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By:  Raymond H.B. No. 2995

A BILL TO BE ENTITLED

AN ACT

relating to the prescribing of medical cannabis for medical use to certain veterans with combat-related injuries or medical conditions and the licensing of dispensing organizations under the Texas Compassionate Use Program.

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

ARTICLE 1.  CHANGES TO CHAPTER 169, OCCUPATIONS CODE

SECTION 1.01.  The heading to Chapter 169, Occupations Code, is amended to read as follows:

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

SECTION 1.02.  Section 169.001, Occupations Code, is amended by adding Subdivisions (3-a) and (6) and amending Subdivision (4) to read as follows:

(3-a)  "Medical 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 that contains more than one percent by weight of tetrahydrocannabinols.

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

(6)  "Veteran" means a person who has served in:

(A)  the army, navy, air force, space force, coast guard, or marine corps of the United States; or

(B)  the Texas Army National Guard or the Texas Air National Guard.

SECTION 1.03.  Section 169.0011, Occupations Code, is amended to read as follows:

Sec. 169.0011.  PRESCRIPTION FOR MEDICAL USE.  A reference in this chapter, Chapter 487, Health and Safety Code, or other law to a prescription for medical use or a prescription for low-THC cannabis or medical cannabis means an entry in the compassionate-use registry established under Section 487.054, Health and Safety Code.

SECTION 1.04.  The heading to Section 169.002, Occupations Code, is amended to read as follows:

Sec. 169.002.  PHYSICIAN QUALIFIED TO PRESCRIBE LOW-THC CANNABIS OR MEDICAL CANNABIS TO PATIENTS WITH CERTAIN MEDICAL CONDITIONS.

SECTION 1.05.  Sections 169.002(a) and (b), Occupations Code, are amended to read as follows:

(a)  Only a physician qualified with respect to a patient's particular medical condition as provided by this section may prescribe low-THC cannabis or medical cannabis, as applicable, in accordance with this chapter to treat the applicable medical condition.

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

(1)  is licensed under this subtitle;

(2)  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 1.06.  Section 169.003, Occupations Code, is amended to read as follows:

Sec. 169.003.  PRESCRIPTION OF LOW-THC CANNABIS OR MEDICAL CANNABIS. (a) A physician described by Section 169.002 may 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)  the patient is diagnosed with:

(i)  epilepsy;

(ii)  a seizure disorder;

(iii)  multiple sclerosis;

(iv)  spasticity;

(v)  amyotrophic lateral sclerosis;

(vi)  autism;

(vii)  cancer;

(viii)  an incurable neurodegenerative disease;

(ix)  post-traumatic stress disorder; or

(x)  a medical condition that is approved for a research program under Subchapter F, Chapter 487, Health and Safety Code, and for which the patient is receiving treatment under that program; and

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

(b)  A physician described by Section 169.002 may prescribe medical cannabis to a patient who is a veteran 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)  the patient is diagnosed with:

(i)  post-traumatic stress disorder resulting from combat engaged in during the patient's military service; or

(ii)  a physical injury or serious health condition resulting from combat engaged in during the patient's military service; and

(B)  the physician determines the risk of the medical use of medical cannabis by the patient is reasonable in light of the potential benefit for the patient.

SECTION 1.07.  The heading to Section 169.004, Occupations Code, is amended to read as follows:

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

SECTION 1.08.  Section 169.004(a), Occupations Code, is amended to read as follows:

(a)  Before a physician qualified to prescribe low-THC cannabis or medical cannabis under Section 169.002 may prescribe or renew a prescription for low-THC cannabis or medical 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;

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

(3)  whether the patient is prescribed low-THC cannabis or medical cannabis and the dosage prescribed to the patient, including the appropriate concentration of tetrahydrocannabinol in medical cannabis, as applicable;

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

(5)  the total amount of low-THC cannabis or medical cannabis with the appropriate concentration of tetrahydrocannabinol in medical cannabis, as applicable, required to fill the patient's prescription.

SECTION 1.09.  Section 169.005, Occupations Code, is amended to read as follows:

Sec. 169.005.  PATIENT TREATMENT PLAN. (a) A physician described by Section 169.002 who 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 low-THC cannabis;

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

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

(b)  A physician described by Section 169.002 who prescribes medical cannabis for a patient's medical use under this chapter must maintain a patient treatment plan that indicates:

(1)  the dosage, concentration of tetrahydrocannabinol, means of administration, and planned duration of treatment for the medical cannabis;

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

(3)  a plan for monitoring indicators of tolerance or reaction to medical cannabis.

(c)  Notwithstanding any other provision of this chapter, a physician described by Section 169.002 may authorize administration by smoking, in addition to other means of administration, only for a patient who is a veteran described by Section 169.003(b).

ARTICLE 2.  CHANGES TO CHAPTER 487, HEALTH AND SAFETY CODE

SECTION 2.01.  Sections 487.001(3) and (4), Health and Safety Code, are amended to read as follows:

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

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

SECTION 2.02.  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 the prescriber for a patient under Section 169.004, Occupations Code, and for each patient for whom the physician has registered as the prescriber:

(A)  the patient's name;

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

(C)  whether low-THC cannabis or medical cannabis is prescribed and [~~of the patient,~~] the dosage prescribed, including the appropriate concentration of tetrahydrocannabinol in medical cannabis, as applicable;

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

(E)  the total amount of low-THC cannabis or medical cannabis with the appropriate concentration of tetrahydrocannabinol in medical cannabis, as applicable, required to fill the patient's prescription; and

(2)  a record of each amount of low-THC cannabis or medical cannabis and the concentration of tetrahydrocannabinol in medical cannabis, as applicable, dispensed by a dispensing organization to a patient under a prescription.

(b)  The department shall ensure the registry:

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

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

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

SECTION 2.03.  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 dispensing organization is eligible for the license if:

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

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

(B)  the ability to secure:

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

(ii)  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 low-THC cannabis or medical 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;

(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.

SECTION 2.04.  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 dispensing organization only if:

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

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

SECTION 2.05.  Section 487.107, Health and Safety Code, is amended to read as follows:

Sec. 487.107.  DUTIES RELATING TO DISPENSING PRESCRIPTION.  (a)  Before dispensing low-THC cannabis or medical cannabis to a person for whom the low-THC cannabis or medical cannabis is prescribed under Chapter 169, Occupations Code, the dispensing organization must verify that the 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 low-THC cannabis or medical cannabis required to fill the prescription; and

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

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

SECTION 2.06.  Section 487.108(c), Health and Safety Code, is amended to read as follows:

(c)  After suspending or revoking a license issued under this chapter, the director may seize or place under seal all low-THC cannabis, medical cannabis, and drug paraphernalia owned or possessed by the dispensing organization.  If the director orders the revocation of the license, a disposition may not be made of the seized or sealed low-THC cannabis, medical 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 low-THC cannabis, medical cannabis, and drug paraphernalia may be forfeited to the state as provided under Subchapter E, Chapter 481.

SECTION 2.07.  Section 487.201, Health and Safety Code, is amended to read as follows:

Sec. 487.201.  COUNTIES AND MUNICIPALITIES MAY NOT PROHIBIT LOW-THC CANNABIS OR MEDICAL 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, or possession of low-THC cannabis or medical cannabis, as authorized by this chapter.

ARTICLE 3.  CONFORMING CHANGES

SECTION 3.01.  Section 443.202(a), Health and Safety Code, is amended to read as follows:

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

SECTION 3.02.  Section 443.2025(a), Health and Safety Code, is amended to read as follows:

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

SECTION 3.03.  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 dispensing organization licensed under Subchapter C, Chapter 487, that possesses low-THC cannabis or medical cannabis.

SECTION 3.04.  Section 481.111(e), Health and Safety Code, is 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 low-THC cannabis or medical cannabis if the person:

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

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

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

(2)  is a director, manager, or employee of a 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 low-THC cannabis or medical cannabis or raw materials used in or by-products created by the production or cultivation of low-THC cannabis or medical cannabis; or

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

SECTION 3.05.  Section 481.111(f)(2), Health and Safety Code, is amended to read as follows:

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

SECTION 3.06.  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 dispensing organization, as defined by Section 487.001, Health and Safety Code, that cultivates, processes, and dispenses low-THC cannabis or medical 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.

ARTICLE 4.  TRANSITIONS AND EFFECTIVE DATE

SECTION 4.01.  Not later than October 1, 2023, the public safety director of the Department of Public Safety shall adopt rules as required to implement, administer, and enforce Chapter 487, Health and Safety Code, as amended by this Act.

SECTION 4.02.  This Act takes effect September 1, 2023.