safety Code, is amended by adding Subchapter A-1 to read as follows:

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

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

(1)  a patient for whom medical use is prescribed under Chapter 169, Occupations Code, or the parent or caregiver of a patient;

(2)  a dispensing organization;

(3)  a cannabis research organization;

(4)  a cannabis testing facility; or

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

(b)  Notwithstanding any other law, a person described by Subsection (a) is not subject to arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for conduct involving medical use that is authorized under this chapter, Subchapter G, Chapter 481, department rule, or Chapter 169, Occupations Code.

Sec. 487.022.  NO PRESUMPTION OF CHILD ABUSE, NEGLECT, OR ENDANGERMENT. A person described by Section 487.021(a) may not be presumed to have engaged in conduct constituting child abuse, neglect, or endangerment solely because the person engaged in conduct involving medical use that is authorized under this chapter, Subchapter G, Chapter 481, department rule, or Chapter 169, Occupations Code.

Sec. 487.023.  NO DENIAL OF PARENTAL RIGHTS. The fact that a person described by Section 487.021(a) engages in conduct authorized under this chapter, Subchapter G, Chapter 481, department rule, or Chapter 169, Occupations Code, does not in itself constitute grounds for denying, limiting, or restricting conservatorship or possession of or access to a child under Title 5, Family Code.

Sec. 487.024.  NO SEIZURE OR FORFEITURE. Property used in the cultivation, research, testing, processing, distribution, transportation, and delivery of low-THC cannabis for medical use that is authorized under this chapter, Subchapter G, Chapter 481, department rule, or Chapter 169, Occupations Code, is not contraband for purposes of Chapter 59, Code of Criminal Procedure, and is not subject to seizure or forfeiture under that chapter or other law solely for the use of the property in those authorized activities.

Sec. 487.025.  NO PROSECUTION FOR PROVISION OF PARAPHERNALIA. A person is not subject to arrest, prosecution, or the imposition of any sentence or penalty for the delivery, possession with intent to deliver, or manufacture of any item that meets the definition of drug paraphernalia, as defined by Section 481.002, if that item is delivered, possessed with intent to deliver, or manufactured for the sole purpose of providing that item to:

(1)  a person for whom medical use is recommended under Chapter 169, Occupations Code;

(2)  a licensed cannabis research organization; or

(3)  a licensed cannabis testing facility.

SECTION 8.  Section 487.052, Health and Safety Code, is amended to read as follows:

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

(b)  The director shall adopt [~~, including~~] rules imposing reasonable fees under this chapter in amounts sufficient to cover the cost of administering this chapter and Subchapter G, Chapter 481. The department may also use fees to establish a cannabis testing and quality control fund for the costs of equipment to test cannabis, cannabis products, and other substances for the purpose of assisting law enforcement to enforce this subtitle.

(c)  The director by rule shall adopt labeling requirements for low-THC cannabis. In adopting labeling requirements, the director shall ensure each oil and product infused with low-THC cannabis is labeled with the quantity of each cannabinoid and terpene contained in the oil or product.

(d)  In consultation with the cannabis therapeutic research review board under Chapter 481, the director shall adopt necessary rules to allow the department to monitor the safety and efficacy of low-THC cannabis and oils or products infused with low-THC cannabis, including rules:

(1)  requiring accurate reporting to consumers by testing facilities regarding the content of low-THC cannabis and oils or products infused with low-THC cannabis; and

(2)  providing for random testing by the department to ensure compliance with labeling and reporting requirements.

(e)  In consultation with the cannabis therapeutic research review board under Chapter 481, the director may collect data from dispensing organizations, cannabis research organizations, cannabis testing facilities, and health care providers as necessary to enable the department to monitor the safety and efficacy of low-THC cannabis and oils or products infused with low-THC cannabis. The director may adopt rules for the data collection under this subsection.

SECTION 9.  The heading to Section 487.053, Health and Safety Code, is amended to read as follows:

Sec. 487.053.  LICENSING OF DISPENSING ORGANIZATIONS, CANNABIS RESEARCH ORGANIZATIONS, AND CANNABIS TESTING FACILITIES; REGISTRATION OF CERTAIN ASSOCIATED INDIVIDUALS.

SECTION 10.  Section 487.053(a), Health and Safety Code, is amended to read as follows:

(a)  The department shall:

(1)  issue or renew a license under Subchapter C to operate as:

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

(B)  a cannabis research organization to each applicant who satisfies the requirements established under this chapter for licensure as a cannabis research organization; and

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

(2)  register directors, managers, and employees under Subchapter D of each:

(A)  dispensing organization;

(B)  cannabis research organization; and

(C)  cannabis testing facility.

SECTION 11.  Section 487.054, Health and Safety Code, is amended to read as follows:

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

(1)  the name of each physician who registers as a physician prescribing low-THC cannabis for medical use [~~the prescriber~~] for a patient under Section 169.004, Occupations Code, the name and date of birth of the patient, the dosage prescribed, the means of administration ordered, and the debilitating medical condition for which medical use is prescribed for the patient [~~total amount of low-THC cannabis required to fill the patient's prescription~~]; and

(2)  the allowable amount of low-THC cannabis specified by a prescribing physician for the patient under Chapter 169, Occupations Code [~~a record of each amount of low-THC cannabis dispensed by a dispensing organization to a patient under a prescription~~].

(b)  The department shall ensure the registry:

(1)  is designed to prevent more than one [~~qualified~~] physician from registering as the prescribing physician [~~prescriber~~] for a single patient;

(2)  is accessible to law enforcement agencies and dispensing organizations for the purpose of verifying whether a patient is one for whom low-THC cannabis is prescribed [~~and whether the patient's prescriptions have been filled~~]; and

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

SECTION 12.  Subchapter B, Chapter 487, Health and Safety Code, is amended by adding Section 487.055 to read as follows:

Sec. 487.055.  DESIGNATION OF CAREGIVERS. (a) The department shall develop a form for a patient listed in the registry to designate one caregiver and one alternate caregiver.

(b)  The form must require the patient to provide the full name, home address, and date of birth of the patient's caregiver and alternate caregiver.

(c)  A patient may not designate as the patient's caregiver or alternate caregiver a person who has been previously convicted of an offense punishable as a felony involving the manufacture, delivery, or possession of a controlled substance.

(d)  A person may be a caregiver or alternate caregiver for only one patient at a time unless:

(1)  each patient is related to the caregiver within the fourth degree of consanguinity or affinity, as determined in the manner described by Chapter 573, Government Code; or

(2)  the caregiver is employed by a home health care agency or other service and provides assistance to multiple patients who are registered low-THC cannabis patients as part of the caregiver's job duties.

(e)  The director shall adopt rules necessary to implement this section, including rules allowing a patient to change the patient's caregiver or alternate caregiver and to provide identification cards for registered caregivers.

SECTION 13.  The heading to Subchapter C, Chapter 487, Health and Safety Code, is amended to read as follows:

SUBCHAPTER C. LICENSING OF [~~LICENSE TO OPERATE AS~~] DISPENSING ORGANIZATIONS, CANNABIS RESEARCH ORGANIZATIONS, AND CANNABIS TESTING FACILITIES [~~ORGANIZATION~~]

SECTION 14.  Section 487.101, Health and Safety Code, is amended to read as follows:

Sec. 487.101.  LICENSE REQUIRED. A person may not operate as a dispensing organization, a cannabis research organization, or a cannabis testing facility without the appropriate license issued by the department under this subchapter [~~chapter is required to operate a dispensing organization~~].

SECTION 15.  Section 487.102, Health and Safety Code, is amended to read as follows:

Sec. 487.102.  ELIGIBILITY FOR LICENSE TO OPERATE AS DISPENSING ORGANIZATION. (a) An applicant for a license to operate as a dispensing organization is eligible for the license if:

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

(A)  the technical and technological ability to cultivate and produce low-THC cannabis;

(B)  the ability to secure:

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

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

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

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

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

(3)  the applicant satisfies any additional criteria determined by the director to be necessary to safely implement this chapter.

(b)  A dispensing organization may operate three additional retail dispensing locations under a single license issued by the department under this chapter on application to the department. If the department determines that additional locations are necessary to meet patient access needs, then a licensee may operate more than four dispensing locations. The department may set a fee for an application for each additional location in accordance with Section 487.103.

SECTION 16.  Subchapter C, Chapter 487, Health and Safety Code, is amended by adding Sections 487.1021 and 487.1022 to read as follows:

Sec. 487.1021.  ELIGIBILITY FOR LICENSE TO OPERATE AS CANNABIS RESEARCH ORGANIZATION. (a) An applicant for a license to operate as a cannabis research organization is eligible for the license if:

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

(A)  the ability to secure the resources and personnel necessary to operate as a cannabis research organization; and

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

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

(3)  for medical or scientific research, the applicant has submitted a research proposal to the cannabis therapeutic research review board as described in Subchapter G, Chapter 481; and

(4)  the applicant satisfies any additional criteria determined by the director to be necessary for the operation of a cannabis research organization.

(b)  If the applicant is affiliated with a medical school, as defined by Section 61.501, Education Code, a hospital licensed under Chapter 241, or a general academic teaching institution, as defined by Section 61.003, Education Code, the department shall presume the requirements of Subsection (a)(1) are met.

Sec. 487.1022.  ELIGIBILITY FOR LICENSE TO OPERATE AS CANNABIS TESTING FACILITY. An applicant for a license to operate as a cannabis testing facility is eligible for the license if:

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

(A)  the ability to secure the resources and personnel necessary to operate as a cannabis testing facility; and

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

(2)  the applicant is accredited by an accreditation body in accordance with International Organization for Standardization ISO/IEC 17025 or a successor standard;

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

(4)  the applicant satisfies any additional criteria determined by the director to be necessary for the operation of a cannabis testing facility.

SECTION 17.  Section 487.103, Health and Safety Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1)  A person may apply for an initial or renewal license to operate as a cannabis research organization by submitting a form prescribed by the department along with the application fee in an amount set by the director that may not exceed $500.

(a-2)  A person may apply for an initial or renewal license to operate as a cannabis testing facility by submitting a form prescribed by the department along with the application fee in an amount set by the director.

SECTION 18.  Section 487.104(a), Health and Safety Code, is amended to read as follows:

(a)  The department shall issue or renew a license under this subchapter [~~to operate as a dispensing organization~~] only if:

(1)  the department determines the applicant meets the eligibility requirements described by Section 487.102, 487.1021, or 487.1022, as applicable; and

(2)  in the case of a dispensing organization, issuance [~~or renewal~~] of the license is necessary to ensure reasonable statewide access to, and the availability of, low-THC cannabis and the medically appropriate formulations determined under Section 481.202(f) for patients registered in the compassionate-use registry and for whom low-THC cannabis is prescribed under Chapter 169, Occupations Code.

SECTION 19.  Sections 487.105(a) and (b), Health and Safety Code, are amended to read as follows:

(a)  An applicant for the issuance or renewal of a license under this subchapter [~~to operate as a dispensing organization~~] shall provide the department with the applicant's name and the name of each of the applicant's directors, managers, and employees.

(b)  Before a license holder under this subchapter [~~dispensing organization licensee~~] hires a manager or employee for the organization or facility, the license holder [~~licensee~~] must provide the department with the name of the prospective manager or employee. The license holder [~~licensee~~] may not transfer the license to another person before that prospective applicant and the applicant's directors, managers, and employees pass a criminal history background check and are registered as required by Subchapter D.

SECTION 20.  Section 487.106, Health and Safety Code, is amended to read as follows:

Sec. 487.106.  DUTY TO MAINTAIN ELIGIBILITY. Each license holder under this subchapter [~~A dispensing organization~~] must maintain compliance at all times with the eligibility requirements described by Section 487.102, 487.1021, or 487.1022, as applicable.

SECTION 21.  Section 487.107, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c)  On request of the department, a dispensing organization must provide to the department a sample suitable for testing of low-THC cannabis dispensed by the organization.

SECTION 22.  Sections 487.108(a), (b), and (c), Health and Safety Code, are amended to read as follows:

(a)  The department may at any time suspend or revoke a license issued under this subchapter [~~chapter~~] if the department determines that the license holder [~~licensee~~] has not maintained the eligibility requirements described by Section 487.102, 487.1021, or 487.1022, as applicable, or has failed to comply with a duty imposed under this chapter.

(b)  The director shall give written notice to the license holder [~~dispensing organization~~] of a license suspension or revocation under this section and the grounds for the suspension or revocation. The notice must be sent by certified mail, return receipt requested.

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

SECTION 23.  Section 487.151(a), Health and Safety Code, is amended to read as follows:

(a)  An individual who is a director, manager, or employee of a license holder under Subchapter C [~~dispensing organization~~] must apply for and obtain a registration under this section.

SECTION 24.  Section 487.201, Health and Safety Code, is amended to read as follows:

Sec. 487.201.  COUNTIES AND MUNICIPALITIES MAY NOT PROHIBIT LOW-THC CANNABIS. A municipality, county, or other political subdivision may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, production, dispensing, research, testing, or possession of low-THC cannabis, as authorized by this chapter.

SECTION 25.  Chapter 169, Occupations Code, is amended to read as follows:

CHAPTER 169. AUTHORITY TO PRESCRIBE LOW-THC CANNABIS TO CERTAIN PATIENTS FOR COMPASSIONATE USE

Sec. 169.001.  DEFINITIONS.  In this chapter:

(1)  "Bona fide physician-patient relationship" means a treatment or counseling relationship between a physician and patient in which all of the following are present:

(A)  the physician has reviewed the patient's relevant medical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient;

(B)  the physician has created and maintained records of the patient's condition in accordance with medically accepted standards;

(C)  the physician has a reasonable expectation that the physician will provide follow-up care to the patient to monitor the efficacy of the use of low-THC cannabis as a treatment of the patient's debilitating medical condition; and

(D)  if the patient has given permission, the physician has notified the patient's primary care physician of the patient's debilitating medical condition and certification for the medical use of low-THC cannabis to treat that condition.

(2)  "Debilitating medical condition" means:

(A)  cancer, autism, post-traumatic stress disorder, neurological conditions including agitation of Alzheimer's disease, Parkinson's disease, Huntington's disease, amyotrophic lateral sclerosis, and Tourette syndrome, Crohn's disease, ulcerative colitis, muscular dystrophy, or multiple sclerosis;

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

(i)  endocannabinoid deficiency syndrome;

(ii)  cachexia or wasting syndrome;

(iii)  neuropathy;

(iv)  visceral, neuropathic, somatic, or severe intractable pain;

(v)  severe nausea;

(vi)  seizures, including those characteristic of epilepsy;

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

(viii)  tic disorders; or

(C)  any other medical condition or any symptom caused by the treatment of a medical condition approved as a debilitating medical condition by the cannabis therapeutic research review board under Section 481.202(h).

(3)  "Department" means the Department of Public Safety.

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

[~~(3)~~]  "Low-THC cannabis" means 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[~~:~~

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

[~~(B)  not less than 10 percent by weight of cannabidiol~~]. Notwithstanding other law, low-THC cannabis includes any medical formulation or dosage approved under Section 481.202(f).

(5) [~~(4)~~]  "Medical use" means the ingestion by a means of administration other than by smoking of a prescribed amount of low-THC cannabis by a person for whom medical use [~~low-THC cannabis~~] is prescribed under this chapter.

(6)  "Prescribe" means the act of a physician to authorize low-THC cannabis to be dispensed to a patient.

(7)  "Prescription" means an order by a physician, provided on a secure online form designated by the department, that specifies:

(A)  the date of the order's issue;

(B)  the name and date of birth of the patient;

(C)  the dosage, any cannabinoid ratios, and quantity prescribed to the patient;

(D)  directions for the use and means of administration of the low-THC cannabis; and

(E)  an amount of low-THC cannabis needed by the patient for a 30-day period.

(8)  "Serious adverse event" means an adverse event that:

(A)  results in death;

(B)  results in an illness requiring hospitalization;

(C)  is considered life-threatening; or

(D)  results in a persistent or significant disability, incapacity, or medically important condition.

(9) [~~(5)~~]  "Smoking" means burning or igniting a substance and inhaling the smoke. The term does not include vaporizing.

(10)  "Vaporizing" means heating a substance to a temperature below the combustion point of the substance so that the vapor may be inhaled.

Sec. 169.002.  PHYSICIAN AUTHORIZED [~~QUALIFIED~~] TO PRESCRIBE LOW-THC CANNABIS. (a) A [~~Only a~~] physician [~~qualified as provided by this section~~] may prescribe low-THC cannabis in accordance with this chapter for a patient with a debilitating medical condition, provided that the physician has obtained the proper medical knowledge concerning medical use as treatment for a patient's particular debilitating medical condition through a course of instruction provided for that purpose, continuing medical education relating to medical use, or self-study.

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

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

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

[~~(3)  is certified:~~

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

[~~(i)  epilepsy; or~~

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

[~~(B)  in neurophysiology by:~~

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

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

[~~Sec. 169.003.  PRESCRIPTION OF LOW-THC CANNABIS.~~] A physician who prescribes low-THC cannabis under this chapter must [~~described by Section 169.002 may prescribe low-THC cannabis to alleviate a patient's seizures if~~]:

(1)  comply [~~the patient is a permanent resident of the state;~~

[~~(2)  the physician complies~~] with the registration requirements of Section 169.004; and

(2)  certify [~~(3) the physician certifies~~] to the department that:

(A)  there is a bona fide physician-patient relationship;

(B)  the patient is diagnosed with a debilitating medical condition [~~intractable epilepsy~~];

(C) [~~(B)~~]  the physician has determined that [~~determines~~] 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

(D) [~~(C)~~]  the physician has obtained the proper medical knowledge required by Subsection (a) [~~a second physician qualified to prescribe low-THC cannabis under Section 169.002 has concurred with the determination under Paragraph (B), and the second physician's concurrence is recorded in the patient's medical record~~].

Sec. 169.004.  PHYSICIAN [~~LOW-THC CANNABIS PRESCRIBER~~] REGISTRATION OF PRESCRIPTION. (a) Before a physician [~~qualified to prescribe low-THC cannabis under Section 169.002~~] may prescribe low-THC cannabis for medical use [~~prescribe or renew a prescription for low-THC cannabis~~] for a patient under this chapter, the physician must register as the prescribing physician [~~prescriber for that patient~~] in the compassionate-use registry maintained by the department under Section 487.054, Health and Safety Code.

(b)  Before a physician may prescribe low-THC cannabis for a particular patient, the physician must add that prescription for the patient to the physician's registration information.

(c)  The department may publish the name of a physician registered under this section only if permission is expressly granted by the physician. The physician's name is confidential and is not subject to disclosure under Chapter 552, Government Code. [~~The physician's registration must indicate:~~

[~~(1)  the physician's name;~~

[~~(2)  the patient's name and date of birth;~~

[~~(3)  the dosage prescribed to the patient;~~

[~~(4)  the means of administration ordered for the patient; and~~

[~~(5)  the total amount of low-THC cannabis required to fill the patient's prescription.~~]

Sec. 169.005.  PATIENT TREATMENT PLAN. A physician [~~described by Section 169.002~~] who prescribes low-THC cannabis for a patient's medical use under this chapter must maintain a patient treatment plan that indicates:

(1)  the dosage, means of administration, and planned duration of treatment for the low-THC cannabis;

(2)  a plan for monitoring the patient's symptoms; and

(3)  a plan for monitoring indicators of tolerance or reaction to low-THC cannabis, including any adverse events.

Sec. 169.006.  ADVERSE EVENT REPORTING. A physician must record any adverse event in the patient's medical records and shall report any serious adverse event to the cannabis therapeutic research review board.

Sec. 169.007.  PHYSICIAN'S STATEMENT; PARTICIPATION IN PROGRAMS. A physician may not be denied any right or privilege or be subject to any disciplinary action solely for:

(1)  making a written or oral statement that, in the physician's professional opinion, the potential benefits of the use of cannabis would likely outweigh the health risks; or

(2)  participation in programs under Subchapter G, Chapter 481, or Chapter 487, Health and Safety Code.

SECTION 26.  Section 551.004, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a)  This subtitle does not apply to:

(1)  a practitioner licensed by the appropriate state board who supplies a patient of the practitioner with a drug in a manner authorized by state or federal law and who does not operate a pharmacy for the retailing of prescription drugs;

(2)  a member of the faculty of a college of pharmacy recognized by the board who is a pharmacist and who performs the pharmacist's services only for the benefit of the college;

(3)  a person who procures prescription drugs for lawful research, teaching, or testing and not for resale;

(4)  a home and community support services agency that possesses a dangerous drug as authorized by Section 142.0061, 142.0062, or 142.0063, Health and Safety Code; [~~or~~]

(5)  a dispensing organization[~~, as defined by Section 487.001, Health and Safety Code,~~] that cultivates, processes, and dispenses low-THC cannabis, as authorized by a license issued under Subchapter C, Chapter 487, Health and Safety Code, to a patient listed in the compassionate-use registry established under that chapter;

(6)  a cannabis research organization that researches the cultivation, analysis, and medical use of low-THC cannabis, as authorized by a license issued under Subchapter C, Chapter 487, Health and Safety Code; or

(7)  a cannabis testing facility that analyzes the content, safety, and potency of low-THC cannabis, as authorized by a license issued under Subchapter C, Chapter 487, Health and Safety Code.

(a-1)  For purposes of Subsections (a)(5), (6), and (7), "cannabis research organization," "cannabis testing facility," and "dispensing organization" have the meanings assigned by Section 487.001, Health and Safety Code.

SECTION 27.  Not later than December 1, 2019, the public safety director of the Department of Public Safety shall adopt rules as required to implement, administer, and enforce Chapter 487, Health and Safety Code, as amended by this Act.

SECTION 28.  (a) A license to operate as a dispensing organization issued under Chapter 487, Health and Safety Code, before the effective date of this Act continues to be valid after the effective date of this Act until that license expires.

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

(c)  Not later than September 1, 2020, the Department of Public Safety shall license at least 12 dispensing organizations in accordance with Section 487.053, Health and Safety Code, as amended by this Act, including those already licensed as of the effective date of this Act, provided at least 12 applicants for a license to operate as a dispensing organization have met the requirements for approval provided by Subchapter C, Chapter 487, Health and Safety Code, as amended by this Act.

(d)  As of the effective date of this Act, the duties of the review board established under Subchapter G, Chapter 481, Health and Safety Code, are transferred to the review board composed of the members appointed under Section 481.201, Health and Safety Code, as amended by this Act. The governor shall appoint the additional members provided for by amendments made to that section by this Act, as soon as practicable and not later than October 1, 2019.

(e)  Not later than March 1, 2020, the Department of Public Safety shall begin licensing cannabis research organizations and cannabis testing facilities in accordance with Subchapter C, Chapter 487, Health and Safety Code, as amended by this Act, provided that the applicants for a license have met all requirements for approval under that subchapter.

SECTION 29.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.