**BILL ANALYSIS**

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| Senate Research Center | H.B. 46 |
|  | By: King et al. (Perry) |
|  | State Affairs |
|  | 5/15/2025 |
|  | Engrossed |

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 46 seeks to modernize the Texas Compassionate-Use Program by creating dispensing organization satellite locations to improve the transportation and overnight storage of prescriptions. Additionally, the bill allows DPS to grant additional dispensing licenses; currently there are three. The bill also provides clarity on proper dosage units and safeguards to ensure patients receive appropriate supplies of low-THC cannabis. H.B. 46 will also allow for the administration of low-THC cannabis through the use of pulmonary inhalation. This new delivery method will allow patients to utilize a rapid administration method if needed for their particular medical condition.

H.B. 46 amends current law relating to the medical use of low-THC cannabis under and the administration of the Texas Compassionate-Use Program and requires registration.

**RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the public safety director of the Department of Public Safety in SECTION 6 (Section 487.1035, Health and Safety Code), SECTION 7 (Section 487.104, Health and Safety Code), and SECTION 8 (Section 487.1045, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 14 (Section 169.003, Occupations Code) and SECTION 16 (Section 169.006, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas State Board of Pharmacy in SECTION 15 (Section 169.0031, Occupations Code) of this bill.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 487.053(a), Health and Safety Code, to require the Department of Public Safety of the State of Texas (DPS) to take certain actions, including registering owners and members of each dispensing organization, in addition to directors, managers, and employees of each dispensing organization.

SECTION 2. Amends Section 487.054, Health and Safety Code, by adding Subsections (c) and (d), as follows:

(c) Provides that information within the registry regarding patient identification, including the fact that a person is listed as a patient in the registry, is confidential and is authorized only to be accessed by DPS, registered physicians, and dispensing organizations for the purposes of Chapter 487 (Texas Compassionate-Use Act).

(d) Authorizes DPS, notwithstanding Subsection (c), on request by a patient, to release patient information contained in the registry to the patient or a person designated by the patient.

SECTION 3. Amends Section 487.101, Health and Safety Code, as follows:

Sec. 487.101. LICENSE REQUIRED. (a) Creates this subsection from existing text and makes no further changes.

(b) Provides that a dispensing organization licensed under this chapter is not required to apply for an additional license for the use of a satellite location for secure storage of low-THC cannabis if the address of the satellite location was included in the application or the dispensing organization obtains approval from DPS under Section 487.1035.

SECTION 4. Amends Section 487.102, Health and Safety Code, as follows:

Sec. 487.102. ELIGIBILITY FOR LICENSE. Provides that an applicant for a license to operate as a dispensing organization is eligible for the license if the applicant meets certain requirements, including if each owner or member of the applicant, among certain other persons, is registered under Subchapter D (Registration of Certain Individuals).

SECTION 5. Amends Section 487.103(b), Health and Safety Code, to require that the application include certain information, including the name and address of each of the applicant's owners and members, and the address of any satellite location that will be used by the applicant for secure storage of low-THC cannabis under Section 487.1035, and to make nonsubstantive changes.

SECTION 6. Amends Subchapter C, Chapter 487, Health and Safety Code, by adding Section 487.1035, as follows:

Sec. 487.1035. SATELLITE LOCATIONS. (a) Authorizes a dispensing organization licensed under this chapter to operate one or more satellite locations in addition to the organization's primary location to securely store low-THC cannabis for distribution.

(b) Requires that a satellite location be approved by DPS before a dispensing organization is authorized to operate the location. Authorizes a dispensing organization to apply for approval in the form and manner prescribed by DPS.

(c) Requires DPS to act on an application submitted under Subsection (b) not later than the 180th day after the date the application is submitted to DPS.

(d) Requires the public safety director of DPS (director) to adopt rules regarding the design and security requirements for satellite locations.

(e) Prohibits a dispensing organization from operating more than one satellite location in a public health region designated under Section 121.007 (Public Health Regions) until the dispensing organization operates one satellite location in each public health region.

(f) Provides that a location previously approved by DPS as a patient pickup location before September 1, 2025, is considered to be approved as a satellite location under Subsection (b) for purposes of this section and is permitted to operate as a patient pickup location and securely store low-THC cannabis for distribution.

SECTION 7. Amends Section 487.104, Health and Safety Code, by amending Subsection (b) and adding Subsections (b-1), (d), (d-1), (e), and (f), as follows:

(b) Creates an exception under Subsection (b-1).

(b-1) Provides that, if DPS denies the issuance of a license under Section 487.104 (Issuance, Renewal, or Denial of License) to an applicant that has never held a license under this section, the applicant is not entitled to a hearing.

(d) Requires DPS to issue 15 licenses under this section to dispensing organizations in this state provided that DPS receives applications from a sufficient number of applicants meeting the requirements for eligibility under Subchapter C (License to Operate as Dispensing Organization).

(d-1) Requires DPS to issue initial licenses to dispensing organizations under this section based on a competitive evaluation of applicant qualifications relative to other applicants.

(e) Requires DPS to issue and renew licenses under this section in a manner that ensures adequate access to low-THC cannabis for patients registered in the compassionate-use registry in each public health region designated under Section 121.007.

(f) Requires the director to adopt rules to establish a timeline for reviewing and taking action on an application submitted under this section.

SECTION 8. Amends Subchapter C, Chapter 487, Health and Safety Code, by adding Section 487.1045, as follows:

Sec. 487.1045. REQUIREMENT OF LICENSE HOLDER TO BEGIN AND MAINTAIN OPERATIONS. (a) Requires an applicant issued a license to operate a dispensing organization to begin dispensing low-THC cannabis not later than 24 months after the date the license is issued and continue dispensing low-THC cannabis during the term of a license issued under this subchapter.

(b) Requires the director to adopt rules to monitor whether a dispensing organization is using a license issued under this subchapter to dispense low-THC cannabis and revoke the license of a dispensing organization that does not dispense low-THC cannabis within the time required by this section or that discontinues dispensing low-THC cannabis during the term of a license.

SECTION 9. Amends Section 487.105, Health and Safety Code, by amending Subsections (a) and (b) and adding Subsection (c-1), as follows:

(a) Requires an applicant for the issuance or renewal of a license to operate as a dispensing organization to provide DPS with the applicant's name and the name of each of the applicant's directors, owners, managers, members, and employees.

(b) Makes a conforming change to this subsection.

(c-1) Provides that this section does not apply to a director, owner, manager, member, or employee who does not exercise direct control over the daily operations of the dispensing organization.

SECTION 10. Amends Subchapter C, Chapter 487, Health and Safety Code, by adding Section 487.1071, as follows:

Sec. 487.1071. CANNABINOIDS ELIGIBLE FOR DISPENSING. (a) Defines "phytocannabinoid."

(b) Prohibits a dispensing organization from dispensing a low-THC cannabis product that contains a cannabinoid that is not a phytocannabinoid.

SECTION 11. Amends Section 487.151(a), Health and Safety Code, to make conforming changes.

SECTION 12. Amends Section 487.201, Health and Safety Code, as follows:

Sec. 487.201. COUNTIES AND MUNICIPALITIES MAY NOT PROHIBIT LOW-THC CANNABIS. Prohibits a municipality, county, or other political subdivision from enacting, adopting, or enforcing a rule, ordinance, order, resolution, or other regulation that prohibits certain actions related to low-THC cannabis, as authorized by this chapter, including its storage.

SECTION 13. Amends Section 169.001, Occupations Code, by adding Subdivisions (2) and (6) and amending Subdivisions (3), (4), and (5) to define "executive commissioner" and "veteran" and redefine "low-THC cannabis," "medical use," and "smoking."

SECTION 14. Amends Section 169.003, Occupations Code, as follows:

Sec. 169.003. PRESCRIPTION OF LOW-THC CANNABIS. (a) Creates this subsection from existing text. Authorizes a physician described by Section 169.002 (Physician Qualified to Prescribe Low-THC Cannabis to Patients With Certain Medical Conditions) to prescribe low-THC cannabis to a patient if certain criteria are met, including if the physician certifies to DPS that the patient is diagnosed with certain conditions, including a condition that causes chronic pain, for which a physician would otherwise prescribe an opioid, glaucoma, traumatic brain injury, spinal neuropathy, Crohn's disease or other inflammatory bowel disease, degenerative disc disease, a terminal illness or a condition for which a patient is receiving hospice or palliative care, or a medical condition designated by the Department of State Health Services (DSHS) under Subsection (c) or that the patient is an honorably discharged veteran who would benefit from medical use to address a medical condition.

(b) Provides that each prescription issued by a physician to a patient for low-THC cannabis is authorized only to provide for a 90-day supply of low-THC cannabis based on the dosage prescribed to the patient and is authorized to provide up to four refills of a 90-day supply of low-THC cannabis.

(c) Authorizes DSHS to designate medical conditions for which a physician is authorized to prescribe low-THC cannabis under this section. Requires the executive commissioner of HHSC (executive commissioner) to adopt rules for the approval of medical conditions under this section.

(d) Authorizes a physician, if a patient is diagnosed with a medical condition not listed in Subsection (a)(3)(A)(i) (relating to certain diagnoses), to submit to DSHS a request for DPS to designate the condition as a medical condition for which a physician is authorized to prescribe low-THC cannabis under this section. Requires that the request be accompanied by medical evidence such as peer-reviewed published research demonstrating that low-THC cannabis may be beneficial to treat that medical condition. Requires the executive commissioner by rule to prescribe the manner in which a physician is authorized to submit a request under this subsection.

SECTION 15. Amends Chapter 169, Occupations Code, by adding Section 169.0031, as follows:

Sec. 169.0031. PRESCRIPTION MONITORING. (a) Requires a physician, for each prescription issued for low-THC cannabis under Chapter 169 (Authority to Prescribe Low-THC Cannabis to Certain Patients for Compassionate Use), to submit prescribing information to the Texas State Board of Pharmacy (TSBP) to be included in the official prescription information under Section 481.076 (Official Prescription Information; Duties of Texas State Board of Pharmacy), Health and Safety Code, in the same manner as for a prescription issued under Section 481.074 (Prescriptions) of that code.

(b) Provides that information submitted to TSBP under this section is authorized to be accessed only as provided under Section 481.076, Health and Safety Code.

(c) Authorizes TSBP to adopt rules to implement this section.

SECTION 16. Amends Chapter 169, Occupations Code, by adding Section 169.006, as follows:

Sec. 169.006. ADMINISTRATION OF LOW-THC CANNABIS BY PULMONARY INHALATION. (a) Authorizes a physician to prescribe pulmonary inhalation of an aerosol or vapor as a means of administration of low-THC cannabis if the physician determines that based on the patient's condition there is a medical necessity for that means of administration.

(b) Authorizes low-THC cannabis prescribed under Subsection (a) for pulmonary inhalation, notwithstanding any other provision of this chapter, to exceed one percent by weight of tetrahydrocannabinols in each dosage unit of the substance to be aerosolized or vaporized. Requires that the prescription under Subsection (a) specify the amount of tetrahydrocannabinols in each dosage unit to be administered by pulmonary inhalation that is medically necessary based on the patient's condition.

(c) Requires the executive commissioner to adopt rules related to medical devices for pulmonary inhalation of low-THC cannabis and establishing a reasonable timeline for reviewing and granting approval for medical devices for pulmonary inhalation.

SECTION 17. Provides that, not later than October 1, 2025:

(1) the director is required to adopt the rules necessary to implement the changes in law made by this Act to Chapter 487, Health and Safety Code; and

(2) the executive commissioner is required to adopt the rules necessary to implement Section 169.003, Occupations Code, as amended by this Act, and Section 169.006, Occupations Code, as added by this Act.

SECTION 18. Requires DPS, provided that applicants for a license to operate as a dispensing organization have met the requirements for approval provided by Subchapter C, Chapter 487, Health and Safety Code, as amended by this Act, to:

(1) not later than December 1, 2025, license at least nine new dispensing organizations from applications submitted before July 1, 2025; and

(2) not later than April 1, 2026, in addition to any licenses issued by DPS under Subdivision (1) of this section, license at least three new dispensing organizations from applications submitted at any time.

SECTION 19. (a) Requires TSBP, not later than December 1, 2025, to adopt rules to implement Section 169.0031, Occupations Code, as added by this Act.

(b) Makes application of Section 169.0031, Occupations Code, as added by this Act, prospective to January 1, 2026.

SECTION 20. Effective date: September 1, 2025.