

By: Raymond

H.B. No. 2995

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prescribing of medical cannabis for medical use to
3 certain veterans with combat-related injuries or medical
4 conditions and the licensing of dispensing organizations under the
5 Texas Compassionate Use Program.

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

7 ARTICLE 1. CHANGES TO CHAPTER 169, OCCUPATIONS CODE

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

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

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

15 (3-a) "Medical cannabis" means the plant Cannabis
16 sativa L., and any part of that plant or any compound, manufacture,
17 salt, derivative, mixture, preparation, resin, or oil of that plant
18 that contains more than one percent by weight of
19 tetrahydrocannabinols.

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

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

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

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

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

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

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

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

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

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

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

1 (1) is licensed under this subtitle;

2 (2) is board certified in a medical specialty relevant
3 to the treatment of the patient's particular medical condition by a
4 specialty board approved by the American Board of Medical
5 Specialties or the Bureau of Osteopathic Specialists; and

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

9 SECTION 1.06. Section 169.003, Occupations Code, is amended
10 to read as follows:

11 Sec. 169.003. PRESCRIPTION OF LOW-THC CANNABIS OR MEDICAL
12 CANNABIS. (a) A physician described by Section 169.002 may
13 prescribe low-THC cannabis to a patient if:

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

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

17 (3) the physician certifies to the department that:

18 (A) the patient is diagnosed with:

19 (i) epilepsy;

20 (ii) a seizure disorder;

21 (iii) multiple sclerosis;

22 (iv) spasticity;

23 (v) amyotrophic lateral sclerosis;

24 (vi) autism;

25 (vii) cancer;

26 (viii) an incurable neurodegenerative
27 disease;

1 (ix) post-traumatic stress disorder; or
2 (x) a medical condition that is approved
3 for a research program under Subchapter F, Chapter 487, Health and
4 Safety Code, and for which the patient is receiving treatment under
5 that program; and

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

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

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

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

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

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

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

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

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

10 (1) the physician's name;

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

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

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

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

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

24 Sec. 169.005. PATIENT TREATMENT PLAN. (a) A physician
25 described by Section 169.002 who prescribes low-THC cannabis for a
26 patient's medical use under this chapter must maintain a patient
27 treatment plan that indicates:

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

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

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

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

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

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

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

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

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

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

23 (3) "Dispensing organization" means an organization
24 licensed by the department to cultivate and [7] process low-THC
25 cannabis and medical cannabis, and to dispense low-THC cannabis or
26 medical cannabis to a patient for whom low-THC cannabis or medical
27 cannabis is prescribed under Chapter 169, Occupations Code.

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

4 SECTION 2.02. Section 487.054, Health and Safety Code, is
5 amended to read as follows:

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

9 (1) the name of each physician who registers as the
10 prescriber for a patient under Section 169.004, Occupations Code,
11 and for each patient for whom the physician has registered as the
12 prescriber:

13 (A) the patient's name;
14 (B) the patient's ~~and~~ date of birth;
15 (C) whether low-THC cannabis or medical cannabis
16 is prescribed and ~~[of the patient,~~ the dosage prescribed,
17 including the appropriate concentration of tetrahydrocannabinol in
18 medical cannabis, as applicable;

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

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

25 (2) a record of each amount of low-THC cannabis or
26 medical cannabis and the concentration of tetrahydrocannabinol in
27 medical cannabis, as applicable, dispensed by a dispensing

1 organization to a patient under a prescription.

2 (b) The department shall ensure the registry:

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

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

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

15 SECTION 2.03. Section 487.102, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 487.102. ELIGIBILITY FOR LICENSE. An applicant for a
18 license to operate as a dispensing organization is eligible for the
19 license if:

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

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

24 (B) the ability to secure:

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

27 (ii) premises reasonably located to allow

1 patients listed on the compassionate-use registry access to the
2 organization through existing infrastructure;

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

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

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

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

16 SECTION 2.04. Section 487.104(a), Health and Safety Code,
17 is amended to read as follows:

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

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

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

27 SECTION 2.05. Section 487.107, Health and Safety Code, is

1 amended to read as follows:

2 Sec. 487.107. DUTIES RELATING TO DISPENSING
3 PRESCRIPTION. (a) Before dispensing low-THC cannabis or medical
4 cannabis to a person for whom the low-THC cannabis or medical
5 cannabis is prescribed under Chapter 169, Occupations Code, the
6 dispensing organization must verify that the prescription
7 presented:

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

10 (2) matches the entry in the compassionate-use
11 registry with respect to the total amount of low-THC cannabis or
12 medical cannabis required to fill the prescription; and

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

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

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

26 (c) After suspending or revoking a license issued under this
27 chapter, the director may seize or place under seal all low-THC

1 cannabis, medical cannabis, and drug paraphernalia owned or
2 possessed by the dispensing organization. If the director orders
3 the revocation of the license, a disposition may not be made of the
4 seized or sealed low-THC cannabis, medical cannabis, or drug
5 paraphernalia until the time for administrative appeal of the order
6 has elapsed or until all appeals have been concluded. When a
7 revocation order becomes final, all low-THC cannabis, medical
8 cannabis, and drug paraphernalia may be forfeited to the state as
9 provided under Subchapter E, Chapter 481.

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

12 Sec. 487.201. COUNTIES AND MUNICIPALITIES MAY NOT PROHIBIT
13 LOW-THC CANNABIS OR MEDICAL CANNABIS. A municipality, county, or
14 other political subdivision may not enact, adopt, or enforce a
15 rule, ordinance, order, resolution, or other regulation that
16 prohibits the cultivation, production, dispensing, or possession
17 of low-THC cannabis or medical cannabis, as authorized by this
18 chapter.

19 ARTICLE 3. CONFORMING CHANGES

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

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

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

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

1 SECTION 3.03. Section 481.062(a), Health and Safety Code,
2 is amended to read as follows:

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

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

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

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

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

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

26 (A) a Department of State Health Services
27 official, a medical school researcher, or a research program

1 participant possessing the substance as authorized under
2 Subchapter G; or

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

7 (6) a dispensing organization licensed under
8 Subchapter C, Chapter 487, that possesses low-THC cannabis or
9 medical cannabis.

10 SECTION 3.04. Section 481.111(e), Health and Safety Code,
11 is amended to read as follows:

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

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

19 (A) [~~7~~] is a patient for whom low-THC cannabis or
20 medical cannabis is prescribed under Chapter 169, Occupations Code,
21 or the patient's legal guardian; [~~7~~] and

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

25 (2) is a director, manager, or employee of a
26 dispensing organization and the person, solely in performing the
27 person's regular duties at the organization, acquires, possesses,

1 produces, cultivates, dispenses, or disposes of:

2 (A) in reasonable quantities, any low-THC
3 cannabis or medical cannabis or raw materials used in or
4 by-products created by the production or cultivation of low-THC
5 cannabis or medical cannabis; or

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

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

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

14 SECTION 3.06. Section 551.004(a), Occupations Code, is
15 amended to read as follows:

16 (a) This subtitle does not apply to:

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

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

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

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

1 142.0062, or 142.0063, Health and Safety Code; or

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

8 ARTICLE 4. TRANSITIONS AND EFFECTIVE DATE

9 SECTION 4.01. Not later than October 1, 2023, the public
10 safety director of the Department of Public Safety shall adopt
11 rules as required to implement, administer, and enforce Chapter
12 487, Health and Safety Code, as amended by this Act.

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