

By: Reynolds

H.B. No. 209

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 161.001(c), Family Code, is amended to
9 read as follows:

10 (c) A court may not make a finding under Subsection (b) and
11 order termination of the parent-child relationship based on
12 evidence that the parent:

- 13 (1) homeschooled the child;
14 (2) is economically disadvantaged;
15 (3) has been charged with a nonviolent misdemeanor
16 offense other than:
17 (A) an offense under Title 5, Penal Code;
18 (B) an offense under Title 6, Penal Code; or
19 (C) an offense that involves family violence, as
20 defined by Section 71.004 of this code;

21 (4) provided or administered medical [~~low-THC~~]
22 cannabis to a child for whom the medical [~~low-THC~~] cannabis was
23 recommended [~~prescribed~~] under Chapter 169, Occupations Code; or

24 (5) declined immunization for the child for reasons of

1 conscience, including a religious belief.

2 SECTION 2. Section 262.116(a), Family Code, is amended to
3 read as follows:

4 (a) The Department of Family and Protective Services may not
5 take possession of a child under this subchapter based on evidence
6 that the parent:

- 7 (1) homeschooled the child;
8 (2) is economically disadvantaged;
9 (3) has been charged with a nonviolent misdemeanor
10 offense other than:

- 11 (A) an offense under Title 5, Penal Code;
12 (B) an offense under Title 6, Penal Code; or
13 (C) an offense that involves family violence, as
14 defined by Section 71.004 of this code;

15 (4) provided or administered medical [~~low-THC~~]
16 cannabis to a child for whom the medical [~~low-THC~~] cannabis was
17 recommended [~~prescribed~~] under Chapter 169, Occupations Code; or

18 (5) declined immunization for the child for reasons of
19 conscience, including a religious belief.

20 SECTION 3. Section 481.062(a), Health and Safety Code, is
21 amended to read as follows:

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

- 25 (1) an agent or employee of a manufacturer,
26 distributor, analyzer, or dispenser of the controlled substance who
27 is registered with the Federal Drug Enforcement Administration and

1 acting in the usual course of business or employment;

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

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

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

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

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

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

26 (6) a person possessing medical cannabis, as defined
27 by Section 169.001, Occupations Code, who is authorized to possess

1 medical cannabis [~~dispensing organization licensed~~] under Chapter
2 487 [~~that possesses low-THC cannabis~~].

3 SECTION 4. Sections 481.111(e) and (f), Health and Safety
4 Code, are amended to read as follows:

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

10 (1) for an offense involving possession only of
11 marihuana or drug paraphernalia, is a cardholder or nonresident
12 cardholder authorized under Chapter 487 to possess medical cannabis
13 for medical use by a qualifying patient [~~for whom low-THC cannabis~~
14 ~~is prescribed under Chapter 169, Occupations Code, or the patient's~~
15 ~~legal guardian,~~] and the person possesses no more than the
16 allowable amount of medical [~~low-THC~~] cannabis, as determined under
17 Section 487.081 [~~obtained under a valid prescription from a~~
18 ~~dispensing organization~~]; or

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

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

27 (B) any drug paraphernalia used in the

1 acquisition, possession, production, cultivation, delivery, or
2 disposal of medical [~~low-THC~~] cannabis.

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

4 (1) "Cannabis testing facility," "cardholder,"
5 "dispensing organization," and "nonresident cardholder" have the
6 meanings [~~"Dispensing organization" has the meaning~~] assigned by
7 Section 487.001.

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

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

13 Sec. 487.001. DEFINITIONS. In this chapter:

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

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

19 (3) "Debilitating medical condition," "medical
20 cannabis," "medical practitioner," "medical use," and "qualifying
21 patient" have the meanings assigned by Section 169.001, Occupations
22 Code.

23 (4) "Department" means the Department of Public
24 Safety.

25 (5) [~~(2)~~] "Director" means the public safety director
26 of the department.

27 (6) [~~(3)~~] "Dispensing organization" means an

1 organization licensed by the department to cultivate, process, and
2 dispense medical [~~low-THC~~] cannabis to a patient for whom medical
3 use [~~low-THC cannabis~~] is recommended [~~prescribed~~] under Chapter
4 169, Occupations Code.

5 (7) "Drug paraphernalia" has the meaning assigned by
6 Section 481.002.

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

9 (A) has been diagnosed with a debilitating
10 medical condition and issued a currently valid registry
11 identification card or the equivalent under the laws of another
12 state, district, territory, commonwealth, insular possession of
13 the United States, or country recognized by the United States, that
14 authorizes medical use by the person in the jurisdiction of
15 issuance; or

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

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

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

21 (B) has significant responsibility for managing
22 the medical care of a qualifying patient listed on the
23 compassionate-use registry; and

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

27 (10) "Registry identification card" means a document

1 issued by the department that identifies a person as:

2 (A) a qualifying patient listed on the
3 compassionate-use registry; or

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

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

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

10 SECTION 6. Chapter 487, Health and Safety Code, is amended
11 by adding Subchapter A-1 to read as follows:

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

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

15 (1) a cardholder;

16 (2) a nonresident cardholder;

17 (3) a dispensing organization;

18 (4) a cannabis testing facility; or

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

22 (b) Notwithstanding any other law, a person described by
23 Subsection (a) is not subject to arrest, prosecution, or penalty in
24 any manner, or denial of any right or privilege, including any civil
25 penalty or disciplinary action by a court or occupational or
26 professional licensing board or bureau, for conduct involving
27 medical use that is authorized under this chapter, department rule,

1 or Chapter 169, Occupations Code.

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

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

14 Sec. 487.024. NO SEIZURE OR FORFEITURE. Property used in
15 the cultivation, distribution, transportation, and delivery of
16 medical cannabis for medical use that is authorized under this
17 chapter, department rule, or Chapter 169, Occupations Code, is not
18 contraband for purposes of Chapter 59, Code of Criminal Procedure,
19 and is not subject to seizure or forfeiture under that chapter or
20 other law solely for the use of the property in those authorized
21 activities.

22 Sec. 487.025. NO PROSECUTION FOR PROVISION OF
23 PARAPHERNALIA. A person is not subject to arrest, prosecution, or
24 the imposition of any sentence or penalty for the delivery,
25 possession with intent to deliver, or manufacture of any item that
26 meets the definition of drug paraphernalia, if that item is
27 delivered, possessed with intent to deliver, or manufactured for

1 the sole purpose of providing that item to a cardholder or
2 nonresident cardholder for medical use under this chapter,
3 department rule, or Chapter 169, Occupations Code.

4 SECTION 7. Section 487.052, Health and Safety Code, is
5 amended to read as follows:

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

9 (b) The director shall adopt reasonable [~~, including~~] rules
10 imposing fees under this chapter in amounts sufficient to cover the
11 cost of administering this chapter. Fees collected under a rule
12 adopted under this chapter may be used only for the administration
13 of this chapter.

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

18 (d) The director by rule shall adopt labeling requirements
19 for medical cannabis.

20 (e) The director shall adopt rules establishing security
21 requirements concerning the cultivation of medical cannabis by a
22 cardholder.

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

25 SECTION 8. The heading to Section 487.053, Health and
26 Safety Code, is amended to read as follows:

27 Sec. 487.053. LICENSING OF DISPENSING ORGANIZATIONS AND

1 CANNABIS TESTING FACILITIES; REGISTRATION OF CERTAIN ASSOCIATED
2 INDIVIDUALS.

3 SECTION 9. Section 487.053(a), Health and Safety Code, is
4 amended to read as follows:

5 (a) The department shall:

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

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

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

13 (2) register directors, managers, and employees of
14 each:

15 (A) dispensing organization; and

16 (B) cannabis testing facility.

17 SECTION 10. Section 487.054, Health and Safety Code, is
18 amended to read as follows:

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

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

25 (2) the name of each medical practitioner who
26 recommends medical use to a qualifying patient and ~~[physician who~~
27 ~~registers as the prescriber for a patient under Section 169.004,~~

1 ~~Occupations Code,~~] the name and date of birth of that [the]
2 patient[, ~~the dosage prescribed, the means of administration~~
3 ~~ordered, and the total amount of low-THC cannabis required to fill~~
4 ~~the patient's prescription~~]; and

5 (3) [~~(2)~~] a record of each amount of medical [~~low-THC~~]
6 cannabis dispensed by a dispensing organization to a cardholder or
7 nonresident cardholder [~~patient under a prescription~~].

8 (b) The department shall ensure the registry:

9 (1) is designed to prevent more than one medical
10 practitioner [~~qualified physician~~] from registering as the
11 recommending medical practitioner [~~prescriber~~] for a single
12 patient; and

13 (2) is accessible to law enforcement agencies and
14 dispensing organizations for the purpose of verifying whether a
15 person is authorized under this chapter to receive medical cannabis
16 [~~patient is one for whom low-THC cannabis is prescribed and whether~~
17 ~~the patient's prescriptions have been filled, and~~

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

23 SECTION 11. Subchapter B, Chapter 487, Health and Safety
24 Code, is amended by adding Sections 487.055 and 487.056 to read as
25 follows:

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

1 (1) the licensing and regulation of cannabis testing
2 facilities and the directors, managers, and employees of those
3 facilities;

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

5 (3) the testing of the safety and potency of medical
6 cannabis.

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

10 (1) for a qualifying patient; and

11 (2) for a designated caregiver.

12 (b) An applicant for a registry identification card must
13 submit to the department:

14 (1) the application adopted under Subsection (a);

15 (2) a written certification that was issued within the
16 90 days preceding the date of application and that affirms that
17 medical use is recommended for the qualifying patient;

18 (3) the application fee prescribed by department rule;

19 and

20 (4) any other forms developed by the director for
21 submission with the application.

22 (c) The department shall issue a registry identification to
23 an applicant who is a qualifying patient or the registered
24 caregiver of a qualifying patient not later than the 25th day after
25 the date the application is submitted.

26 SECTION 12. Chapter 487, Health and Safety Code, is amended
27 by adding Subchapter B-1 to read as follows:

1 SUBCHAPTER B-1. ALLOWABLE AMOUNT OF MEDICAL CANNABIS AND ACCESS TO

2 MEDICAL CANNABIS

3 Sec. 487.081. ALLOWABLE AMOUNT OF MEDICAL CANNABIS. (a) A
4 cardholder or nonresident cardholder may possess for medical use by
5 the qualifying patient no more than the allowable amount of medical
6 cannabis for that qualifying patient, as provided by this section
7 and department rule.

8 (b) The director by rule shall specify the number of
9 cannabis plants that may be cultivated or possessed for medical use
10 by a qualifying patient, which may not be fewer than six cannabis
11 plants. The amount of medical cannabis, edible products that
12 contain medical cannabis, or products infused with medical cannabis
13 that are produced from the allowable number of cannabis plants may
14 be possessed for medical use by a cardholder or nonresident
15 cardholder on the site where those plants are cultivated,
16 regardless of whether the amount possessed on that site exceeds the
17 quantity otherwise provided as the allowable amount of medical
18 cannabis for the qualifying patient by a rule adopted under this
19 section.

20 (c) The director by rule shall specify the quantity of
21 medical cannabis other than cannabis plants, edible products that
22 contain medical cannabis, or products infused with medical
23 cannabis, that, except as otherwise provided by Subsection (b) or
24 (e), may be possessed by a cardholder or nonresident cardholder for
25 medical use by a qualifying patient, which may not be less than 2.5
26 ounces.

27 (d) The director by rule shall specify the quantity of

1 edible products that contain medical cannabis or products infused
2 with medical cannabis that, except as otherwise provided by
3 Subsection (b) or (e), may be possessed by a cardholder or
4 nonresident cardholder for medical use by a qualifying patient.

5 (e) If a medical practitioner recommends in the qualifying
6 patient's written certification a different amount of medical
7 cannabis than the amount provided by rule adopted under this
8 section, the amount recommended by the written certification is
9 the allowable amount of medical cannabis for that qualifying
10 patient.

11 Sec. 487.082. ACCESS TO MEDICAL CANNABIS BEFORE REGISTRY
12 IDENTIFICATION CARD ISSUED. An applicant for a registry
13 identification card may receive medical cannabis from a dispensing
14 organization before the department issues a registry
15 identification card on providing:

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

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

19 Sec. 487.083. ACCESS TO MEDICAL CANNABIS BEFORE DECEMBER 1,
20 2019. (a) On or before December 1, 2019, notwithstanding a
21 contrary provision of this chapter, a qualifying patient or a
22 caregiver with significant responsibility for managing the
23 well-being of a qualifying patient may obtain medical cannabis from
24 a dispensing organization on providing:

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

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

1 (A) a copy of the qualifying patient's written
2 certification; and

3 (B) an affidavit stating:

4 (i) that the caregiver is the qualifying
5 patient's parent or guardian; or

6 (ii) that the caregiver has significant
7 responsibility for managing the well-being of the qualifying
8 patient and that is signed by the qualifying patient or the
9 qualifying patient's parent or guardian, if the qualifying patient
10 is a minor.

11 (b) This section expires December 1, 2019.

12 SECTION 13. Section 487.102, Health and Safety Code, is
13 amended to read as follows:

14 Sec. 487.102. ELIGIBILITY FOR LICENSE. An applicant for a
15 license to operate as a dispensing organization is eligible for the
16 license if:

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

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

21 (B) the ability to secure:

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

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

27 (C) the ability to maintain accountability for

1 the raw materials, the finished product, and any by-products used
2 or produced in the cultivation or production of medical [~~low-THC~~]
3 cannabis to prevent unlawful access to or unlawful diversion or
4 possession of those materials, products, or by-products; and

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

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

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

12 SECTION 14. Subchapter C, Chapter 487, Health and Safety
13 Code, is amended by adding Section 487.1025 to read as follows:

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

18 SECTION 15. Section 487.103, Health and Safety Code, is
19 amended by adding Subsection (a-1) to read as follows:

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

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

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

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

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

8 SECTION 17. Section 487.107, Health and Safety Code, is
9 amended to read as follows:

10 Sec. 487.107. DUTIES RELATING TO DISPENSING MEDICAL
11 CANNABIS [~~PRESCRIPTION~~]. (a) Before dispensing medical [~~low-THC~~]
12 cannabis to a person authorized under this chapter to receive
13 medical [~~for whom the low-THC~~] cannabis [~~is prescribed under~~
14 ~~Chapter 169, Occupations Code~~], the dispensing organization must
15 verify that [~~the prescription presented~~]:

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

19 (2) the medical cannabis, including any edible
20 products that contain medical cannabis and any products infused
21 with medical cannabis, has been properly tested and properly
22 labeled in accordance with standards established by the department
23 [~~matches the entry in the compassionate-use registry with respect~~
24 ~~to the total amount of low-THC cannabis required to fill the~~
25 ~~prescription~~]; and

26 (3) the amount of medical cannabis dispensed to the
27 person would not cause the person to possess more than the allowable

1 amount of medical cannabis for the qualifying patient, as
2 determined under Section 487.081 [~~has not previously been filled by~~
3 ~~a dispensing organization as indicated by an entry in the~~
4 ~~compassionate-use registry~~].

5 (b) After dispensing medical [~~low-THC~~] cannabis to a
6 cardholder or nonresident cardholder [~~patient for whom the low-THC~~
7 ~~cannabis is prescribed under Chapter 169, Occupations Code~~], the
8 dispensing organization shall record in the compassionate-use
9 registry the name and address of the individual to whom the medical
10 cannabis is dispensed, the form and quantity of medical [~~low-THC~~]
11 cannabis dispensed, and the date and time of dispensation.

12 SECTION 18. Section 487.108(c), Health and Safety Code, is
13 amended to read as follows:

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

24 SECTION 19. Section 487.151, Health and Safety Code, is
25 amended by adding Subsection (a-1) to read as follows:

26 (a-1) An individual who is a director, manager, or employee
27 of a cannabis testing facility must apply for and obtain a

1 registration under this section.

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

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

10 SECTION 21. The heading to Chapter 169, Occupations Code,
11 is amended to read as follows:

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

14 SECTION 22. Sections 169.001, 169.002, and 169.004,
15 Occupations Code, are amended to read as follows:

16 Sec. 169.001. DEFINITIONS. In this chapter:

17 (1) "Debilitating medical condition" means:

18 (A) cancer, glaucoma, positive status for human
19 immunodeficiency virus, acquired immune deficiency syndrome,
20 hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,
21 ulcerative colitis, agitation of Alzheimer's disease,
22 post-traumatic stress disorder, autism, sickle cell anemia, severe
23 fibromyalgia, spinal cord disease, spinal cord injury, traumatic
24 brain injury or post-concussion syndrome, chronic traumatic
25 encephalopathy, Parkinson's disease, muscular dystrophy, or
26 Huntington's disease;

27 (B) a chronic medical condition that produces, or

1 the treatment of a chronic medical condition that produces:

2 (i) cachexia or wasting syndrome;

3 (ii) severe pain;

4 (iii) severe nausea;

5 (iv) seizures, including those
6 characteristic of epilepsy; or

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

9 (C) any other medical condition approved as a
10 debilitating medical condition by department rule or any symptom
11 caused by the treatment of a medical condition that is approved as a
12 debilitating medical condition by department rule.

13 (2) "Department" means the Department of Public
14 Safety.

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

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

23 ~~[(A) not more than 0.5 percent by weight of~~
24 ~~tetrahydrocannabinols, and~~

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

27 (4) "Medical practitioner" means:

1 (A) a licensed physician;

2 (B) an advanced practice registered nurse who has
3 been delegated prescriptive authority in accordance with
4 Subchapter B, Chapter 157; or

5 (C) a physician assistant who has been delegated
6 prescriptive authority in accordance with Subchapter B, Chapter
7 157.

8 (5) [(4)] "Medical use" means the ingestion of medical
9 [by a means of administration other than by smoking of a prescribed
10 amount of low-THC] cannabis by a qualifying patient to treat or
11 alleviate the patient's debilitating medical condition [person for
12 whom low-THC cannabis is prescribed under this chapter].

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

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

18 Sec. 169.002. RECOMMENDATION FOR MEDICAL [PHYSICIAN
19 QUALIFIED TO PRESCRIBE LOW-THC] CANNABIS BY MEDICAL PRACTITIONER.

20 (a) A medical practitioner may recommend medical cannabis to a
21 qualifying patient if the medical practitioner attests through
22 written certification that, in the medical practitioner's
23 professional opinion:

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

26 (2) the qualifying patient is likely to receive
27 therapeutic or palliative benefit from the medical use of medical

1 cannabis to treat or alleviate the patient's debilitating medical
2 condition; and

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

5 (b) The written certification described by Subsection (a)
6 must:

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

8 (2) specify the qualifying patient's debilitating
9 medical condition; and

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

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

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

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

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

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

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

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

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

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

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

5 Sec. 169.004. [~~LOW-THC CANNABIS PRESCRIBER~~] REGISTRATION
6 OF RECOMMENDING MEDICAL PRACTITIONERS. Before a medical
7 practitioner [~~physician qualified to prescribe low-THC cannabis~~
8 ~~under Section 169.002~~] may recommend medical use [~~prescribe or~~
9 ~~renew a prescription for low-THC cannabis~~] for a qualifying patient
10 under this chapter, the practitioner [~~physician~~] must register as
11 the recommending medical practitioner [~~prescriber~~] for that
12 patient in the compassionate-use registry maintained by the
13 department under Section 487.054, Health and Safety Code. The
14 medical practitioner's [~~physician's~~] registration must indicate:

- 15 (1) the medical practitioner's [~~physician's~~] name; and
16 (2) the qualifying patient's name and date of birth[~~+~~
17 ~~[(3) the dosage prescribed to the patient,~~
18 ~~[(4) the means of administration ordered for the~~
19 ~~patient; and~~
20 ~~[(5) the total amount of low-THC cannabis required to~~
21 ~~fill the patient's prescription].~~

22 SECTION 23. Section 551.004, Occupations Code, is amended
23 by amending Subsection (a) and adding Subsection (a-1) to read as
24 follows:

- 25 (a) This subtitle does not apply to:
26 (1) a practitioner licensed by the appropriate state
27 board who supplies a patient of the practitioner with a drug in a

1 manner authorized by state or federal law and who does not operate a
2 pharmacy for the retailing of prescription drugs;

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

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

8 (4) a home and community support services agency that
9 possesses a dangerous drug as authorized by Section 142.0061,
10 142.0062, or 142.0063, Health and Safety Code; or

11 (5) a dispensing organization~~[, as defined by Section~~
12 ~~487.001, Health and Safety Code,]~~ that cultivates, processes, and
13 dispenses medical ~~[low-THC]~~ cannabis, as authorized by Chapter 487,
14 Health and Safety Code, to a cardholder or nonresident cardholder
15 ~~[patient listed in the compassionate-use registry established~~
16 ~~under that chapter].~~

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

20 SECTION 24. Sections 169.003 and 169.005, Occupations Code,
21 are repealed.

22 SECTION 25. Not later than October 1, 2019, the public
23 safety director of the Department of Public Safety shall adopt
24 rules as required to implement, administer, and enforce Chapter
25 487, Health and Safety Code, as amended by this Act, including rules
26 relating to adopting an application for a registry identification
27 card, as required by Section 487.056, Health and Safety Code, as

1 added by this Act.

2 SECTION 26. (a) A license to operate as a dispensing
3 organization issued under Chapter 487, Health and Safety Code,
4 before the effective date of this Act continues to be valid after
5 the effective date of this Act until that license expires.

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

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

14 SECTION 27. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2019.