

By: Lucio III

H.B. No. 1365

A BILL TO BE ENTITLED

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

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 dispensing organization or cannabis testing
27 facility licensed under Subchapter C, Chapter 487, that possesses

1 medical [~~low-THC~~] cannabis.

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

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

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

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

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

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

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

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

4 (2) "Medical cannabis" and "medical use" have the
5 meanings [~~"Low-THC cannabis" has the meaning~~] assigned by Section
6 169.001, Occupations Code.

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

9 Sec. 487.001. DEFINITIONS. In this chapter:

10 (1) "Cannabis testing facility" means an independent
11 entity licensed by the department under this chapter to analyze the
12 content, safety, and potency of medical cannabis.

13 (2) "Debilitating medical condition," "medical
14 cannabis," and "medical use" have the meanings assigned by Section
15 169.001, Occupations Code.

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

18 (4) [~~(2)~~] "Director" means the public safety director
19 of the department.

20 (5) [~~(3)~~] "Dispensing organization" means an
21 organization licensed by the department to cultivate, process, and
22 dispense medical [~~low-THC~~] cannabis to a patient for whom medical
23 use [~~low-THC cannabis~~] is recommended [~~prescribed~~] under Chapter
24 169, Occupations Code.

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

27 SECTION 6. Subchapter A, Chapter 487, Health and Safety

1 Code, is amended by adding Section 487.002 to read as follows:

2 Sec. 487.002. ALLOWABLE AMOUNT OF MEDICAL CANNABIS. (a)

3 The allowable amount of medical cannabis for a person for whom
4 medical use is recommended under Chapter 169, Occupations Code, is:

5 (1) not more than 2.5 ounces of medical cannabis;

6 (2) if applicable, a greater amount specified in
7 accordance with department rules by a recommending physician under
8 Chapter 169, Occupations Code, and included with the patient's
9 registration on the compassionate-use registry established under
10 Section 487.054; or

11 (3) an amount of oils or products infused with medical
12 cannabis such that the quantity of tetrahydrocannabinols in the oil
13 or product does not exceed the quantity of that substance contained
14 in the amount of medical cannabis under Subdivision (1) or (2), as
15 applicable.

16 (b) Oils and products infused with medical cannabis must be
17 labeled in accordance with department rules to indicate the
18 quantity of each cannabinoid and terpene contained in the oil or
19 product for purposes of determining compliance with this section.

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

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

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

25 (1) a qualifying patient for whom medical use is
26 recommended under Chapter 169, Occupations Code;

27 (2) a dispensing organization;

1 (3) a cannabis testing facility; or

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

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

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

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

24 Sec. 487.024. NO SEIZURE OR FORFEITURE. Property used in
25 the cultivation, processing, distribution, transportation, and
26 delivery of medical cannabis for medical use that is authorized
27 under this chapter, department rule, or Chapter 169, Occupations

1 Code, is not contraband for purposes of Chapter 59, Code of Criminal
2 Procedure, and is not subject to seizure or forfeiture under that
3 chapter or other law solely for the use of the property in those
4 authorized activities.

5 Sec. 487.025. NO PROSECUTION FOR PROVISION OF
6 PARAPHERNALIA. A person is not subject to arrest, prosecution, or
7 the imposition of any sentence or penalty for the delivery,
8 possession with intent to deliver, or manufacture of any item that
9 meets the definition of drug paraphernalia, as defined by Section
10 481.002, if that item is delivered, possessed with intent to
11 deliver, or manufactured for the sole purpose of providing that
12 item to a person for whom medical use is recommended under Chapter
13 169, Occupations Code.

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

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

19 (b) The director shall adopt reasonable [, including] rules
20 imposing fees under this chapter in amounts sufficient to cover the
21 cost of administering this chapter.

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

27 (d) The director shall adopt necessary rules to allow the

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

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

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

9 (e) The director may collect data from dispensing
10 organizations, cannabis testing facilities, and health care
11 providers as necessary to enable the department to monitor the
12 safety and efficacy of medical cannabis and oils or products
13 infused with medical cannabis. The director may adopt rules for the
14 data collection under this subsection.

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

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

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

22 (a) The department shall:

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

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

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

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

6 (A) dispensing organization; and

7 (B) cannabis testing facility.

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

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

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

20 (2) if applicable, the allowable amount of cannabis
21 specified by a recommending physician for the patient under Chapter
22 169, Occupations Code [~~a record of each amount of low-THC cannabis~~
23 ~~dispensed by a dispensing organization to a patient under a~~
24 ~~prescription~~].

25 (b) The department shall ensure the registry:

26 (1) is designed to prevent more than one [~~qualified~~]
27 physician from registering as the physician recommending medical

1 use [~~prescriber~~] for a single patient;

2 (2) is accessible to law enforcement agencies and
3 dispensing organizations for the purpose of verifying whether a
4 patient is one for whom medical use is recommended under Chapter
5 169, Occupations Code [~~low-THC cannabis is prescribed and whether~~
6 ~~the patient's prescriptions have been filled~~]; and

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

13 SECTION 12. The heading to Subchapter C, Chapter 487,
14 Health and Safety Code, is amended to read as follows:

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

17 SECTION 13. Section 487.101, Health and Safety Code, is
18 amended to read as follows:

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

24 SECTION 14. Section 487.102, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 487.102. ELIGIBILITY FOR LICENSE TO OPERATE AS
27 DISPENSING ORGANIZATION. An applicant for a license to operate as a

1 dispensing organization is eligible for the license if:

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

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

6 (B) the ability to secure:

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

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

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

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

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

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

24 SECTION 15. Subchapter C, Chapter 487, Health and Safety
25 Code, is amended by adding Section 487.1021 to read as follows:

26 Sec. 487.1021. ELIGIBILITY FOR LICENSE TO OPERATE AS
27 CANNABIS TESTING FACILITY. An applicant for a license to operate as

1 a cannabis testing facility is eligible for the license if:

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

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

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

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

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

13 SECTION 16. Section 487.103, Health and Safety Code, is
14 amended by adding Subsection (a-1) to read as follows:

15 (a-1) A person may apply for an initial or renewal license
16 to operate as a cannabis testing facility by submitting a form
17 prescribed by the department along with the application fee in an
18 amount set by the director.

19 SECTION 17. Section 487.104(a), Health and Safety Code, is
20 amended to read as follows:

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

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

26 (2) issuance or renewal of the license is necessary to
27 ensure reasonable statewide access to, and the availability of,

1 medical [~~low-THC~~] cannabis for patients registered in the
2 compassionate-use registry and for whom medical [~~low-THC~~] cannabis
3 is recommended [~~prescribed~~] under Chapter 169, Occupations Code.

4 SECTION 18. Sections 487.105(a) and (b), Health and Safety
5 Code, are amended to read as follows:

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

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

19 SECTION 19. Sections 487.106 and 487.107, Health and Safety
20 Code, are amended to read as follows:

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

25 Sec. 487.107. DUTIES RELATING TO DISPENSING MEDICAL
26 CANNABIS [~~PRESCRIPTION~~]. (a) Before dispensing medical [~~low-THC~~]
27 cannabis to a person for whom medical use is recommended [~~the~~

1 ~~low-THC cannabis is prescribed]~~ under Chapter 169, Occupations
2 Code, the dispensing organization must verify that the
3 ~~[prescription presented]~~.

4 ~~[(1) is for a]~~ person is listed as a patient in the
5 compassionate-use registry~~+~~

6 ~~[(2) matches the entry in the compassionate-use~~
7 ~~registry with respect to the total amount of low-THC cannabis~~
8 ~~required to fill the prescription; and~~

9 ~~[(3) has not previously been filled by a dispensing~~
10 ~~organization as indicated by an entry in the compassionate-use~~
11 ~~registry].~~

12 (b) After dispensing medical ~~[low-THC]~~ cannabis to a
13 patient for whom medical use is recommended ~~[the low-THC cannabis~~
14 ~~is prescribed]~~ under Chapter 169, Occupations Code, the dispensing
15 organization shall record in the compassionate-use registry the
16 form and quantity of the medical ~~[low-THC]~~ cannabis dispensed and
17 the date and time of dispensation.

18 SECTION 20. Sections 487.108(a), (b), and (c), Health and
19 Safety Code, are amended to read as follows:

20 (a) The department may at any time suspend or revoke a
21 license issued under this subchapter ~~[chapter]~~ if the department
22 determines that the license holder ~~[licensee]~~ has not maintained
23 the eligibility requirements described by Section 487.102 or
24 487.1021, as applicable, or has failed to comply with a duty imposed
25 under this chapter.

26 (b) The director shall give written notice to the license
27 holder ~~[dispensing organization]~~ of a license suspension or

1 revocation under this section and the grounds for the suspension or
2 revocation. The notice must be sent by certified mail, return
3 receipt requested.

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

15 SECTION 21. Section 487.151, Health and Safety Code, is
16 amended by adding Subsection (a-1) to read as follows:

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

20 SECTION 22. Section 487.201, Health and Safety Code, is
21 amended to read as follows:

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

1 SECTION 23. Chapter 169, Occupations Code, is amended to
2 read as follows:

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

5 Sec. 169.001. DEFINITIONS. In this chapter:

6 (1) "Debilitating medical condition" means:

7 (A) cancer, glaucoma, positive status for human
8 immunodeficiency virus, acquired immune deficiency syndrome,
9 amyotrophic lateral sclerosis, Crohn's disease, ulcerative
10 colitis, agitation of Alzheimer's disease, post-traumatic stress
11 disorder, autism, sickle cell anemia, Parkinson's disease,
12 muscular dystrophy, or Huntington's disease;

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

15 (i) cachexia or wasting syndrome;

16 (ii) severe pain;

17 (iii) severe nausea;

18 (iv) seizures, including those
19 characteristic of epilepsy; or

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

22 (C) any other medical condition approved as a
23 debilitating medical condition by department rule or any symptom
24 caused by the treatment of a medical condition that is approved as a
25 debilitating medical condition by department rule.

26 (2) "Department" means the Department of Public
27 Safety.

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

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

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

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

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

18 (5) "Smoking" means burning or igniting a substance
19 and inhaling the smoke. The term does not include vaporizing.

20 (6) "Vaporizing" means heating a substance to a
21 temperature below the combustion point of the substance and
22 inhaling the vapor.

23 Sec. 169.0015. PETITION FOR APPROVAL OF MEDICAL CONDITION
24 OR SYMPTOM AS DEBILITATING MEDICAL CONDITION. (a) A person may
25 petition the department to approve by department rule under Section
26 169.001(1)(C) as a debilitating medical condition under this
27 chapter:

1 (1) a medical condition not specifically included in
2 the definition of "debilitating medical condition" provided by
3 Section 169.001; or

4 (2) a symptom caused by the treatment of a medical
5 condition not specifically included in the definition of
6 "debilitating medical condition" provided by Section 169.001.

7 (b) The department shall approve the medical condition or
8 the symptom proposed by the petition as a debilitating medical
9 condition if the person includes in the petition scientific
10 research that:

11 (1) has been published and peer-reviewed; and

12 (2) indicates the likely benefit of medical use in the
13 treatment or alleviation of the medical condition or symptom
14 outweighs the likely harm of medical use to a proposed patient.

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

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

27 [~~(1) is licensed under this subtitle,~~

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

3 ~~[(3) is certified;~~

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

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

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

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

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

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

15 ~~[Sec. 169.003. PRESCRIPTION OF LOW-THC CANNABIS.]~~ A
16 physician who recommends medical use for a patient must ~~[described~~
17 ~~by Section 169.002 may prescribe low-THC cannabis to alleviate a~~
18 ~~patient's seizures if]:~~

19 (1) comply ~~[the patient is a permanent resident of the~~
20 ~~state,~~

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

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

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

27 (B) the physician has determined that

1 ~~[determines]~~ the risk of ~~[the]~~ medical use ~~[of low-THC cannabis]~~ by
2 the patient is reasonable in light of the potential benefit for the
3 patient; and

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

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

- 19 (1) the physician's name;
20 (2) the patient's name and date of birth; and
21 (3) the allowable ~~[dosage prescribed to the patient,~~
22 ~~(4) the means of administration ordered for the~~
23 ~~patient, and~~

24 ~~(5) the total]~~ amount of medical ~~[low-THC]~~ cannabis
25 recommended for the patient, if the physician recommends an
26 allowable amount greater than the amount provided by Section
27 487.002(a)(1), Health and Safety Code ~~[required to fill the~~

1 ~~patient's prescription~~].

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

7 (1) ~~[the dosage, means of administration, and planned~~
8 ~~duration of treatment for the low-THC cannabis,~~

9 ~~[(2)]~~ a plan for monitoring the patient's symptoms;
10 and

11 (2) ~~[(3)]~~ a plan for monitoring indicators of
12 tolerance or reaction to medical ~~[low-THC]~~ cannabis.

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

16 (a) This subtitle does not apply to:

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

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

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

26 (4) a home and community support services agency that
27 possesses a dangerous drug as authorized by Section 142.0061,

1 142.0062, or 142.0063, Health and Safety Code; [~~or~~]

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

8 (6) a cannabis testing facility that analyzes the
9 content, safety, and potency of medical 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) and (6), "cannabis
13 testing facility" and "dispensing organization" have the meanings
14 assigned by Section 487.001, Health and Safety Code.

15 SECTION 25. Not later than October 1, 2019, the public
16 safety director of the Department of Public Safety shall adopt
17 rules as required to implement, administer, and enforce Chapter
18 487, Health and Safety Code, as amended by this Act.

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

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

27 (c) Not later than March 1, 2020, the Department of Public

1 Safety shall begin licensing cannabis testing facilities in
2 accordance with Subchapter C, Chapter 487, Health and Safety Code,
3 as amended by this Act, provided that the applicants for a license
4 have met all requirements for approval under that subchapter.

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