

SUBJECT: Expanding eligibility for patients' medical use of low-THC cannabis

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — S. Thompson, Wray, Frank, Lucio, Ortega, Price, Sheffield, Zedler

0 nays

3 absent — Allison, Coleman, Guerra

WITNESSES: For — Charles Beall, Ana-Lab Corp.; Jody Ladd and Jose Ramon, Cannabis Open Carry Walks; LaTonya Whittington, Cannabis Reform of Houston; Karen Reeves, CenTex Community Outreach; Chase Bearden, Coalition of Texans with Disabilities; Mandi Hughes, Daniel Marett, and Janet Rutledge, COCW; Debbie Branch, Amy Fawell, Suzanne Josey, and Deborah Tolany, Mothers Advocating Medical Marijuana for Autism; Luis Nakamoto, Mother's Botanicals; Jeff LeBlanc, Republican Liberty Caucus Of Texas; Ann Lee, Republicans Against Marijuana Prohibition; William Martin, Rice University's Baker Institute for Public Policy; Jaclyn Finkel, Texas NORML; Paul Stempko, Texas Silver-Haired Legislature; David Bass and Romana Harding, Texas Veterans for Medical Marijuana; Jason Vaughn, Texas Young Republicans; and 33 individuals;
(Registered, but did not testify: Bob Kafka, ADAPT; Tobi Duckworth, Ana-Lab; Jacquie Benestante, Autism Society of Texas; Candis Dyer, Cannabis Open Carry Walks; Dennis Borel and Chris Masey, Coalition of Texans with Disabilities; Eric Espinoza, DFW NORML; Jolene Sanders, Easterseals Texas; Jesse Williams, Educating Texans; Terri Carriker, Bonnie Jensen, Blaire McBurney, Michael Ozmun, Karin Schuetze, Thalia Seggelink, and Allison Rogers, Mothers Advocating Medical Marijuana for Autism; Catherine Cranston, Personal Attendant Coalition of Texas; James Dickey, Republican Party of Texas; Wayne Delanghe, San Antonio Fire Department; Susan Hays, TEAMM; Heather Fazio, Texans for Responsible Marijuana Policy; Jennifer Cambron, Texans For Veterans; Edward Fox, Texas Neurologic Society; Amy Litzinger, Texas Parent to Parent; Stacy Suits, Travis County Constable Pct. 3; Elias

Jackson, Vyripharm; Lindsey Fenton, We the Parents Coalition; and 63 individuals)

Against — (*Registered, but did not testify*: Ronnie Morris, Grand Prairie Police Department; Jim Skinner, Sheriffs' Association of Texas; Richard Ramirez, Stafford Police Department; John Chancellor, Texas Police Chiefs Association; Mary Castle, Texas Values; Nicole Hudgens and Jonathan Saenz, Texas Values Action)

On — (*Registered, but did not testify*: Sophia Karimjee, Steve Moninger, and Wayne Mueller, Department of Public Safety)

BACKGROUND: Health and Safety Code ch. 487 establishes the Texas Compassionate Use Act, which is administered by the Department of Public Safety and allows certain licensed organizations to dispense and patients with qualifying conditions to receive low-THC cannabis.

Occupations Code sec. 169.001 defines "low-THC cannabis" as the plant *Cannabis sativa* L., and any compound, manufacture, salt, derivative, mixture, preparation, resin, or oil of that plant that contains no more than 0.5 percent by weight of tetrahydrocannabinols and at least 10 percent by weight of cannabidiol. It defines "medical use" as the ingestion by a means of administration other than by smoking of a prescribed low-THC amount to a person. Sec. 169.002 authorizes licensed physicians to prescribe low-THC cannabis to patients with intractable epilepsy.

Health and Safety Code ch. 481, subch. G authorizes the Health and Human Services Commission to establish a therapeutic controlled substance research program for examining the supervised use of THC for medical and research purposes. Sec. 481.111(e) and (f) provide exemptions for offenses to certain persons for cultivating, delivering, possessing, or disposing of a raw material used in or a byproduct of low-THC cannabis. Patients who receive a valid prescription from a licensed dispensing organization for low-THC cannabis are exempted from offenses involving possession of marijuana or drug paraphernalia. Employees of dispensing organizations also are exempt.

DIGEST: CSHB 1365 would expand the number of entities that could dispense and eligible patients who could receive low-THC cannabis for medical use. The bill would exempt from certain offenses authorized persons who engaged in the medical use of low-THC cannabis and establish the cannabis therapeutic research program. The bill also would amend the definition of low-THC cannabis to remove the requirement that it contain a minimum percentage by weight of cannabidiol.

Compassionate Use Act

Definitions. The bill would define "cannabis research organization" as an organization licensed by the Department of Public Safety (DPS) to conduct medical, scientific, or agricultural research on low-THC cannabis. "Cannabis testing facility" would mean an independent entity licensed by DPS to analyze the content, safety, and potency of low-THC cannabis.

Allowable amounts. Under the bill, the allowable amount of low-THC cannabis would be a 30-day supply of the recommended dosage stated in grams for low-THC cannabis in the form of dried flower and in milligrams of tetrahydrocannabinols contained in oils or other products infused with low-THC cannabis. Oils or other products infused with low-THC cannabis would have to be labeled in accordance with DPS rules to indicate the quantity of each cannabinoid and terpene contained in the oil or product.

Legal protections. The bill would establish protections from legal actions for:

- a patient for whom medical use was prescribed or the patient's parent or caregiver;
- a dispensing organization;
- a cannabis research organization and testing facility; and
- a director, manager, or employee of a dispensing organization, cannabis research organization, or cannabis testing facility.

The above persons would not be 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 was authorized under the bill.

A person engaging in the authorized medical use of low-THC cannabis would not establish grounds for:

- presuming child abuse, neglect, or endangerment;
- denying parental rights;
- seizing or forfeiting property; or
- arresting, prosecuting, or imposing any sentence or penalty under the drug paraphernalia provisions.

The bill would allow DPS to use fees for administering the Compassionate Use Act to establish a fund for testing cannabis, cannabis products, and other substances.

Rules. The DPS director by rule would adopt low-THC labeling requirements and other necessary rules to allow the department to monitor the safety and efficacy of low-THC cannabis and oils or products infused with low-THC cannabis.

Dispensing entities. The bill would require DPS to issue or renew a license to dispense low-THC cannabis for a cannabis research organization and cannabis testing facility if the applicant met certain eligibility requirements. The bill would allow a dispensing organization to operate three additional retail dispensing locations under a single license. If DPS determined that additional locations were necessary to meet patient access needs, a licensee could operate more than four dispensing locations. The bill would allow DPS to set a fee for an application for each additional location.

By March 1, 2020, DPS would begin licensing cannabis research organizations and cannabis testing facilities that met licensure

requirements. By September 1, 2020, DPS would have to license at least 12 dispensing organizations that met licensure requirements.

Prescribing physicians

Definitions. The bill would define "debilitating medical condition" as cancer, autism, post-traumatic stress disorder, certain neurological conditions, Crohn's disease, ulcerative colitis, muscular dystrophy, multiple sclerosis, or any other medical condition considered to be debilitating by the cannabis therapeutic research review board. It also would mean a medical condition or the treatment of a medical condition that produced:

- endocannabinoid deficiency syndrome;
- cachexia or wasting syndrome;
- neuropathy;
- visceral, neuropathic, somatic, or severe intractable pain;
- severe nausea;
- seizures, including those characteristic of epilepsy;
- severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or
- tic disorders.

Duties and authority. The bill would allow licensed physicians to prescribe low-THC cannabis to patients with debilitating medical conditions, provided the physician obtained the proper medical knowledge concerning medical use as treatment for the patients' particular condition through instruction courses, continuing medical education, or self-study.

The bill would require a physician to record any adverse event in the patient's medical records and report any serious adverse event to the cannabis therapeutic research review board.

A physician could not be denied any right or privilege or be subject to disciplinary action solely for:

- making a written or oral statement that, in the physician's professional opinion, the potential benefits of cannabis use would likely outweigh the health risks; or
- participating in the cannabis therapeutic research program or programs under the Compassionate Use Act.

Cannabis therapeutic research program. The bill would establish the cannabis therapeutic research review board to administer the cannabis therapeutic research program under Health and Safety Code ch. 481, subch. G. The governor-appointed board members would include one attorney and 11 licensed medical professionals as specified in the bill. The bill would allow research programs to be conducted with a medical school, licensed hospital, or a general academic teaching institution.

Board duties. The review board would have to encourage multiple research goals for low-THC cannabis, including:

- objective scientific research into its safety and efficacy;
- developing medical guidelines for appropriate administration of low-THC cannabis to assist physicians and patients in evaluating its risks and benefits;
- developing quality control, purity, and labeling standards;
- developing best practices for its safe and efficient cultivation; and
- analysis of genetic and healing properties of different varieties of cannabis.

The bill would require the review board to determine the formulations and dosages, including ratios of cannabinoids, that were medically appropriate for patients with particular debilitating medical conditions. If the review board determined the likely benefit of medical use in the treatment outweighed the likely harm to patients, those conditions or symptoms would qualify as a debilitating medical condition under Occupations Code ch. 169.

The review board could accept donations and provide grants for research into low-THC cannabis use, health outcomes, and scientific public

education outreach to educate youth on the risks of using cannabis for nonmedical purposes or without a health care provider's supervision.

Patient participation. The bill would expand the conditions, symptoms, or side effects that could qualify a patient to receive low-THC cannabis through a research program. Each patient in a research program would have to provide informed consent in writing. If the patient lacked the mental or legal capacity to provide informed consent, a parent, guardian, or conservator could provide informed consent on the patient's behalf.

Report. By January 1 of each odd-numbered year, the executive commissioner of the Health and Human Services Commission would publish a report on the medical effectiveness of low-THC cannabis use and any other medical findings.

Other provisions. The bill would make conforming changes regarding the authorized medical use and allowable amount of low-THC cannabis under Health and Safety Code ch. 481 and ch. 487 and Occupations Code ch. 169.

A municipality, county, or other political subdivision could not prohibit the cultivation, production, dispensing, research, testing, or possession of low-THC cannabis, as authorized under the bill.

The bill would exempt a public school student for whom low-THC cannabis was prescribed from suspension, expulsion, placement in a disciplinary alternative education program, or any other form of discipline solely because the student possessed, used, or was under the influence of the low-THC cannabis.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS
SAY:

CSHB 1365 would help Texans with debilitating medical conditions by expanding access to low-THC cannabis for patients with cancer,

Parkinson's disease, autism, epilepsy, multiple sclerosis, and post-traumatic stress disorder, among many others. This would give Texans with these conditions another treatment option if other treatment failed.

The bill would apply only to low-THC cannabis, a form of cannabis that does not produce a euphoric effect, has a low propensity for abuse, and has no street value on the black market. Recent data has shown low-THC cannabis to be effective at easing the suffering of some individuals with debilitating illnesses. Many states have legalized this treatment, but in Texas, low-THC currently may only be prescribed for intractable epilepsy. Texans seeking this treatment for other serious medical conditions sometimes move to other states in order to obtain low-THC cannabis.

The bill also would help more Texans in urban and rural areas access low-THC cannabis by clarifying that licensed entities could dispense low-THC cannabis at multiple locations. The bill would increase the market for low-THC cannabis, which currently is very limited, by increasing the number of conditions for which this treatment could be prescribed. This would allow dispensing organizations to manufacture low-THC cannabis in larger quantities and help decrease costs for patients.

The bill would establish safeguards for consumers who purchase CBD oil products by requiring these products to be labeled in accordance with Department of Public Safety rules. Labeling requirements would protect consumers from buying CBD oil products that could contain traces of THC.

**OPPONENTS
SAY:**

CSHB 1365 could increase the risk of harming patients by allowing them to be prescribed a treatment that has not yet been approved by the Food and Drug Administration as safe or effective. The side effects of low-THC cannabis for medical conditions are relatively unknown, and patients wishing to use low-THC cannabis should wait for this treatment to be fully tested.

The bill also could create opportunities for individuals who were not prescribed the treatment to use low-THC cannabis, which could be sold on

the black market.