87R9471 JSC-F

By:  Menéndez S.B. No. 2040

A BILL TO BE ENTITLED

AN ACT

relating to authorizing the possession, use, cultivation, distribution, delivery, sale, and research of medical cannabis for medical use by patients with certain medical conditions and the licensing of medical cannabis organizations; authorizing fees.

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

ARTICLE 1. FINDINGS AND PURPOSE

SECTION 1.01.  LEGISLATIVE FINDINGS; PURPOSE. The legislature finds that:

(1)  scientific evidence suggests that medical cannabis is one potential therapy that may mitigate suffering, enhance quality of life, and offer potential treatment of certain medical conditions;

(2)  Texas patients should have reasonable statewide access to medical cannabis subject to safeguards for public health and safety;

(3)  a seriously ill patient who engages in medical use of cannabis on a treating practitioner's advice should not be arrested, incarcerated, or otherwise punished for violation of drug laws;

(4)  where patients are suffering from certain medical conditions, they and their physicians should have a right to try medical cannabis as an alternative medicine through a safe and regulated program; and

(5)  Texas has a wealth of esteemed research institutions from medical to agricultural that can greatly contribute to the advancement of research on the safe cultivation, manufacturing, and use of medical cannabis.

ARTICLE 2. MEDICAL CANNABIS RESEARCH PROGRAM

SECTION 2.01.  Subtitle A, Title 6, Health and Safety Code, is amended by adding Chapter 444 to read as follows:

CHAPTER 444. MEDICAL CANNABIS RESEARCH PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 444.001.  SHORT TITLE. This chapter may be cited as the Medical Cannabis Research Act.

Sec. 444.002.  DEFINITIONS. In this chapter:

(1)  "Advisory board" means the medical cannabis research advisory board established under this chapter.

(2)  "License" means a medical cannabis research license issued by the department under Subchapter C.

(3)  "License holder" means a person who holds a medical cannabis research license.

(4)  "Medical cannabis" has the meaning assigned by Section 169.001, Occupations Code.

SUBCHAPTER B. MEDICAL CANNABIS RESEARCH ADVISORY BOARD

Sec. 444.051.  ESTABLISHMENT OF ADVISORY BOARD. (a) A medical cannabis research advisory board is established to perform functions and duties under this chapter.

(b)  The executive commissioner shall assist the advisory board as provided by this chapter.

Sec. 444.052.  MEMBERSHIP. (a) The advisory board members are appointed by the governor and serve staggered six-year terms, with the terms of one-third of the members expiring on August 31 of each odd-numbered year.

(b)  The advisory board shall be composed of the following 12 members:

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

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

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

(4)  a licensed physician certified by the American Board of Psychiatry and Neurology;

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

(6)  a licensed physician certified in neurology with a special qualification in child neurology;

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

(8)  a licensed pharmacist;

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

(10)  a representative from a Texas medical specialty organization;

(11)  a licensed attorney with experience in law pertaining to the practice of medicine and cannabis regulation; and

(12)  a person who represents medical cannabis patient interests.

(c)  At least two members of the advisory board must be affiliated with an institution of higher education or private or independent institution of higher education involved in relevant research, such as a medical unit, general academic teaching institution, or other agency of higher education, as defined by Section 61.003, Education Code.

(d)  The governor shall select a presiding officer from the membership of the advisory board.

(e)  The advisory board shall meet at least quarterly at the call of the presiding officer.

(f)  The advisory board may create and appoint one or more advisory committees composed of patients, law enforcement officers, researchers, other medical professionals, and other persons who are knowledgeable about the medical use of cannabis.

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

Sec. 444.053.  DUTIES OF ADVISORY BOARD; REPORT. (a) The advisory board shall assist the department in evaluating proposals submitted as part of a license application under Section 444.104.

(b)  The advisory board shall conduct a continuing study of the laws relating to medical cannabis to facilitate statewide access to safe and effective medical cannabis.

(c)  The advisory board shall prepare a report of the board's findings and recommendations under Subsection (b) and submit the report to the legislature not later than September 1 of each even-numbered year.

(d)  The advisory board shall consult with the Department of Public Safety under Section 487.0521(b) on rules monitoring the safety and efficacy of medical cannabis or medical cannabis products.

SUBCHAPTER C. MEDICAL CANNABIS RESEARCH LICENSE

Sec. 444.101.  ISSUANCE OF LICENSE. The department shall issue a medical cannabis research license to a person that authorizes the person to possess, manufacture, cultivate, or dispense medical cannabis for the limited research purposes described by Section 444.102.

Sec. 444.102.  PURPOSE OF LICENSE. A medical cannabis research license may be issued for the following limited research purposes:

(1)  conducting objective scientific research into the safety and efficacy of medical cannabis or other public health outcomes related to medical cannabis;

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

(3)  developing quality control, purity, and labeling standards for medical cannabis;

(4)  developing best practices for the safe and efficient cultivation of medical cannabis;

(5)  analyzing genetic and healing properties of different varieties of cannabis;

(6)  conducting genomic, horticultural, or agricultural research; and

(7)  conducting research on cannabis-affiliated products or systems.

Sec. 444.103.  APPLICATION FOR LICENSE. (a) As part of the application process for a license, an applicant shall submit to the department and the advisory board a description of the research that the applicant intends to conduct. The department shall grant the license if:

(1)  the department determines that the application meets the criteria described by Sections 444.102 and 487.102; and

(2)  the advisory board recommends the application for approval under Section 444.104(b).

(b)  The department may not grant a license if the advisory board does not recommend the application for approval.

Sec. 444.104.  REVIEW BY ADVISORY BOARD. (a) The advisory board shall review each applicant's research project to assess the following:

(1)  the quality, study design, value, or impact of the project;

(2)  whether the research supports the purposes in Section 444.102;

(3)  whether the applicant has the appropriate personnel, expertise, facilities, infrastructure, funding, and approvals in place to successfully conduct the project; and

(4)  whether the amount of cannabis to be grown by the applicant is consistent with the scope and goals of the project.

(b)  If the advisory board determines that the research project does meet the requirements of this subchapter and assesses the criteria to be adequate, the advisory board may recommend that a license be granted to the applicant for the project.

Sec. 444.105.  CONTRACTS. A license holder may contract to perform research in conjunction with another license holder, a medical school, as defined by Section 61.501, Education Code, a hospital licensed under Chapter 241, or an institution of higher education or private or independent institution of higher education involved in relevant research, such as a general academic teaching institution, medical unit, or other agency of higher education, as defined by Section 61.003, Education Code.

Sec. 444.106.  TRANSFER OF CANNABIS TO OTHER LICENSE HOLDERS. Unless otherwise authorized by the department, a license holder may only transfer, by sale or donation, cannabis grown or processed within the license holder's operation to other license holders or program participants as authorized by department rule.

Sec. 444.107.  LIMITATION OF LIABILITY. The growing, cultivating, possessing, or transferring, by sale or donation, of cannabis in accordance with this subchapter and the rules adopted under this subchapter, by a license holder may not be the basis of criminal or civil liability.

Sec. 444.108.  FEES. The executive commissioner shall set license and renewal fees in an amount sufficient to administer this chapter.

Sec. 444.109.  RULES. The executive commissioner shall, in consultation with the advisory board and the Public Safety Commission, adopt rules to implement this chapter, including:

(1)  license application requirements;

(2)  license renewal requirements, including the consideration or addition of additional projects by a license holder;

(3)  conditions for license revocation;

(4)  security measures to ensure cannabis is not diverted to purposes other than research;

(5)  license holder reporting requirements;

(6)  conditions under which cannabis grown by licensed cannabis cultivators and other product types from licensed cannabis processors may be donated to license holders; and

(7)  additional rules considered necessary by the executive commissioner.

ARTICLE 3. CHANGES TO TEXAS COMPASSIONATE USE PROGRAM

SECTION 3.01.  Section 487.001, Health and Safety Code, is amended to read as follows:

Sec. 487.001.  DEFINITIONS.  In this chapter:

(1)  "Caregiver" means a person who has a significant responsibility for managing the well-being of a registered patient whether a private party or employee of a long-term care facility, other health care organization, or public institution.

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

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

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

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

(5)  "Medical cannabis organization" means any organization that cultivates, processes, manufactures, distributes, researches, tests, dispenses, or conducts other business regarding medical cannabis as authorized by a license issued by the department under this chapter to provide medical cannabis to patients for whom medical cannabis is recommended under Chapter 169, Occupations Code.

(6)  "Medical cannabis product" means a product, other than cannabis itself, which contains or is derived from cannabis. The term does not include products derived from hemp as defined by Section 121.001, Agriculture Code.

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

SECTION 3.02.  Subchapter A, Chapter 487, Health and Safety Code, is amended by adding Section 487.002 to read as follows:

Sec. 487.002.  ALLOWABLE AMOUNT OF MEDICAL CANNABIS. (a) The allowable amount of medical cannabis for a person for whom medical use is recommended under Chapter 169, Occupations Code, is an amount of cannabis in any form approved by the physician possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient's caregiver that is no more than reasonably necessary to ensure the uninterrupted availability of cannabis for a period of three months based on the individual patient's recommended amount of medical cannabis and that is obtained solely from a medical cannabis organization.

(b)  Medical cannabis and medical cannabis products must be packaged and labeled in accordance with department rules before sale to a medical cannabis dispensary to indicate the quantity of each cannabinoid and terpene contained in the product for purposes of determining compliance with this section and protecting patient health and safety.

SECTION 3.03.  Chapter 487, Health and Safety Code, is amended by adding Subchapter A-1 to read as follows:

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

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

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

(2)  a medical cannabis organization;

(3)  a director, manager, or employee of a medical cannabis organization who is registered with the department under Section 487.053;

(4)  a medical cannabis research license holder under Chapter 444; or

(5)  a person participating as a researcher or patient in an approved research program under Subchapter G, Chapter 481.

(b)  Notwithstanding any other law, a person described by Subsection (a) is not subject to arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for conduct involving medical use that is authorized under this chapter, Chapter 444, Subchapter G, Chapter 481, Chapter 169, Occupations Code, or department rule.

Sec. 487.022.  NO PRESUMPTION OF CHILD ABUSE, NEGLECT, OR ENDANGERMENT. A person described by Section 487.021(a) may not be presumed to have engaged in conduct constituting child abuse, neglect, or endangerment solely because the person engaged in conduct involving medical use that is authorized under this chapter, Chapter 444, Subchapter G, Chapter 481, Chapter 169, Occupations Code, or department rule.

Sec. 487.023.  NO DENIAL OF PARENTAL RIGHTS. The fact that a person described by Section 487.021(a) engages in conduct authorized under this chapter, Chapter 444, Subchapter G, Chapter 481, Chapter 169, Occupations Code, or department rule, does not in itself constitute grounds for denying, limiting, or restricting conservatorship or possession of or access to a child under Title 5, Family Code.

Sec. 487.024.  NO SEIZURE OR FORFEITURE. Property used in the cultivation, research, testing, processing, distribution, transportation, and delivery of medical cannabis for medical use that is authorized under this chapter, Chapter 444, Subchapter G, Chapter 481, Chapter 169, Occupations Code, or department rule, is not contraband for purposes of Chapter 59, Code of Criminal Procedure, and is not subject to seizure or forfeiture under that chapter or other law solely for the use of the property in those authorized activities.

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

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

(2)  a medical cannabis organization;

(3)  a director, manager, or employee of a medical cannabis organization who is registered with the department under Section 487.053;

(4)  a medical cannabis research license holder under Chapter 444; or

(5)  a person participating as a researcher or patient in an approved research program under Subchapter G, Chapter 481.

Sec. 487.026.  NO PUNISHMENT FOR STUDENT PATIENTS AND THEIR CAREGIVERS. Notwithstanding any other law, a school or university student for whom medical cannabis was recommended under Chapter 169, Occupations Code, may not be subject to suspension, expulsion, placement in a disciplinary alternative education program, or any other form of discipline solely because the student possessed, used, or received a valid recommendation for medical cannabis, nor may a school health care professional be subject to any discipline solely for assisting a student in the administration of medical cannabis.

SECTION 3.04.  Section 487.052, Health and Safety Code, is amended to read as follows:

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

(b)  The director shall adopt [~~, including~~] rules imposing reasonable fees under this chapter in amounts sufficient to cover the cost of administering this chapter. The department shall also use revenue from fees to establish a cannabis testing and quality control fund for the purpose of assisting law enforcement, including accredited crime laboratories, to purchase instruments, establish methods, and obtain resources needed to conduct forensic analysis necessary to enforce this subtitle and to protect the health and safety of medical cannabis patients and the public.

(c)  The fees adopted under Subsection (b) may not exceed:

(1)  $5,000 for application fees;

(2)  $100 for registration fees under Subchapter D; and

(3)  reasonable amounts for the issuance or renewal of each class of license.

(d)  The director may not adopt rules establishing a total limit on the number of medical cannabis organization licenses by class that may be granted nor set the price of or production quantity of medical cannabis.

SECTION 3.05.  Subchapter B, Chapter 487, Health and Safety Code, is amended by adding Sections 487.0521 and 487.0522 to read as follows:

Sec. 487.0521.  SAFETY. (a) The director by rule shall adopt packaging and labeling requirements for medical cannabis to ensure patients are informed and protected. In adopting packaging and labeling requirements, the director shall ensure that:

(1)  each medical cannabis package is labeled with the cannabinoid potency and terpenoid profile of medical cannabis or medical cannabis product as determined by an independent testing laboratory;

(2)  each medical cannabis product and medical cannabis package is labeled with the required warnings as determined by the department; and

(3)  the packaging and label of medical cannabis or a medical cannabis product do not contain any false or misleading statements and are not designed to appeal to children.

(b)  In consultation with the medical cannabis research advisory board under Chapter 444, the director shall adopt necessary rules to allow the department to monitor the safety and efficacy of medical cannabis or medical cannabis products, including rules:

(1)  requiring accurate reporting to consumers regarding the content of medical cannabis or medical cannabis products;

(2)  providing for random testing by the department or the department's designee to ensure compliance with labeling and reporting requirements; and

(3)  providing for health and safety regulations and standards for the manufacture and cultivation of medical cannabis and medical cannabis products.

(c)  The director may collect data from medical cannabis organizations and health care providers as necessary to enable the department to monitor the safety and efficacy of medical cannabis. The director may adopt rules for the data collection under this subsection.

Sec. 487.0522.  INVENTORY TRACKING REQUIREMENTS. (a) The department shall establish and maintain a medical cannabis inventory system that oversees the tracking, tracing, testing, and quality control and quality assurance certification of medical cannabis and medical cannabis products.

(b)  The department may contract with other entities to establish and maintain all or part of the medical cannabis inventory system on behalf of the department.

(c)  A medical cannabis organization shall use the medical cannabis inventory system approved by the department to keep records throughout the cannabis supply chain, including for every transaction between license holders and between license holders and patients. A medical cannabis organization may use its own recordkeeping system provided the medical cannabis organization's system can integrate with the department's system as required under this chapter and rules. The records shall include, at a minimum:

(1)  the name, license number, and assigned identification number of the licensee that cultivated, manufactured, tested, or sold the product;

(2)  the address and phone number of the licensee that cultivated, manufactured, tested, or sold the product;

(3)  the type and weight of medical cannabis or medical cannabis product transferred or received during the transaction;

(4)  the batch number of the medical cannabis or medical cannabis product used;

(5)  the date of the transaction;

(6)  the total spent in dollars;

(7)  all point-of-sale records;

(8)  the amount of any medical cannabis waste, in pounds; and

(9)  any additional information as may be reasonably required by the department.

(d)  Until the department establishes the medical cannabis inventory program, each licensee shall use its own inventory program that meets the requirements of this section.

(e)  Each medical cannabis organization has a continuing responsibility to maintain records on site that are readily available to the department regardless of the functionality of the statewide inventory program including, at a minimum, the criteria established by this section and any requirements established by rule.

(f)  The department shall adopt rules necessary for the implementation and enforcement of this section, including rules ensuring:

(1)  the department has 24-hour access to the inventory program; and

(2)  all inventory tracking records containing patient information comply with Chapter 181 and the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.).

SECTION 3.06.  The heading to Section 487.053, Health and Safety Code, is amended to read as follows:

Sec. 487.053.  LICENSING OF CANNABIS [~~DISPENSING~~] ORGANIZATIONS AND REGISTRATION OF CERTAIN ASSOCIATED INDIVIDUALS.

SECTION 3.07.  Section 487.053(a), Health and Safety Code, is amended to read as follows:

(a)  The department shall:

(1)  issue or renew a license under Subchapter C to operate as a medical cannabis [~~dispensing~~] organization to each applicant who satisfies the requirements established under this chapter for licensure under that class of medical cannabis organization; [~~and~~]

(2)  register directors, managers, and employees under Subchapter D of each medical cannabis [~~dispensing~~] organization;

(3)  issue a permit for additional locations to a dispensing cannabis licensee on application if the licensee is in compliance with all eligibility requirements and the proposed location complies with any local zoning requirements and will assist with ensuring reasonable statewide access;

(4)  to ensure reasonable statewide access, issue no less than the following number of licenses or permits for each type of medical cannabis organization provided the department receives an adequate number of qualified applications:

(A)  dispensing cannabis organization licenses and permits, based on population within each of the 11 public health regions established by the Health and Human Services Commission, as follows:

(i)  9 in public health region 1;

(ii)  6 in public health region 2;

(iii)  82 in public health region 3;

(iv)  12 in public health region 4;

(v)  8 in public health region 5;

(vi)  75 in public health region 6;

(vii)  37 in public health region 7;

(viii)  31 in public health region 8;

(ix)  7 in public health region 9;

(x)  9 in public health region 10; and

(xi)  24 in public health region 11;

(B)  one cultivation cannabis organization license for every four dispensing cannabis organization licenses;

(C)  one processing cannabis organization license for every three dispensing cannabis organization licenses; and

(D)  the number of testing cannabis organization licenses necessary to meet demand;

(5)  once the number of registered medical cannabis patients reaches 100,000, issue no less than 24 additional dispensing cannabis organization licenses and permits and other medical cannabis organization license types under Subdivision (4); and

(6)  for each additional 100,000 patients, issue no less than 24 additional dispensing cannabis organization licenses and permits and other medical cannabis organization license types under Subdivision (4).

SECTION 3.08.  Section 487.054, Health and Safety Code, is amended to read as follows:

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

(1)  the name of each physician who registers as a physician recommending medical cannabis and for each patient for whom the physician has registered:

(A)  [~~the prescriber for a patient under Section 169.004, Occupations Code,~~] the patient's name, and any caregivers' names, if applicable;

(B)  the patient's [~~and~~] date of birth;

(C)  the nature of the patient's eligible medical condition;

(D)  [~~of the patient,~~] the dosage recommended;

(E)  [~~prescribed,~~] the means of administration ordered; [~~,~~] and

(F)  the total amount of medical [~~low-THC~~] cannabis required to fill the patient's recommendation [~~prescription~~]; and

(2)  a record of each amount of medical [~~low-THC~~] cannabis dispensed by a medical cannabis [~~dispensing~~] organization to a patient under a recommendation [~~prescription~~].

(b)  The department shall ensure the registry:

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

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

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

(4)  ensures that all application records and information are sealed to protect the privacy of patients.

(c)  The handling of any records maintained in the registry must comply with all relevant state and federal privacy laws, including, but not limited to, Chapter 181.

SECTION 3.09.  Subchapter B, Chapter 487, Health and Safety Code, is amended by adding Section 487.055 to read as follows:

Sec. 487.055.  DESIGNATION OF CAREGIVERS. (a) The department shall develop a form for a patient listed in the registry to designate caregivers whether an individual, health care facility, or public institution. Caregivers may possess medical cannabis and medical cannabis products up to the sum of the possession limits for the patient or patients under the caregiver's care.

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

(c)  The director shall adopt rules necessary to implement this section, including rules to provide identification cards for registered caregivers.

SECTION 3.10.  The heading to Subchapter C, Chapter 487, Health and Safety Code, is amended to read as follows:

SUBCHAPTER C. LICENSE TO OPERATE AS MEDICAL CANNABIS [~~DISPENSING~~] ORGANIZATION

SECTION 3.11.  Section 487.101, Health and Safety Code, is amended to read as follows:

Sec. 487.101.  LICENSE REQUIRED. (a) A license issued by the department under this chapter is required to operate a medical cannabis [~~dispensing~~] organization.

(b)  The director by rule shall adopt application and licensing requirements and privileges of each medical cannabis organization license type.

(c)  Medical cannabis organization license types shall include the following:

(1)  cultivating cannabis organization that cultivates medical cannabis for sale and distribution to other medical cannabis organizations and may process and package cannabis for individual sale so long as the cannabis is not subjected to any chemical alteration;

(2)  processing cannabis organization that extracts medical cannabis and manufactures, prepares, and packages medical cannabis products for sale and distribution to other medical cannabis organizations;

(3)  dispensing cannabis organization that sells medical cannabis and medical cannabis products to patients;

(4)  independent testing cannabis organizations that test medical cannabis and medical cannabis products for potency, safety, and efficacy; and

(5)  any other class of medical cannabis organization that the department finds warranted to safely and securely ensure reasonable statewide access of medical cannabis for medical use.

SECTION 3.12.  Section 487.102, Health and Safety Code, is amended to read as follows:

Sec. 487.102.  ELIGIBILITY FOR LICENSE. An applicant for a license to operate as a medical cannabis [~~dispensing~~] organization is eligible for the license if:

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

(A)  the technical and technological ability appropriate for that class of license [~~to cultivate and produce low-THC cannabis~~];

(B)  the ability to secure:

(i)  the resources and personnel necessary to operate as a medical cannabis [~~dispensing~~] organization; and

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

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

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

(E)  any specific qualifications for licensure for each class of license the department promulgates by rule under this chapter that are demonstrably related to the operations authorized and duties imposed under that class of license to safely and securely provide medical cannabis for medical use to patients;

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

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

(4)  each director, manager, employee, and any other relevant individual, as determined by department rule, passes a criminal history background check the department approves as reliable and expedient to ensure applicants comply with eligibility requirements established by the department by rule.

SECTION 3.13.  Subchapter C, Chapter 487, Health and Safety Code, is amended by adding Section 487.1021 to read as follows:

Sec. 487.1021.  ELIGIBILITY FOR LICENSE TO OPERATE AS AN INDEPENDENT CANNABIS TESTING ORGANIZATION. In addition to the criteria described by Section 487.102, an applicant for a license to operate as an independent cannabis testing organization is eligible for the license if:

(1)  the applicant submits proof of accreditation by an independent accreditation body in accordance with the International Organization for Standardization ISO/IEC 17025 or a comparable or successor standard;

(2)  the applicant submits proof that it does not share ownership interest or joint management with any medical cannabis organization whose product the applicant may test except for less than 10 percent ownership in publicly traded companies; and

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

SECTION 3.14.  Section 487.103(a), Health and Safety Code, is amended to read as follows:

(a)  A person may apply for an initial or renewal license to operate as a medical cannabis [~~dispensing~~] organization by submitting a form prescribed by the department along with the application fee in an amount set by the director for that class of license.

SECTION 3.15.  Section 487.104(a), Health and Safety Code, is amended to read as follows:

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

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

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

SECTION 3.16.  Sections 487.105(a) and (b), Health and Safety Code, are amended to read as follows:

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

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

SECTION 3.17.  Section 487.106, Health and Safety Code, is amended to read as follows:

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

(b)  On request of the department, a license holder must provide to the department a reasonably sized sample suitable for testing of medical cannabis.

SECTION 3.18.  Section 487.107, Health and Safety Code, is amended to read as follows:

Sec. 487.107.  DUTIES RELATING TO DISPENSING [~~PRESCRIPTION~~]. (a) Before dispensing medical [~~low-THC~~] cannabis to a person for whom the medical [~~low-THC~~] cannabis is recommended [~~prescribed~~] under Chapter 169, Occupations Code, the medical cannabis [~~dispensing~~] organization must verify that the recommendation [~~prescription~~] presented:

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

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

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

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

SECTION 3.19.  Sections 487.108(a), (b), and (c), Health and Safety Code, are amended to read as follows:

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

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

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

SECTION 3.20.  Section 487.151(a), Health and Safety Code, is amended to read as follows:

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

SECTION 3.21.  Section 487.201, Health and Safety Code, is amended to read as follows:

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

ARTICLE 4. PHYSICIAN RECOMMENDATIONS OF MEDICAL CANNABIS

SECTION 4.01.  The heading to Chapter 169, Occupations Code, is amended to read as follows:

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

SECTION 4.02.  Section 169.001, Occupations Code, is amended to read as follows:

Sec. 169.001.  DEFINITIONS. In this chapter:

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

[~~(1-a)  "Incurable neurodegenerative disease" means a disease designated as an incurable neurodegenerative disease by rule of the executive commissioner of the Health and Human Services Commission, adopted in consultation with the National Institutes of Health.~~]

(2) [~~(3)~~]  "Medical [~~Low-THC~~] cannabis" means the plant Cannabis sativa L., and any part of that plant or any compound, manufacture, salt, derivative, mixture, preparation, resin, or oil of that plant. The term does not include hemp as defined by Section 121.001, Agriculture Code [~~that contains not more than 0.5 percent by weight of tetrahydrocannabinols~~].

(3) [~~(4)~~]  "Medical use" means the administration of medical cannabis to a registered patient for treatment of an eligible medical condition or symptoms as recommended by a physician [~~ingestion by a means of administration other than by smoking of a prescribed amount of low-THC cannabis by a person for whom low-THC cannabis is prescribed~~] under this chapter.

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

(A)  results in death;

(B)  results in an illness requiring hospitalization;

(C)  is considered life-threatening; or

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

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

[~~(6)  "Terminal cancer" means cancer that meets the criteria for a terminal illness, as defined by Section 1003.051, Health and Safety Code.~~]

SECTION 4.03.  Chapter 169, Occupations Code, is amended by adding Section 169.0012 to read as follows:

Sec. 169.0012.  BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP. For purposes of this chapter, a bona fide physician-patient relationship exists when there is a treatment or counseling relationship between a physician and patient in which all of the following are present:

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

(2)  the physician has created and continues to maintain records of the patient's condition in accordance with medically accepted standards;

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

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

SECTION 4.04.  Section 169.002, Occupations Code, is amended to read as follows:

Sec. 169.002.  PHYSICIAN QUALIFIED TO RECOMMEND MEDICAL [~~PRESCRIBE LOW-THC~~] CANNABIS [~~TO PATIENTS WITH CERTAIN MEDICAL CONDITIONS~~]. (a) Only a physician qualified with respect to a patient's particular medical condition [~~as provided by this section~~] may recommend medical [~~prescribe low-THC~~] cannabis in accordance with this chapter to treat the applicable medical condition.

(b)  A physician is qualified to recommend medical [~~prescribe low-THC~~] cannabis with respect to a patient's particular medical condition if the physician:

(1)  is licensed under this subtitle;

(2)  has a bona fide physician-patient relationship with the patient [~~is board certified in a medical specialty relevant to the treatment of the patient's particular medical condition by a specialty board approved by the American Board of Medical Specialties or the Bureau of Osteopathic Specialists~~]; and

(3)  dedicates a significant portion of clinical practice to the evaluation and treatment of the patient's particular medical condition.

SECTION 4.05.  Section 169.003, Occupations Code, is amended to read as follows:

Sec. 169.003.  RECOMMENDATION [~~PRESCRIPTION~~] OF MEDICAL [~~LOW-THC~~] CANNABIS. A physician described by Section 169.002 may recommend medical [~~prescribe low-THC~~] cannabis to a patient if:

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

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

(3)  the physician certifies to the department that:

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

(B)  the patient has a diagnosis or symptoms such that, in the physician's professional judgment and review of past treatments, the patient is likely to receive therapeutic or palliative benefit from medical cannabis [~~is diagnosed with:~~

[~~(i)  epilepsy;~~

[~~(ii)  a seizure disorder;~~

[~~(iii)  multiple sclerosis;~~

[~~(iv)  spasticity;~~

[~~(v)  amyotrophic lateral sclerosis;~~

[~~(vi)  autism;~~

[~~(vii)  terminal cancer; or~~

[~~(viii)  an incurable neurodegenerative disease~~]; and

(C) [~~(B)~~]  the physician determines the risk of the medical use of medical [~~low-THC~~] cannabis by the patient is reasonable in light of the potential benefit for the patient.

SECTION 4.06.  The heading to Section 169.004, Occupations Code, is amended to read as follows:

Sec. 169.004.  MEDICAL [~~LOW-THC~~] CANNABIS RECOMMENDATION [~~PRESCRIBER~~] REGISTRATION.

SECTION 4.07.  Section 169.004(a), Occupations Code, is amended to read as follows:

(a)  Before a physician [~~qualified to prescribe low-THC cannabis under Section 169.002~~] may recommend [~~prescribe~~] or renew a recommendation [~~prescription~~] for medical [~~low-THC~~] cannabis for a patient under this chapter, the physician must register [~~as the prescriber for that patient~~] in the compassionate-use registry maintained by the department under Section 487.054, Health and Safety Code. The physician's registration must indicate:

(1)  the physician's name; and

(2)  for each patient:

(A)  the patient's name and date of birth;

(B)  the nature of the patient's diagnosis or symptom being treated by medical cannabis;

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

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

(E)  [~~and~~

[~~(5)~~]  the total amount of medical [~~low-THC~~] cannabis required to fill the patient's recommendation; and

(F)  any severe adverse events the patient may experience due to the medical use of medical cannabis [~~prescription~~].

SECTION 4.08.  Section 169.005, Occupations Code, is amended to read as follows:

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

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

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

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

SECTION 4.09.  Section 169.0011, Occupations Code, is repealed.

ARTICLE 5. CONFORMING AMENDMENTS

SECTION 5.01.  Section 161.001(c), Family Code, is amended to read as follows:

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

(1)  homeschooled the child;

(2)  is economically disadvantaged;

(3)  has been charged with a nonviolent misdemeanor offense other than:

(A)  an offense under Title 5, Penal Code;

(B)  an offense under Title 6, Penal Code; or

(C)  an offense that involves family violence, as defined by Section 71.004 of this code;

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

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

SECTION 5.02.  Section 262.116(a), Family Code, is amended to read as follows:

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

(1)  homeschooled the child;

(2)  is economically disadvantaged;

(3)  has been charged with a nonviolent misdemeanor offense other than:

(A)  an offense under Title 5, Penal Code;

(B)  an offense under Title 6, Penal Code; or

(C)  an offense that involves family violence, as defined by Section 71.004 of this code;

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

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

SECTION 5.03.  Section 411.0891(a), Government Code, is amended to read as follows:

(a)  Subject to Section 411.087, the department is authorized to obtain and use criminal history record information maintained by the Federal Bureau of Investigation or the department that relates to a person who:

(1)  is an applicant for or holds a registration issued by the director under Subchapter C, Chapter 481, Health and Safety Code, that authorizes the person to manufacture, distribute, analyze, or conduct research with a controlled substance;

(2)  is an applicant for or holds a registration issued by the department under Chapter 487, Health and Safety Code, to be a director, manager, or employee of a medical cannabis [~~dispensing~~] organization, as defined by Section 487.001, Health and Safety Code;

(3)  is an applicant for or holds an authorization issued by the department under Section 521.2476, Transportation Code, to do business in this state as a vendor of ignition interlock devices;

(4)  is an applicant for or holds certification by the department as an inspection station or an inspector under Subchapter G, Chapter 548, Transportation Code, holds an inspection station or inspector certificate issued under that subchapter, or is the owner of an inspection station operating under that chapter; or

(5)  is an applicant for or holds a certificate of registration issued by the department under Chapter 1956, Occupations Code, to act as a metal recycling entity.

SECTION 5.04.  Section 443.202(a), Health and Safety Code, is amended to read as follows:

(a)  This section does not apply to medical [~~low-THC~~] cannabis regulated under Chapter 487.

SECTION 5.05.  Section 443.2025(a), Health and Safety Code, is amended to read as follows:

(a)  This section does not apply to medical [~~low-THC~~] cannabis regulated under Chapter 487.

SECTION 5.06.  Section 481.062(a), Health and Safety Code, is amended to read as follows:

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

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

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

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

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

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

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

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

(6)  a medical cannabis [~~dispensing~~] organization licensed under Subchapter C, Chapter 487, or a medical cannabis research organization licensed under Chapter 444, that possesses medical [~~low-THC~~] cannabis.

SECTION 5.07.  Sections 481.111(e) and (f), Health and Safety Code, are amended to read as follows:

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

(1)  for an offense involving possession only of marihuana or drug paraphernalia:

(A)  [~~,~~] is a patient for whom medical [~~low-THC~~] cannabis is prescribed under Chapter 169, Occupations Code, or the patient's legal guardian or caregiver; [~~,~~] and

(B)  [~~the person~~] possesses medical [~~low-THC~~] cannabis obtained under a valid recommendation [~~prescription~~] from a medical cannabis [~~dispensing~~] organization; or

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

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

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

(f)  For purposes of Subsection (e):

(1)  [~~"Dispensing organization" has the meaning assigned by Section 487.001.~~

[~~(2)~~]  "Medical [~~Low-THC~~] cannabis" has the meaning assigned by Section 169.001, Occupations Code.

(2)  "Medical cannabis organization" has the meaning assigned by Section 487.001.

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

SECTION 5.08.  Section 551.004(a), Occupations Code, is amended to read as follows:

(a)  This subtitle does not apply to:

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

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

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

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

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

(6)  a medical cannabis research organization licensed under Chapter 444, Health and Safety Code, that cultivates, processes, researches, tests, and dispenses medical cannabis as authorized by the license.

ARTICLE 6. TRANSITIONS AND EFFECTIVE DATE

SECTION 6.01.  Not later than December 31, 2021, the Department of Public Safety and the executive commissioner of the Health and Human Services Commission shall adopt rules as required to implement, administer, and enforce this Act.

SECTION 6.02.  (a) A license to operate as a dispensing organization issued under Chapter 487, Health and Safety Code, before the effective date of this Act continues to be valid after the effective date of this Act until that license expires.

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

SECTION 6.03.  (a) Not later than April 1, 2022, the Department of Public Safety shall license cannabis cultivation organizations in accordance with Subchapter C, Chapter 487, Health and Safety Code, as amended by this Act, provided that the applicants for a license have met all requirements for approval under that subchapter.

(b)  Not later than June 1, 2022, the Department of Public Safety shall license other classes of medical cannabis organizations in accordance with Subchapter C, Chapter 487, Health and Safety Code, as amended by this Act, provided that the applicants for a license have met all requirements for approval under that subchapter.

(c)  The governor shall appoint members to the medical cannabis research advisory board as required under Chapter 444, Health and Safety Code, as added by this Act, as soon as practicable and not later than September 1, 2021.

SECTION 6.04.  This Act takes effect September 1, 2021.