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H.B. No. 1365

A BILL TO BE ENTITLED

AN ACT

1
2 relating to authorizing the possession, use, cultivation,
3 processing, distribution, transportation, research, testing, and
4 delivery of low-THC cannabis for medical use by patients with
5 certain debilitating medical conditions and the licensing of
6 cannabis dispensing organizations, cannabis research
7 organizations, and cannabis testing facilities; establishing the
8 cannabis therapeutic research review board; authorizing fees.

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

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

12 Sec. 37.0015. LOW-THC CANNABIS. Notwithstanding any other
13 provision of this chapter, a student for whom low-THC cannabis was
14 prescribed under Chapter 169, Occupations Code, may not be subject
15 to suspension, expulsion, placement in a disciplinary alternative
16 education program, or any other form of discipline solely because
17 the student possessed, used, or was under the influence of the
18 low-THC cannabis.

19 SECTION 2. Section 481.062(a), Health and Safety Code, is
20 amended to read as follows:

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

24 (1) an agent or employee of a manufacturer,

1 distributor, analyzer, or dispenser of the controlled substance who
2 is registered with the Federal Drug Enforcement Administration and
3 acting in the usual course of business or employment;

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

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

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

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

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

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

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

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

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

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

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

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

26 (B) any drug paraphernalia used in the
27 acquisition, possession, production, cultivation, delivery, or

1 disposal of low-THC cannabis.

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

3 (1) "Cannabis testing facility," "cannabis research
4 organization," and "dispensing organization" have the meanings
5 ["Dispensing organization" has the meaning] assigned by Section
6 487.001.

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

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

12 SUBCHAPTER G. CANNABIS THERAPEUTIC RESEARCH PROGRAM

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

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

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

1 members:

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

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

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

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

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

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

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

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

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

23 (10) a licensed advanced practice registered nurse
24 specializing in palliative care certified by the Hospice and
25 Palliative Credentialing Center or a licensed physician
26 specializing in palliative care certified by a member board of the
27 American Board of Medical Specialties, the American Osteopathic

1 Association, or the Hospice Medical Director Certification Board;
2 and

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

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

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

13 Sec. 481.202. REVIEW BOARD POWERS AND DUTIES. (a) The
14 review board shall review research proposals submitted [~~and medical~~
15 ~~case histories of persons recommended for participation in a~~
16 ~~research program]~~ and determine which research programs and persons
17 are most suitable for the therapy and research purposes of the
18 program. The review board shall approve the research programs [~~7~~
19 ~~certify program participants,~~] and conduct periodic reviews of the
20 research and participants.

21 (b) Research programs may be conducted with a medical
22 school, as defined by Section 61.501, Education Code, a hospital
23 licensed under Chapter 241, or a general academic teaching
24 institution, as defined by Section 61.003, Education Code, and may
25 investigate the safety and efficacy of low-THC cannabis and other
26 public health outcomes [~~The review board, after approval of the~~
27 ~~executive commissioner, may seek authorization to expand the~~

1 ~~research program to include diseases not covered by this~~
2 ~~subchapter].~~

3 (c) The review board shall maintain a record of all persons
4 in charge of approved research programs and of all persons who
5 participate in the program as researchers or as patients. The
6 record must indicate whether a patient is registered under Chapter
7 487.

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

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

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

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

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

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

25 (e) The review board shall require written reports that
26 describe and assess the research findings by each approved research
27 program, including research findings relating to the safety and

1 efficacy of low-THC cannabis. In consultation with the Department
2 of Public Safety, the review board shall report on the quality,
3 diversity, and availability of low-THC cannabis. The review board
4 shall submit a report on the status and findings of the research
5 programs to the department not later than October 1 of each year.

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

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

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

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

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

1 licensed by the Texas Medical Board and is attending the person.

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

4 [~~(1) has glaucoma or cancer,~~

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

8 [(~~3~~)] has a condition, symptoms, or side effects [~~from~~
9 ~~treatment~~] that may be alleviated by medical use of low-THC
10 cannabis and the risk of the medical use of low-THC cannabis is
11 reasonable in light of the potential benefit for the patient
12 [~~tetrahydrocannabinols or their derivatives~~].

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

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

26 (b) The executive commissioner shall supervise the
27 distribution of low-THC cannabis [~~the tetrahydrocannabinols and~~

1 ~~their derivatives]~~ to program participants. The low-THC cannabis
2 ~~[tetrahydrocannabinols and derivatives of tetrahydrocannabinols]~~
3 may be distributed only by the person in charge of the research
4 program to physicians caring for program participant patients,
5 under rules adopted by the executive commissioner in such a manner
6 as to prevent unauthorized diversion of the substances and in
7 compliance with all requirements of the Federal Drug Enforcement
8 Administration. The physician is responsible for dispensing the
9 substances to patients.

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

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

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

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

24 Sec. 487.001. DEFINITIONS. In this chapter:

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

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

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

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

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

10 (6) [~~(2)~~] "Director" means the public safety director
11 of the department.

12 (7) [~~(3)~~] "Dispensing organization" means an
13 organization licensed by the department to cultivate, process, and
14 dispense low-THC cannabis to a patient for whom low-THC cannabis is
15 prescribed under Chapter 169, Occupations Code.

16 (8) [~~(4)~~] "Low-THC cannabis" has the meaning assigned
17 by Section 169.001, Occupations Code.

18 (9) "Medical use" has the meaning assigned by Section
19 169.001, Occupations Code.

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

22 Sec. 487.002. ALLOWABLE AMOUNT OF LOW-THC CANNABIS. (a)
23 The allowable amount of low-THC cannabis for a person for whom
24 medical use is recommended under Chapter 169, Occupations Code, is
25 a 30-day supply of the recommended dosage for a particular patient
26 stated in terms of grams for low-THC cannabis in the form of dried
27 flower and in terms of milligrams of tetrahydrocannabinols

1 contained in oils or other products infused with low-THC cannabis.

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

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

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

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

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

14 (2) a dispensing organization;

15 (3) a cannabis research organization;

16 (4) a cannabis testing facility; or

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

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

1 Sec. 487.022. NO PRESUMPTION OF CHILD ABUSE, NEGLECT, OR
2 ENDANGERMENT. A person described by Section 487.021(a) may not be
3 presumed to have engaged in conduct constituting child abuse,
4 neglect, or endangerment solely because the person engaged in
5 conduct involving medical use that is authorized under this
6 chapter, Subchapter G, Chapter 481, department rule, or Chapter
7 169, 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, Subchapter G, Chapter 481,
11 department rule, or Chapter 169, Occupations Code, does not in
12 itself constitute grounds for denying, limiting, or restricting
13 conservatorship or possession of or access to a child under Title 5,
14 Family Code.

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

24 Sec. 487.025. NO PROSECUTION FOR PROVISION OF
25 PARAPHERNALIA. A person is not subject to arrest, prosecution, or
26 the imposition of any sentence or penalty for the delivery,
27 possession with intent to deliver, or manufacture of any item that

1 meets the definition of drug paraphernalia, as defined by Section
2 481.002, if that item is delivered, possessed with intent to
3 deliver, or manufactured for the sole purpose of providing that
4 item to:

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

7 (2) a licensed cannabis research organization; or

8 (3) a licensed cannabis testing facility.

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

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

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

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

26 (d) In consultation with the cannabis therapeutic research
27 review board under Chapter 481, the director shall adopt necessary

1 rules to allow the department to monitor the safety and efficacy of
2 low-THC cannabis and oils or products infused with low-THC
3 cannabis, including rules:

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

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

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

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

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

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

24 (a) The department shall:

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

27 (A) a dispensing organization to each applicant

1 who satisfies the requirements established under this chapter for
2 licensure as a dispensing organization;

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

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

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

11 (A) dispensing organization;

12 (B) cannabis research organization; and

13 (C) cannabis testing facility.

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

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

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

27 (2) the allowable amount of low-THC cannabis specified

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

5 (b) The department shall ensure the registry:

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

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

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

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

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

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

26 (c) A patient may not designate as the patient's caregiver
27 or alternate caregiver a person who has been previously convicted

1 of an offense punishable as a felony involving the manufacture,
2 delivery, or possession of a controlled substance.

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

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

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

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

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

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

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

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

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

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

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

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

10 (B) the ability to secure:

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

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

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

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

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

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

1 (b) A dispensing organization may operate three additional
2 retail dispensing locations under a single license issued by the
3 department under this chapter on application to the department. If
4 the department determines that additional locations are necessary
5 to meet patient access needs, then a licensee may operate more than
6 four dispensing locations. The department may set a fee for an
7 application for each additional location in accordance with Section
8 487.103.

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

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

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

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

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

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

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

1 and

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

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

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

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

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

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

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

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

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

27 SECTION 17. Section 487.103, Health and Safety Code, is

1 amended by adding Subsections (a-1) and (a-2) to read as follows:

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

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

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

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

14 (1) the department determines the applicant meets the
15 eligibility requirements described by Section [487.102](#), [487.1021](#),
16 or [487.1022](#), as applicable; and

17 (2) in the case of a dispensing organization, issuance
18 [~~or renewal~~] of the license is necessary to ensure reasonable
19 statewide access to, and the availability of, low-THC cannabis and
20 the medically appropriate formulations determined under Section
21 [481.202](#)(f) for patients registered in the compassionate-use
22 registry and for whom low-THC cannabis is prescribed under Chapter
23 [169](#), Occupations Code.

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

26 (a) An applicant for the issuance or renewal of a license
27 under this subchapter [~~to operate as a dispensing organization~~]

1 shall provide the department with the applicant's name and the name
2 of each of the applicant's directors, managers, and employees.

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

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

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

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

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

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

25 (a) The department may at any time suspend or revoke a
26 license issued under this subchapter [~~chapter~~] if the department
27 determines that the license holder [~~licensee~~] has not maintained

1 the eligibility requirements described by Section [487.102](#),
2 [487.1021](#), or [487.1022](#), as applicable, or has failed to comply with a
3 duty imposed under this chapter.

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

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

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

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

24 SECTION 24. Section [487.201](#), Health and Safety Code, is
25 amended to read as follows:

26 Sec. 487.201. COUNTIES AND MUNICIPALITIES MAY NOT PROHIBIT
27 LOW-THC CANNABIS. A municipality, county, or other political

1 subdivision may not enact, adopt, or enforce a rule, ordinance,
2 order, resolution, or other regulation that prohibits the
3 cultivation, production, dispensing, research, testing, or
4 possession of low-THC cannabis, as authorized by this chapter.

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

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

9 Sec. 169.001. DEFINITIONS. In this chapter:

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

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

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

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

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

1 (2) "Debilitating medical condition" means:

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

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

- 10 (i) endocannabinoid deficiency syndrome;
11 (ii) cachexia or wasting syndrome;
12 (iii) neuropathy;
13 (iv) visceral, neuropathic, somatic, or
14 severe intractable pain;
15 (v) severe nausea;
16 (vi) seizures, including those
17 characteristic of epilepsy;
18 (vii) severe and persistent muscle spasms,
19 including those characteristic of multiple sclerosis; or
20 (viii) tic disorders.

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

23 (4) [~~(2)~~ "Intractable epilepsy" means a seizure
24 disorder in which the patient's seizures have been treated by two or
25 more appropriately chosen and maximally titrated antiepileptic
26 drugs that have failed to control the seizures.

27 ~~[(3)]~~ "Low-THC cannabis" means the plant Cannabis

1 sativa L., and any part of that plant or any compound, manufacture,
2 salt, derivative, mixture, preparation, resin, or oil of that plant
3 that contains[+]

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

6 [~~(B) not less than 10 percent by weight of~~
7 ~~cannabidiol~~]. Notwithstanding other law, low-THC cannabis includes
8 any medical formulation or dosage approved under Section
9 481.202(f).

10 (5) [~~(4)~~] "Medical use" means the ingestion by a means
11 of administration other than by smoking of a prescribed amount of
12 low-THC cannabis by a person for whom medical use [~~low-THC~~
13 ~~cannabis~~] is prescribed under this chapter.

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

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

19 (A) the date of the order's issue;

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

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

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

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

27 (8) "Serious adverse event" means an adverse event

1 that:

2 (A) results in death;

3 (B) results in an illness requiring
4 hospitalization;

5 (C) is considered life-threatening; or

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

8 (9) [(5)] "Smoking" means burning or igniting a
9 substance and inhaling the smoke. The term does not include
10 vaporizing.

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

14 Sec. 169.002. PHYSICIAN AUTHORIZED [~~QUALIFIED~~] TO
15 PRESCRIBE LOW-THC CANNABIS. (a) A [~~Only a~~] physician [~~qualified as~~
16 ~~provided by this section~~] may prescribe low-THC cannabis in
17 accordance with this chapter for a patient with a debilitating
18 medical condition, provided that:

19 (1) the physician has obtained the proper medical
20 knowledge concerning medical use as treatment for a patient's
21 particular debilitating medical condition through a course of
22 instruction provided for that purpose, continuing medical
23 education relating to medical use, or self-study;

24 (2) the physician has determined that the risk of
25 medical use by the patient is reasonable in light of the potential
26 benefit for the patient; and

27 (3) a second physician licensed in this state has

1 concurred with the physician's determination under Subdivision (2)
2 and the second physician's concurrence is recorded in the patient's
3 medical record.

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

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

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

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

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

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

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

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

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

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

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

25 (1) comply ~~[the patient is a permanent resident of the~~
26 ~~state,~~

27 ~~[(2) the physician complies] with the registration~~

1 requirements of Section 169.004; and

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

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

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

8 (C) [~~(B)~~] the physician has determined that
9 [~~determines~~] the risk of [~~the~~] medical use [~~of low-THC cannabis~~] by
10 the patient is reasonable in light of the potential benefit for the
11 patient; [~~and~~]

12 (D) the physician has obtained the proper medical
13 knowledge required by Subsection (a); and

14 (E) [~~(C)~~] a second physician licensed in this
15 state [~~qualified to prescribe low-THC cannabis under Section~~
16 ~~169.002~~] has concurred with the physician's determination under
17 Paragraph (C) [~~(B)~~], and the second physician's concurrence is
18 recorded in the patient's medical record.

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

27 (b) Before a physician may prescribe low-THC cannabis for a

1 particular patient, the physician must add that prescription for
2 the patient to the physician's registration information.

3 (c) The department may publish the name of a physician
4 registered under this section only if permission is expressly
5 granted by the physician. The physician's name is confidential and
6 is not subject to disclosure under Chapter 552, Government Code.

7 ~~[The physician's registration must indicate:~~

8 ~~(1) the physician's name;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (a) This subtitle does not apply to:

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

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

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

22 (4) a home and community support services agency that
23 possesses a dangerous drug as authorized by Section 142.0061,
24 142.0062, or 142.0063, Health and Safety Code; [~~or~~]

25 (5) a dispensing organization [~~, as defined by Section~~
26 ~~487.001, Health and Safety Code,~~] that cultivates, processes, and
27 dispenses low-THC cannabis, as authorized by a license issued under

1 Subchapter C, Chapter 487, Health and Safety Code, to a patient
2 listed in the compassionate-use registry established under that
3 chapter;

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

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

12 (a-1) For purposes of Subsections (a)(5), (6), and (7),
13 "cannabis research organization," "cannabis testing facility," and
14 "dispensing organization" have the meanings assigned by Section
15 487.001, Health and Safety Code.

16 SECTION 27. Not later than December 1, 2019, the public
17 safety director of the Department of Public Safety shall adopt
18 rules as required to implement, administer, and enforce Chapter
19 487, Health and Safety Code, as amended by this Act.

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

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

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

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

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

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