

By: Campbell

S.B. No. 2416

A BILL TO BE ENTITLED

AN ACT

relating to the medical use of low-THC cannabis and medical research cannabis.

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

SECTION 1. Section 481.062(a), Health and Safety Code, is amended to read as follows:

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

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

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

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

(4) an officer or employee of this state, another state, a political subdivision of this state or another state, or the United States who is lawfully engaged in the enforcement of a

1 law relating to a controlled substance or drug or to a customs law
2 and authorized to possess the controlled substance in the discharge
3 of the person's official duties;

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

6 (A) a Department of State Health Services
7 official, a medical school researcher, or a research program
8 participant possessing the substance as authorized under
9 Subchapter G; or

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

14 (6) a dispensing organization licensed under Chapter
15 [487](#) that possesses low-THC cannabis or medical research cannabis.

16 SECTION 2. Section [481.111\(e\)](#), Health and Safety Code, is
17 amended to read as follows:

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

23 (1) for an offense involving possession only of
24 marihuana or drug paraphernalia, is a patient for whom low-THC
25 cannabis or medical research cannabis is prescribed under Chapter
26 [169](#), Occupations Code, or the patient's legal guardian, and the
27 person possesses low-THC cannabis or medical research cannabis

1 obtained under a valid prescription from a dispensing organization;
2 or

3 (2) is a director, manager, or employee of a
4 dispensing organization and the person, solely in performing the
5 person's regular duties at the organization, acquires, possesses,
6 produces, cultivates, dispenses, or disposes of:

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

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

14 SECTION 3. Section 481.111(f), Health and Safety Code, is
15 amended by adding Subdivision (3) to read as follows:

16 (3) "Medical research cannabis" has the meaning
17 assigned by Section 169.001, Occupations Code.

18 SECTION 4. Section 487.001, Health and Safety Code, is
19 amended by amending Subdivision (3) and adding Subdivision (5) to
20 read as follows:

21 (3) "Dispensing organization" means an organization
22 licensed by the department to cultivate, process, and dispense
23 low-THC cannabis or medical research cannabis to a patient for whom
24 low-THC cannabis or medical research cannabis is prescribed under
25 Chapter 169, Occupations Code.

26 (5) "Medical research cannabis" has the meaning
27 assigned by Section 169.001, Occupations Code.

1 SECTION 5. Section 487.054, Health and Safety Code, is
2 amended to read as follows:

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

6 (1) the name of each physician who registers as the
7 prescriber for a patient under Section 169.004, Occupations Code,
8 the name and date of birth of the patient, the dosage prescribed,
9 the means of administration ordered, and the total amount of
10 low-THC cannabis or medical research cannabis required to fill the
11 patient's prescription; and

12 (2) a record of each amount of low-THC cannabis or
13 medical research cannabis dispensed by a dispensing organization to
14 a patient under a prescription.

15 (b) The department shall ensure the registry:

16 (1) is designed to prevent more than one qualified
17 physician from registering as the prescriber for a single patient;

18 (2) is accessible to law enforcement agencies and
19 dispensing organizations for the purpose of verifying whether a
20 patient is one for whom low-THC cannabis or medical research
21 cannabis is prescribed and whether the patient's prescriptions have
22 been filled; and

23 (3) allows a physician qualified to prescribe low-THC
24 cannabis and medical research cannabis under Section 169.002,
25 Occupations Code, to input safety and efficacy data derived from
26 the treatment of patients for whom low-THC cannabis or medical
27 research cannabis is prescribed under Chapter 169, Occupations

1 Code.

2 SECTION 6. Section 487.102, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 487.102. ELIGIBILITY FOR LICENSE. An applicant for a
5 license to operate as a dispensing organization is eligible for the
6 license if:

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

9 (A) the technical and technological ability to
10 cultivate and produce low-THC cannabis or medical research
11 cannabis;

12 (B) the ability to secure:

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

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

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

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

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

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

4 SECTION 7. Section 487.104(a), Health and Safety Code, is
5 amended to read as follows:

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

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

10 (2) issuance or renewal of the license is necessary to
11 ensure reasonable statewide access to, and the availability of,
12 low-THC cannabis or medical research cannabis for patients
13 registered in the compassionate-use registry and for whom low-THC
14 cannabis or medical research cannabis is prescribed under Chapter
15 169, Occupations Code.

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

18 Sec. 487.107. DUTIES RELATING TO DISPENSING PRESCRIPTION.

19 (a) Before dispensing low-THC cannabis or medical research
20 cannabis to a person for whom the low-THC cannabis or medical
21 research cannabis is prescribed under Chapter 169, Occupations
22 Code, the dispensing organization must verify that the prescription
23 presented:

24 (1) is for a person listed as a patient in the
25 compassionate-use registry;

26 (2) matches the entry in the compassionate-use
27 registry with respect to the total amount of low-THC cannabis or

1 medical research cannabis required to fill the prescription; and

2 (3) has not previously been filled by a dispensing
3 organization as indicated by an entry in the compassionate-use
4 registry.

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

12 SECTION 9. 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 low-THC
16 cannabis or medical research cannabis and drug paraphernalia owned
17 or possessed by the dispensing organization. If the director
18 orders the revocation of the license, a disposition may not be made
19 of the seized or sealed low-THC cannabis or medical research
20 cannabis or drug paraphernalia until the time for administrative
21 appeal of the order has elapsed or until all appeals have been
22 concluded. When a revocation order becomes final, all low-THC
23 cannabis or medical research cannabis and drug paraphernalia may be
24 forfeited to the state as provided under Subchapter E, Chapter 481.

25 SECTION 10. Section 487.201, Health and Safety Code, is
26 amended to read as follows:

27 Sec. 487.201. COUNTIES AND MUNICIPALITIES MAY NOT PROHIBIT

1 LOW-THC CANNABIS OR MEDICAL RESEARCH CANNABIS. A municipality,
2 county, or other political subdivision may not enact, adopt, or
3 enforce a rule, ordinance, order, resolution, or other regulation
4 that prohibits the cultivation, production, dispensing, or
5 possession of low-THC cannabis or medical research cannabis, as
6 authorized by this chapter.

7 SECTION 11. Chapter 487, Health and Safety Code, is amended
8 by adding Subchapter F to read as follows:

9 SUBCHAPTER F. COMPASSIONATE-USE RESEARCH AND REPORTING

10 Sec. 487.251. COMPASSIONATE-USE INSTITUTIONAL REVIEW

11 BOARDS. (a) One or more institutional review boards may be
12 established to:

13 (1) evaluate and approve proposed research programs to
14 study the medical use of cannabis; and

15 (2) oversee patient treatment undertaken as part of an
16 approved research program, including the certification of treating
17 physicians and the approval of cannabis products to be prescribed
18 and evaluated.

19 (b) An institutional review board must be affiliated with a
20 dispensing organization and a:

21 (1) medical school, as defined by Section 61.501,
22 Education Code; or

23 (2) hospital licensed under Chapter 241 that has at
24 least 150 beds.

25 (c) An institutional review board must submit written
26 reports that describe and assess the research findings of each
27 approved research program to:

1 (1) the department, not later than October 1 of each
2 year; and

3 (2) the legislature, not later than 90 days before
4 each regular legislative session.

5 (d) The Texas Medical Board may adopt rules as necessary to
6 implement this subchapter.

7 Sec. 487.252. PATIENT TREATMENT. (a) Patient treatment
8 provided as part of a research program under this subchapter may
9 only be administered by a physician certified by an institutional
10 review board to participate in the program. A certified physician
11 must remain in compliance with all applicable department and Texas
12 Medical Board rules and all applicable provisions of this chapter
13 and Chapter 169, Occupations Code.

14 (b) A patient participating in a research program under this
15 subchapter must be:

16 (1) a permanent resident of this state; and

17 (2) 21 years of age or older.

18 Sec. 487.253. INFORMED CONSENT. (a) Before receiving
19 treatment, each patient in a research program under this subchapter
20 must sign a written informed consent.

21 (b) If the patient lacks the mental capacity to provide
22 informed consent, a parent, guardian, or conservator may provide
23 informed consent on the patient's behalf.

24 (c) An institutional review board overseeing a research
25 program under this subchapter may adopt a form to be used for the
26 informed consent required by this section.

27 SECTION 12. The heading to Chapter 169, Occupations Code,

1 is amended to read as follows:

2 CHAPTER 169. AUTHORITY TO PRESCRIBE LOW-THC CANNABIS OR MEDICAL
3 RESEARCH CANNABIS TO CERTAIN PATIENTS FOR COMPASSIONATE USE

4 SECTION 13. Section 169.001, Occupations Code, is amended
5 by amending Subdivisions (3) and (4) and adding Subdivision (3-a)
6 to read as follows:

7 (3) "Low-THC cannabis" means a product derived from
8 the plant Cannabis sativa L. [~~and any part of that plant or any~~
9 ~~compound, manufacture, salt, derivative, mixture, preparation,~~
10 ~~resin, or oil of that plant~~] that contains less than one [~~+~~

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

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

15 (3-a) "Medical research cannabis" means a product
16 derived from the plant Cannabis sativa L. that is approved by an
17 institutional review board for use in a research program under
18 Chapter 487, Health and Safety Code.

19 (4) "Medical use" means the ingestion by a means of
20 administration other than by smoking of a prescribed amount of
21 low-THC cannabis or medical research cannabis by a person for whom
22 low-THC cannabis or medical research cannabis is prescribed under
23 this chapter.

24 SECTION 14. The heading to Section 169.002, Occupations
25 Code, is amended to read as follows:

26 Sec. 169.002. PHYSICIAN QUALIFIED TO PRESCRIBE LOW-THC
27 CANNABIS OR MEDICAL RESEARCH CANNABIS.

1 SECTION 15. Section 169.002(a), Occupations Code, is
2 amended to read as follows:

3 (a) A ~~[Only a]~~ physician licensed under ~~[qualified as~~
4 ~~provided by]~~ this subtitle ~~[section]~~ may prescribe low-THC cannabis
5 and medical research cannabis in accordance with this chapter.

6 SECTION 16. Section 169.003, Occupations Code, is amended
7 to read as follows:

8 Sec. 169.003. PRESCRIPTION OF LOW-THC CANNABIS. A
9 physician described by Section 169.002 may prescribe low-THC
10 cannabis ~~[to alleviate a patient's seizures]~~ if:

11 (1) the patient is a permanent resident of the state;
12 (2) the physician complies with the registration
13 requirements of Section 169.004; and

14 (3) the physician certifies to the department that ~~[+~~
15 ~~[(A) the patient is diagnosed with intractable~~
16 ~~epilepsy,~~

17 ~~[(B)]~~ the physician has determined that
18 ~~[determines]~~ the risk of the medical use of low-THC cannabis by the
19 patient is reasonable in light of the potential benefit for the
20 patient ~~[, and~~

21 ~~[(C) a second physician qualified to prescribe~~
22 ~~low-THC cannabis under Section 169.002 has concurred with the~~
23 ~~determination under Paragraph (B), and the second physician's~~
24 ~~concurrence is recorded in the patient's medical record].~~

25 SECTION 17. Chapter 169, Occupations Code, is amended by
26 adding Section 169.0031 to read as follows:

27 Sec. 169.0031. PRESCRIPTION OF MEDICAL RESEARCH CANNABIS.

1 A physician described by Section 169.002 may prescribe medical
2 research cannabis if:

3 (1) the prescription is for treatment approved by an
4 institutional review board as part of a research program under
5 Chapter 487, Health and Safety Code;

6 (2) the patient is:

7 (A) a permanent resident of this state; and

8 (B) 21 years of age or older; and

9 (3) the physician:

10 (A) complies with the registration requirements
11 of Section 169.004;

12 (B) is certified by an institutional review board
13 as a treating physician in a research program under Chapter 487,
14 Health and Safety Code; and

15 (C) certifies to the department that the
16 physician has determined that the risk of the medical use of medical
17 research cannabis by the patient is reasonable in light of the
18 potential benefit for the patient.

19 SECTION 18. Section 169.004, Occupations Code, is amended
20 to read as follows:

21 Sec. 169.004. LOW-THC CANNABIS AND MEDICAL RESEARCH
22 CANNABIS PRESCRIBER REGISTRATION. (a) Before a physician
23 qualified to prescribe low-THC cannabis or medical research
24 cannabis under Section 169.002 may prescribe or renew a
25 prescription for low-THC cannabis or medical research cannabis for
26 a patient under this chapter, the physician must register as the
27 prescriber for that patient in the compassionate-use registry

1 maintained by the department under Section 487.054, Health and
2 Safety Code. The physician's registration must indicate:

- 3 (1) the physician's name;
- 4 (2) the patient's name and date of birth;
- 5 (3) the dosage prescribed to the patient;
- 6 (4) the means of administration ordered for the
7 patient; and
- 8 (5) the total amount of low-THC cannabis or medical
9 research cannabis required to fill the patient's prescription.

10 (b) The department may publish the name of a physician
11 registered under this section only if permission is expressly
12 granted by the physician.

13 SECTION 19. Section 169.005, Occupations Code, is amended
14 to read as follows:

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

- 19 (1) the dosage, means of administration, and planned
20 duration of treatment for the low-THC cannabis or medical research
21 cannabis;
- 22 (2) a plan for monitoring the patient's symptoms; and
- 23 (3) a plan for monitoring indicators of tolerance or
24 reaction to low-THC cannabis or medical research cannabis.

25 SECTION 20. Section 551.004(a), Occupations Code, is
26 amended to read as follows:

27 (a) This subtitle does not apply to:

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

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

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

10 (4) a home and community support services agency that
11 possesses a dangerous drug as authorized by Section [142.0061](#),
12 [142.0062](#), or [142.0063](#), Health and Safety Code; or

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

19 SECTION 21. The following provisions of the Occupations
20 Code are repealed:

21 (1) Section [169.001](#)(2); and

22 (2) Section [169.002](#)(b).

23 SECTION 22. Not later than December 1, 2019, the public
24 safety director of the Department of Public Safety shall adopt
25 rules as required to implement, administer, and enforce Chapter
26 [487](#), Health and Safety Code, and Chapter [169](#), Occupations Code, as
27 amended by this Act.

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