2017 Legislative Summary for Physician Licensees

Prepared by the Administrative Office of the
Tennessee Board of Medical Examiners

Foreword

This summary was prepared by the Tennessee Board of Medical Examiners' administrative staff in an effort to educate physician licensees on legislative changes that may impact their practice or the maintenance of their medical license. Although every effort has been made to include all relevant legislation, the Board's administrative office does not guarantee that this summary is exhaustive.

The Board of Medical Examiners is not a political entity, and does not customarily take positions on proposed legislation. Board members may engage in the legislative process, but they may do so only as private citizens.

The Tennessee Generally Assembly convenes for legislative business every January. Because the body's 90 legislative days are divided between the two years of its terms, the Generally Assembly is scheduled to adjourn in April of each year. That date may be extended as necessary.

The following laws were enacted in the 2017 session, which adjourned on May 10, 2017. The 110th General Assembly will reconvene on January 9, 2018.

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Public Chapter 4 8

Physicians and Surgeons - As enacted, clarifies that quality improvement committees apply to osteopathic doctors; updates references to the repealed Tennessee Peer Review Act of 1967. - Amends TCA Title 56, Chapter 32, Part 1; Title 63, Chapter 1, Part 1; Title 63, Chapter 6, Part 2; Title 63, Chapter 9, Part 1 and Title 68, Chapter 11, Part 2.

Public Chapter 22 10

Education - As enacted, requires LEAs to ensure schools provide parents and guardians with information about influenza and the effectiveness of vaccination at the beginning of each school year; requires nonpublic schools to provide parents and guardians with information about influenza and the effectiveness of vaccination at the beginning of each school year. - Amends TCA Title 49, Chapter 50 and Title 49, Chapter 6.

Public Chapter 42 12

Sunset Laws - As enacted, extends the board of medical examiners' committee on physician assistants four years to June 30, 2021. - Amends TCA Title 4, Chapter 29, Part 2 and Title 63, Chapter 19.

Public Chapter 86 14

Intellectual & Developmental Disabilities - As enacted, establishes the Tennessee council on autism spectrum disorder. - Amends TCA Title 4 and Title 68.

Public Chapter 112 18

Drugs, Prescription - As enacted, requires the commissioners of health and mental health and substance abuse services to produce guidelines on nonresidential buprenorphine treatment by January 1, 2018, and to annually update those guidelines. - Amends TCA Title 63, Chapter 1.

Public Chapter 120 21

Drugs, Synthetic or Analogue - As enacted, excludes from the definition of marijuana a cannabidiol product approved as a prescription medication by the United States Food and Drug Administration. - Amends TCA Section 39-17-402.

Public Chapter 130 23

Health Care - As enacted, adds healthcare services provided to a patient at a public elementary or secondary school to the current definition of telehealth services for which health insurance entities are required to reimburse in a manner that is consistent with reimbursement for in-person encounters; requires that the public elementary or secondary school be staffed by a healthcare service provider and equipped to engage in such services. - Amends TCA Title 56; Section 63-1-155 and Title 71.

Public Chapter 138 25

Children - As enacted, authorizes a physician to provide peripartum analgesia and peripartum care to a minor who is at least 14 years of age without the knowledge or consent of a parent. - Amends TCA Title 63, Chapter 6.

Public Chapter 175 27

Osteopathy - As enacted, increases from $50 to $100 the per diem paid to each member of the board of osteopathic examination. - Amends TCA Section 63-9-103.

Public Chapter 210 29

Physicians and Surgeons - As enacted, revises certain requirements governing pain management clinics and pain management specialists. - Amends TCA Title 63.

Public Chapter 211 31

Boards and Commissions - As enacted, authorizes the governor to appoint persons to fill positions on certain boards from lists of nominees submitted by interested groups, instead of requiring appointments to be made from such lists. - Amends TCA Title 63, Chapter 13, Part 2; Title 63, Chapter 13, Part 3 and Title 63, Chapter 23, Part 1.

Public Chapter 215 33

Professions and Occupations - As enacted, requires state governmental entities that establish or adopt guides to practice to do so through the promulgation of rules. - Amends TCA Title 4; Title 49; Title 62; Title 63; Title 68; Title 69 and Title 70.

Public Chapter 230 35

Administrative Procedure (UAPA) - As enacted, authorizes commissioners and chief executive officers of administrative departments to evaluate certain actions by a regulatory board to determine whether the action may constitute a potentially unreasonable restraint of trade. - Amends TCA Title 4.

Public Chapter 233 39

Public Records - As enacted, revises certain provisions governing open records requests, including the manner in which such requests may be made. - Amends TCA Title 10, Chapter 7, Part 5.

Public Chapter 240 42

Health, Dept. of - As enacted, authorizes entities that regulate health professionals to issue limited licenses; makes various changes related to reporting of disciplinary matters to licensure entities. - Amends TCA Section 10-7-504; Title 63, Chapter 1, Part 1 and Title 68, Chapter 11, Part 2.

Public Chapter 256 46

Drugs, Prescription - As enacted, authorizes local education agencies and nonpublic schools to maintain opioid antagonists in schools. - Amends TCA Title 49 and Title 63.

Public Chapter 259 49

Medical Occupations - As enacted, clarifies that the exemptions from the licensure and regulatory requirements for medical physicians apply to surgeons of the United States army, navy, air force or marine hospital service regardless of the hospital or practice site, if the surgeon's practice is part of the surgeon's authorized military service or training. - Amends TCA Section 63-6-204.

Public Chapter 266 51

Nurses, Nursing - As enacted, authorizes physician assistants, nurse practitioners, and nurse midwives who are advanced practice registered nurses to treat minors with sexually transmitted diseases to the full extent of the person's authority, including the authority to prescribe and dispense drugs relating to a sexually transmitted disease. - Amends TCA Title 63 and Title 68.

Public Chapter 329 53

Physicians and Surgeons - As enacted, enacts the "Visiting Sports Team Act." - Amends TCA Title 63.

Public Chapter 332 57

Professions and Occupations - As enacted, enacts the "Freedom to Prosper Act" to limit the circumstances under which local government entities may regulate certain occupations. - Amends TCA Title 4; Title 5; Title 6; Title 7; Title 56, Chapter 1, Part 3; Title 62 and Title 63.

Public Chapter 334 59

Nurses, Nursing - As enacted, changes references to the professional relationship between physicians and advanced practice registered nurses and certified nurse practitioners from "supervisory" to "collaborative". - Amends TCA Title 63 and Title 68.

Public Chapter 350 63

Health Care - As enacted, authorizes a healthcare provider to satisfy one hour of continuing education requirements in exchange for one hour of volunteer healthcare services. - Amends TCA Title 63; Title 68 and Title 71.

Public Chapter 353 65

Abortion - As enacted, enacts the "Tennessee Infants Protection Act," which prohibits abortion of a viable fetus except in a medical emergency and requires testing to determine viability if a woman is at least 20 weeks pregnant. - Amends TCA Title 39, Chapter 15, Part 2.

Public Chapter 355 70

Pharmacy, Pharmacists - As enacted, authorizes a nursing home to participate in a drug donation repository program until such time as the board for licensing health care facilities promulgates rules to effectuate such participation. - Amends TCA Title 53; Title 63 and Title 68.

Public Chapter 365 72

Physicians and Surgeons - As enacted, enacts the "Interstate Medical Licensure Compact." - Amends TCA Title 63.

Public Chapter 392 87

Drugs, Prescription - As enacted, authorizes the department of health to establish a prescription drug donation repository program. - Amends TCA Title 56; Title 63 and Title 68.

Public Chapter 396 93

Medical Occupations - As enacted, enacts the "Kenneth and Madge Tullis, MD, Suicide Prevention Training Act." - Amends TCA Title 33; Title 63 and Title 68.

Public Chapter 410 97

Medical Occupations - As enacted, prohibits any person from using the title "registered surgical assistant" unless such person is registered with the board of medical examiners as a registered surgical assistant; requires the board to register as a registered surgical assistant any applicant who presents satisfactory evidence that the applicant meets certain requirements. - Amends TCA Title 63 and Title 68.

Public Chapter 413 99

Public Health - As enacted, authorizes, if approved by the department of health, any nongovernmental organization, including an organization that promotes scientifically proven ways of mitigating health risks associated with drug use and other high-risk behaviors, to establish and operate a needle and hypodermic syringe exchange program. - Amends TCA Title 68.

Public Chapter 420 103

Health Care - As enacted, creates the state palliative care and quality of life task force. - Amends TCA Title 4; Title 63 and Title 68.

Public Chapter 438 107

Physicians and Surgeons - As enacted, creates a task force to study the issues created by the maintenance of certification process for Tennessee physicians; prohibits board of medical examiners and board of osteopathic examination from taking certain action on a license based on nonparticipation in any form of maintenance of licensure. - Amends TCA Title 33; Title 56, Chapter 7; Title 63, Chapter 6; Title 63, Chapter 9 and Title 68

Public Chapter 444 110

Coroners - As enacted, removes the Tennessee medical examiner advisory council from its wind down period so it will not terminate on June 30, 2017; extends council to June 30, 2019; renames and restructures the council. - Amends TCA Title 4, Chapter 29, Part 2 and Title 38, Chapter 7, Part 2.

Public Chapter 481 113

Medical Occupations - As enacted, establishes a special mechanism for licensure actions for healthcare practitioners involved with substance abuse. - Amends TCA Title 50, Chapter 9; Title 63 and Title 68.

Public Chapter 483 117

Controlled Substances - As introduced, requires the department of health to identify the prescribers who are in the top 20 percent prescribers of opioids in this state; requires the identified prescriber to comply with certain requirements after being notified that such provider is a high volume opioid prescriber. - Amends TCA Title 4; Title 29; Title 33; Title 38; Title 39; Title 40; Title 41; Title 49; Title 53; Title 56; Title 63; Title 68 and Title 71.

Public Chapter 484 121

Controlled Substances - As introduced, expands the immunity from arrest, charge, or prosecution to persons seeking medical assistance for drug overdoses to apply to any overdose instead of only a person's first drug overdose. - Amends TCA Title 63, Chapter 1, Part 1.

State of Tennessee

PUBLIC CHAPTER NO. 4

SENATE BILL NO. 369

By Overbey

Substituted for: House Bill No. 378

By Farmer, Kumar

AN ACT to amend Tennessee Code Annotated, Title 56, Chapter 32, Part 1; Title 63, Chapter 1, Part 1; Title 63, Chapter 6, Part 2; Title 63, Chapter 9, Part 1 and Title 68, Chapter 11, Part 2, relative to peer review organizations for health care providers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-1-150(a), is amended by deleting the language "63-9-114,".

SECTION 2. Tennessee Code Annotated, Section 63-9-114, is amended by deleting the section in its entirety.

SECTION 3. Tennessee Code Annotated, Section 56-32-125(b), is amended by deleting the language "§ 63-6-219 [repealed] regarding confidentiality of peer review records and proceedings" and substituting instead the language "§ 63-1-150 regarding confidentiality of records and statements relating to quality improvement committees".

SECTION 4. Tennessee Code Annotated, Section 63-6-221(s), is amended by deleting the language "provided by §§ 63-6-219 [repealed] and 63-9-114" and substituting instead the language "provided by § 63-1-150".

SECTION 5. Tennessee Code Annotated, Section 63-9-117(s), is amended by deleting the language "provided by §§ 63-6-219 [repealed] and 63-9-114" and substituting instead the language "provided by § 63-1-150".

SECTION 6. Tennessee Code Annotated, Section 68-11-211(c), is amended by deleting the language "shall not affect § 63-6-219 [repealed] or the protections provided by § 63-6-219 [repealed]" and substituting instead the language "shall not affect § 63-1-150 or the protections provided by § 63-1-150".

SECTION 7. Tennessee Code Annotated, Section 68-11-211(f), is amended by deleting the language "§ 63-6-219 [repealed]" and substituting instead the language "§ 63-1-150".

SECTION 8. Tennessee Code Annotated, Section 68-11-218(b)(1), is amended by deleting the language "§ 63-6-219 [repealed]" and substituting instead the language "§ 63-1-150".

SECTION 9. Tennessee Code Annotated, Section 68-11-218(c), is amended by deleting the language "§ 63-6-219 [repealed]" and substituting instead the language "§ 63-1-150".

SECTION 10. Tennessee Code Annotated, Section 68-11-218(d), is amended by deleting the language in its entirety and substituting instead the following:

> (d) Any individual who, as a member of any quality improvement committee or employee of any healthcare organization, as defined in § 63-1-150, files a report pursuant to this section, shall be immune from liability as provided in § 63-1-150.

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it.

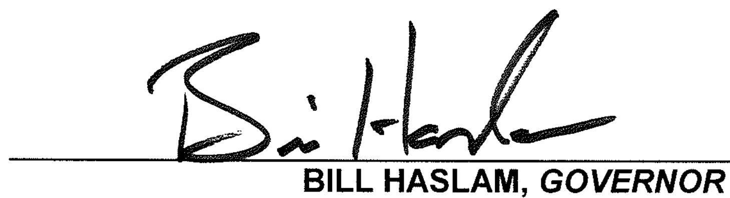
SENATE BILL NO. 369

PASSED: **March 6, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 15th **day of** March **2017**



BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 22

SENATE BILL NO. 598

By Haile

Substituted for: House Bill No. 388

By Kevin Brooks, Hardaway, Turner

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 50 and Title 49, Chapter 6, relative to immunization of school children.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-6-5005, is amended by designating the current language as subsection (a) and adding the following language as subsection (b):

> LEAs shall ensure that schools provide parents and guardians with information about influenza disease and the effectiveness of vaccination against influenza at the beginning of every school year. This information must include the causes, symptoms, and means by which influenza is spread and the places where parents and guardians may obtain additional information and vaccinations for their children. Nothing in this section requires an LEA or school to provide or purchase vaccine against influenza. The department of education, in consultation with the department of health, shall provide information to LEAs to assist in the implementation of this subsection.

SECTION 2. Tennessee Code Annotated, Section 49-50-802, is amended by designating the current language as subsection (a) and adding the following language as subsection (b):

> Nonpublic schools shall provide parents and guardians with information about influenza disease and the effectiveness of vaccination against influenza at the beginning of every school year. This information must include the causes, symptoms, and means by which influenza is spread and the places where parents and guardians may obtain additional information and vaccinations for their children. Nothing in this section requires a nonpublic school to provide or purchase vaccine against influenza. The department of education, in consultation with the department of health, shall provide information to nonpublic schools to assist in the implementation of this subsection.

SECTION 3. This act shall take effect on July 1, 2017, the public welfare requiring it.

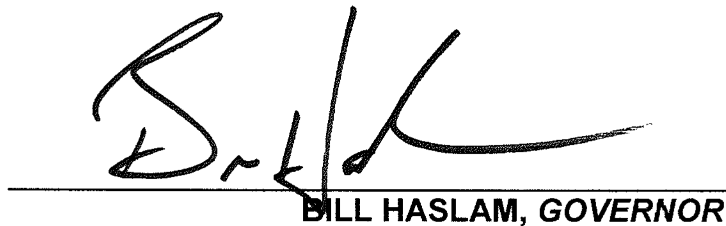
SENATE BILL NO. 598

PASSED: March 13, 2017

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 24th day of March 2017



BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 42

SENATE BILL NO. 60

By Bell

Substituted for: House Bill No. 242

By Faison

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29, Part 2 and Title 63, Chapter 19, relative to the board of medical examiners' committee on physician assistants.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-238(a), is amended by deleting subdivision (7).

SECTION 2. Tennessee Code Annotated, Section 4-29-242(a), is amended by inserting the following as a new subdivision:

( ) Board of medical examiners' committee on physician assistants, created by § 63-19-103;

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 60

PASSED: March 20, 2017

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 31st **day of** March **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 86

SENATE BILL NO. 199

By Overbey, Kyle, Massey, Briggs, Crowe, Jackson, Johnson, Norris, Tracy, Yager, Yarbro

Substituted for: House Bill No. 384

By Williams, Mark White, Cooper, Clemmons, Gilmore, Terry, Hazlewood, Akbari, Hawk, Love, Rogers, Crawford, Stewart, Powers, Powell, Byrd, Ragan, Eldridge, Faison, Moody, Lynn, Johnson, Calfee, Keisling, Littleton, Travis, Tillis, Butt, Windle, Harry Brooks, Gravitt, Pitts, Hardaway, Camper, Zachary, Kane

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 68, relative to the Tennessee council on autism spectrum disorder.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 3, Part 27, is amended by adding the following as a new section:

(a) There is created the Tennessee council on autism spectrum disorder to establish a long-term plan for a system of care for individuals with autism spectrum disorder and their families. The council shall make recommendations and provide leadership in program development regarding matters concerning all levels of autism spectrum disorder services, including, but not limited to, health care, education, and other adult, adolescent, and children's services.

(b) The council shall consist of the following members:

(1) The commissioner of intellectual and developmental disabilities or the commissioner's designee;

(2) The commissioner of health or the commissioner's designee;

(3) The commissioner of education or the commissioner's designee;

(4) The commissioner of human services or the commissioner's designee;

(5) The commissioner of commerce and insurance or the commissioner's designee;

(6) The deputy commissioner of the bureau of TennCare or the deputy commissioner's designee;

(7) The commissioner of mental health and substance abuse services or the commissioner's designee;

(8) The executive director of the commission on children and youth or the executive director's designee;

(9) One (1) representative of the council on developmental disabilities; and

(10)(A) Nine (9) adults who have a diagnosis of autism spectrum disorder, or who are either family members or primary caregivers of persons with a diagnosis of autism spectrum disorder. Three (3) of these adult members shall represent each grand division of the state, and these persons shall be appointed by the governor after the governor receives nominations from

Tennessee not-for-profit organizations that serve persons with autism spectrum disorder and their families.

(B) Initial appointees to the council pursuant to subdivision (b)(10)(A) shall serve staggered terms as follows:

(i) Persons appointed from the western grand division shall serve initial terms terminating on June 30, 2019;

(ii) Persons appointed from the middle grand division shall serve initial terms terminating on June 30, 2020; and

(iii) Persons appointed from the eastern grand division shall serve initial terms terminating on June 30, 2021.

(C) Following the expiration of members' initial terms as prescribed in subdivision (b)(10)(B), all appointments to the council shall be for terms of three (3) years and shall begin on July 1 and terminate on June 30, three (3) years thereafter.

(D) All members shall serve until the expiration of the term to which they were appointed and until their successors are appointed and qualified.

(E) Successors shall be appointed from the same grand divisions from which the members they are replacing were initially appointed.

(F) Members shall be eligible for reappointment to the council following the expiration of their terms, but shall serve no more than two (2) consecutive three-year terms.

(c) A majority of the members shall constitute a quorum. The governor shall appoint a chair from the members named to the council.

(d) The council shall meet quarterly and may meet more often upon a call of the chair.

(e) The council shall be administratively attached to the department of intellectual and developmental disabilities. All appropriate agencies of state government shall provide assistance to the council upon request of the council.

(f) If vacancies occur on the council for any cause, the vacancies shall be filled by the respective appointing authority within sixty (60) days for the duration of the unexpired term, if applicable.

(g) No council members shall receive compensation, nor shall members be entitled to reimbursement for actual travel and other expenses incurred in attending any meeting and in performing any duties prescribed in this part.

(h) The council shall:

(1) Assess the current and future impact of autism spectrum disorder on the residents of the state;

(2) Assess the availability of programs and services currently provided for early screening, diagnosis, and treatment of autism spectrum disorder;

(3) Seek additional input and recommendations from stakeholders, including, but not limited to, families, providers, clinicians, institutions of higher education, and those concerned with the health and quality of life for individuals with autism spectrum disorder;

(4) Develop a comprehensive statewide plan for an integrated system of training, treatment, and services for individuals with autism spectrum disorder;

(5) Ensure interagency collaboration as the comprehensive statewide system of care for individuals with autism spectrum disorder is developed and implemented;

(6) Coordinate available resources related to developing and implementing a system of care for individuals with autism spectrum disorder; and

(7) Coordinate state budget requests related to systems of care for individuals with autism spectrum disorder based on the studies and recommendations of the council.

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 1, Part 25, is deleted.

SECTION 3. Notwithstanding any law to the contrary, including Tennessee Code Annotated, Section 4-29-112, the autism spectrum disorder taskforce created by Tennessee Code Annotated, Title 68, Chapter 1, Part 25, shall terminate on June 30, 2017.

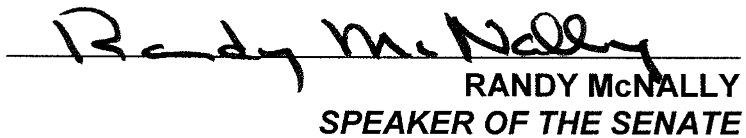
SECTION 4. Tennessee Code Annotated, Section 4-29-240(a), is amended by adding the following as a new subdivision to be appropriately designated:

( ) Tennessee council on autism spectrum disorder, created by Section 1 of this act;

SECTION 5. This act shall take effect July 1, 2017, the public welfare requiring it.

SENATE BILL NO. 199

PASSED: **March 23, 2017**



RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 4th **day of** April **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 112

SENATE BILL NO. 709

By Yager, Crowe, Briggs, Massey, Haile

Substituted for: House Bill No. 746

By Powers, Staples, Dunn, Zachary, Ramsey, Smith, Ragan, Daniel

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 1, relative to treatment guidelines for the nonresidential use of buprenorphine.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, Part 4, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Commissioners" means the commissioner of mental health and substance abuse services and the commissioner of health; and

(2) "Nonresidential buprenorphine treatment guidelines" means systematically developed standards to assist any practitioners authorized by the state to prescribe buprenorphine-containing products for the treatment of opioid use disorder as defined in the latest version of the Diagnostic and Statistical Manual of Mental Disorders.

(b)(1) By January 1, 2018, the commissioner of mental health and substance abuse services, in collaboration with the commissioner of health, shall develop recommended nonresidential treatment guidelines for the use of buprenorphine that can be used by prescribers in this state as a guide for caring for patients. This subsection (b) shall only apply to practitioners prescribing buprenorphine-containing products for the treatment of opioid use disorder in a nonresidential setting. The guidelines must be consistent with applicable state and federal laws.

(2) Guidelines from nationally recognized organizations, such as the American Society of Addiction Medicine, Substance Abuse and Mental Health Services Administration, and the American Board of Preventative Medicine, must serve as resources in the development of guidelines under this section.

(3) The commissioner of mental health and substance abuse services shall consult with appropriate physicians, alcohol and substance abuse counselors, and other experts to serve as resources in the development of guidelines under this section.

(c) Beginning in 2019, the commissioners shall review the nonresidential buprenorphine treatment guidelines by September 30 of each year and shall cause these guidelines to be posted on both the department of mental health and substance abuse services and the department of health's websites.

(d)(1) The commissioner of mental health and substance abuse services shall submit the nonresidential buprenorphine treatment guidelines to each health-related board that licenses any practitioner authorized by the state to prescribe buprenorphine-containing products for the treatment of an opioid use disorder as defined in the Diagnostic and Statistical Manual of Mental Disorders and to the board of pharmacy.

(2) Each board shall review the nonresidential buprenorphine treatment guidelines and determine how the nonresidential buprenorphine treatment guidelines should be used by that board's licensees.

(3) Each board shall post the nonresidential buprenorphine guidelines and standards on the licensing board's website.

(e) The commissioner of mental health and substance abuse services shall provide a copy of any guidelines developed pursuant to this section and any revision to those guidelines developed pursuant to this section to the chairs of the health committee of the house of representatives and the health and welfare committee of the senate at the time the guidelines or the revisions are posted on websites of the department of mental health and substance abuse services and the department of health.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

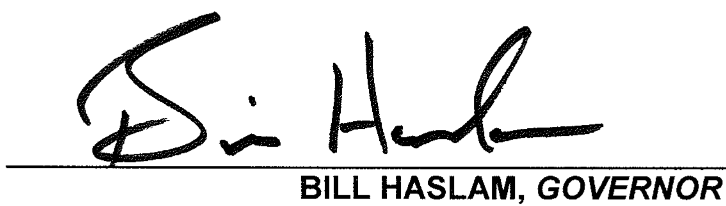
SENATE BILL NO. 709

PASSED: **March 27, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 7th **day of** April **2017**



BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 120

SENATE BILL NO. 385

By Massey, Niceley

Substituted for: House Bill No. 694

By Williams, Ragan, Staples, Thompson, Love, Stewart, Windle, Hardaway

AN ACT to amend Tennessee Code Annotated, Section 39-17-402, relative to drugs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-402(16), is amended by adding the following as a new subdivision:

(E) A cannabidiol product approved as a prescription medication by the United States food and drug administration.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 385

PASSED: March 30, 2017

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 12th **day of** April **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 130

SENATE BILL NO. 195

By Overbey, Haile, Yarbro

Substituted for: House Bill No. 338

By Ramsey, Pitts, Cameron Sexton, Hardaway, Clemmons, Terry

AN ACT to amend Tennessee Code Annotated, Title 56; Section 63-1-155 and Title 71, relative to telehealth.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-7-1002, is amended by deleting subdivision (a)(6)(A)(ii) and substituting instead the following:

(ii) The patient is at a qualified site, at a school clinic staffed by a healthcare services provider and equipped to engage in the telecommunications described in this section, or at a public elementary or secondary school staffed by a healthcare services provider and equipped to engage in the telecommunications described in this section; and

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

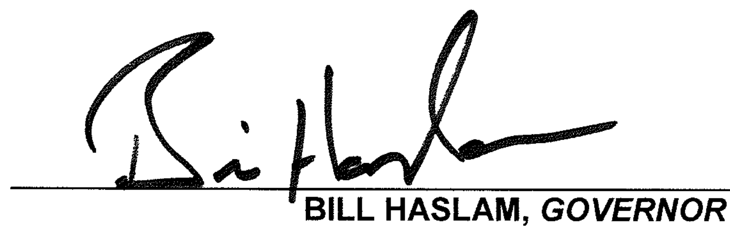
SENATE BILL NO. 195

PASSED: **April 6, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 17th **day of** April **2017**



BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 138

SENATE BILL NO. 293

By Briggs

Substituted for: House Bill No. 603

By Williams

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 6, relative to treatment of pregnant minors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

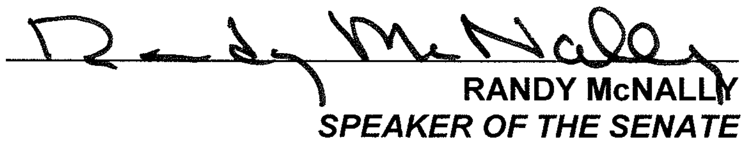
SECTION 1. Tennessee Code Annotated, Section 63-6-223, is amended by designating the existing language as subsection (a) and adding the following as a new subsection (b):

(b) Any person licensed to practice medicine, including those persons rendering service pursuant to § 63-6-204, may, for the purpose of providing peripartum care, which may include providing peripartum analgesia, examine, diagnose, and treat a minor who is at least fourteen (14) years of age without the knowledge or consent of the parents or legal guardian of the minor and shall incur no civil or criminal liability in connection therewith except for negligence.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.

SENATE BILL NO. 293

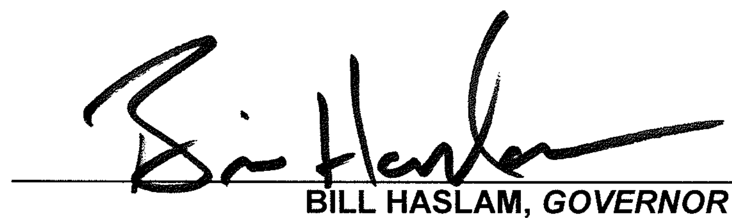
PASSED: **April 6, 2017**



RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 17th **day of** April **2017**



BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 175

SENATE BILL NO. 1154

By Hensley

Substituted for: House Bill No. 500

By Pitts

AN ACT to amend Tennessee Code Annotated, Section 63-9-103, relative to per diem for members of the board of osteopathic examination.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-9-103(b), is amended by deleting the language "fifty dollars ($50.00)" and substituting instead the language "one hundred dollars ($100)".

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 1154

PASSED: **April 10, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 24th **day of** April **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 210

SENATE BILL NO. 154

By Green

Substituted for: House Bill No. 590

By Terry, Cameron Sexton, Ragan

AN ACT to amend Tennessee Code Annotated, Title 63, relative to pain management or pain medicine certification by osteopathic physicians.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-1-301(9)(A)(i), is amended by deleting the language "pain medicine" and substituting the language "pain medicine or pain management".

SECTION 2. Tennessee Code Annotated, Section 63-1-301(9)(A)(iii), is amended by deleting the language "pain management" and substituting the language "pain medicine or pain management".

SECTION 3. Tennessee Code Annotated, Section 63-1-301(8)(D), is amended by deleting the subdivision in its entirety and substituting instead the following:

(D) "Pain management clinic" does not mean a clinic, facility, or office that is wholly owned and operated by a physician multispecialty practice in which one (1) or more board-eligible or board-certified medical specialists who have also completed fellowships in pain medicine or pain management approved by the Accreditation Council for Graduate Medical Education, or who are also board-certified in pain medicine or pain management by the American Board of Pain Medicine or a board approved by the American Board of Medical Specialties, the American Association of Physician Specialists, or the American Osteopathic Association to perform the pain management services for chronic pain patients;

SECTION 4. This act shall take effect July 1, 2017, the public welfare requiring it.

SENATE BILL NO. 154

PASSED: **April 17, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 28th **day of** April **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 211

SENATE BILL NO. 240

By Bell

Substituted for: House Bill No. 817

By Howell, Cameron Sexton

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 13, Part 2; Title 63, Chapter 13, Part 3 and Title 63, Chapter 23, Part 1, relative to board appointments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-13-216(c), is amended by deleting the subsection and substituting the following:

> The occupational therapist and occupational therapy assistant members may be appointed by the governor from lists of nominees submitted by interested occupational therapy groups, including, but not limited to, the Tennessee Occupational Therapy Association. The governor shall consult with the interested occupational therapy groups to determine qualified persons to fill positions on the board.

SECTION 2. Tennessee Code Annotated, Section 63-13-318(c), is amended by deleting the subsection and substituting the following:

> The physical therapist and physical therapist assistant members may be appointed by the governor from lists of nominees submitted by interested physical therapy groups, including, but not limited to, the Tennessee Physical Therapy Association. The governor shall consult with the interested physical therapy groups to determine qualified persons to fill positions on the board.

SECTION 3. Tennessee Code Annotated, Section 63-23-101(b)(3), is amended by deleting the subdivision and substituting the following:

> The social worker members may be appointed by the governor from lists of nominees submitted by interested social worker groups, including, but not limited to, the Tennessee chapter of the National Association of Social Workers. The governor shall consult with the interested social worker groups to determine qualified persons to fill positions on the board.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 240

PASSED: **April 17, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 28th **day of** April **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 215

SENATE BILL NO. 449

By Bell

Substituted for: House Bill No. 566

By Howell, Zachary, Carter, Goins, Rogers, Lamberth, Powers, Byrd, Kevin Brooks, Matlock, Doss, Dawn White, Cameron Sexton, Terry, Daniel, Ragan, Mark White

AN ACT to amend Tennessee Code Annotated, Title 4; Title 49; Title 62; Title 63; Title 68; Title 69 and Title 70, relative to guides to practice for administrative agencies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 5, Part 2, is amended by adding the following as a new section:

(a)(1) All entities listed in chapter 29, part 2 of this title that establish or adopt guides to practice or that regulate professions that establish or adopt guides to practice shall promulgate rules specifying all provisions included in and relating to the guides to practice.

(2) No entity subject to this section shall adopt guides to practice developed or approved by any private organization or association that are not adopted in accordance with this chapter. Any changes to guides to practice made by a private organization or association after the guides to practice are adopted shall be effective only after the changes are also adopted in accordance with this chapter.

(3) This subsection (a) only applies to guides to practice:

(A) Established, adopted, or amended after the effective date of this act; and

(B) That must be complied with in order to maintain a person's license, certification, or registration in order to practice a profession.

(b) The rules promulgated by entities pursuant to subsection (a) shall:

(1) Supersede any existing guides to practice developed or approved by a private organization or association that conflict with or are otherwise not included in such rules; and

(2) Be promulgated in accordance with this chapter.

(c) As used in this section, "guides to practice" includes codes of ethics and other measures that establish service quality standards. "Guides to practice" does not include:

(A) Tests or examinations;

(B) Building codes;

(C) Safety codes; or

(D) Drug standards.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 449

PASSED: **April 17, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 28th **day of** April **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 230

SENATE BILL NO. 1217

By Norris, Stevens

Substituted for: House Bill No. 326

By Hawk, Casada

AN ACT to amend Tennessee Code Annotated, Title 4, relative to the doctrine of state action antitrust immunity.

WHEREAS, in *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 135 S. Ct. 1101 (2015), the Supreme Court of the United States held that members of state regulatory boards comprised of a controlling number of active market participants may be subject to liability under federal antitrust law unless they are acting pursuant to clearly articulated state policy or law and are actively supervised by the state; and

WHEREAS, in accordance with this Supreme Court decision, this bill gives a designated state official authority to review regulatory board actions that may constitute a potentially unreasonable restraint of trade for the sole purpose of determining whether the action is consistent with a clearly articulated state policy or law established by the General Assembly with respect to the board; and

WHEREAS, this bill provides for legislative notification and oversight in the event that a state official vetoes a board action; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 4, is amended by adding the following language as a new section:

4-4-126.

(a) As used in this section:

(1) "Regulatory board" means any state board, commission, council, committee, or similar entity or body established by statute or rule that issues any license, certificate, registration, certification, permit, or other similar document for an occupation, profession, business, or trade in this state or otherwise regulates or controls any occupation, profession, business, or trade in this state. "Regulatory board" does not mean any board created by § 23-1-101, § 17-5-201, or the rules of the supreme court; and

(2) "Supervising official" means the commissioner or chief executive officer of the administrative department under which a regulatory board operates or to which a regulatory board is administratively attached, or the commissioner's or officer's designee.

(b) Each supervising official shall ensure that the actions of regulatory boards that displace competition are consistent with a clearly articulated state policy. With respect to any action, other than rulemaking, taken by a regulatory board the supervising official shall:

(1) Evaluate whether the action may constitute a potentially unreasonable restraint of trade that requires further review; and

(2) If it is determined that an action requires further review pursuant to subdivision (b)(1):

(A) Provide notice to the regulatory board within ten (10) business days of the date the action was taken that the action is subject to further review;

(B) Review the full evidentiary record regarding the action and, if necessary, supplement the evidentiary record or direct the regulatory board or other involved persons or entities to supplement the evidentiary record;

(C) Conduct a review of the substance of the action, de novo and on the merits, for the sole purpose of determining whether the action is consistent with a clearly articulated state policy or law established by the general assembly with respect to the regulatory board; and

(D) In writing:

(i) Approve the action if the supervising official determines that it is consistent with a clearly articulated state policy or law established by the general assembly with respect to the regulatory board;

(ii) Remand the action to the regulatory board for additional information, further proceedings, or modification, as is necessary to ensure that the action is consistent with a clearly articulated state policy or law established by the general assembly with respect to the regulatory board; or

(iii) Veto the action if the supervising official determines that it is not consistent with a clearly articulated state policy or law established by the general assembly with respect to the regulatory board.

(c) The supervising official may not:

(1) Be licensed by, or participate in or have a financial interest in an occupation, profession, business, or trade regulated by or otherwise affected or potentially affected by, the regulatory board whose action is subject to review under this section; or

(2) Be a voting or ex officio member of the regulatory board whose action is subject to review under this section.

(d) The supervising official's duties established pursuant to this section shall be carried out in a reasonably prompt manner and in accordance with any time limitations set forth in this section.

(e) If, within ten (10) business days of the date an action is taken, the supervising official provides notice to the chair of the regulatory board that the action is subject to further review pursuant to subdivision (b)(2), the action shall take effect upon the supervising official's approval but shall not take effect if the supervising official vetoes or remands the action.

(f) The supervising official's approval, remand, or veto of a regulatory board's action pursuant to subdivision (b)(2)(D) must include written justification for the decision and shall constitute the regulatory board's action with respect to that matter.

(g) A regulatory board shall provide to the supervising official adequate notice of its meetings.

(h) The supervising official must provide written notice to the chairs of the government operations committees of the senate and house of representatives of any veto of an action pursuant to this section within three (3) business days of the date of the veto. The government operations committees of the senate and house of representatives are authorized to conduct a hearing regarding the vetoed action at a subsequent, regularly scheduled meeting and may request the supervising official and a regulatory board representative to appear at the hearing. The government

operations committees may meet jointly or separately. Nothing contained in this section shall be construed to authorize the government operations committees to delay or overturn the supervising official's veto, nor shall it limit the authority of the government operations committees to recommend legislation to the general assembly regarding the subject matter of a hearing conducted pursuant to this subsection.

SECTION 2. Tennessee Code Annotated, Title 4, Chapter 5, Part 2, is amended by adding the following language as a new, appropriately designated section:

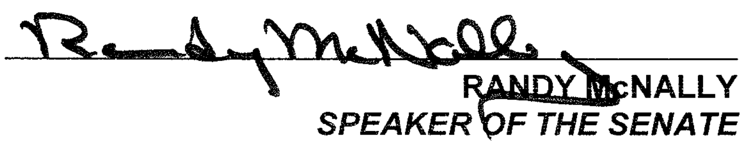
4-5-230.

Prior to a rule being filed by a regulatory board, as defined in § 4-4-126(a), with the secretary of state pursuant to § 4-5-207 or § 4-5-208, the commissioner or chief executive officer of the administrative department under which a regulatory board operates or to which a regulatory board is administratively attached, or a designee to the extent a conflict of interest may exist with respect to the commissioner or chief executive officer, will remand a rule that may constitute a potentially unreasonable restraint of trade to the regulatory board for additional information, further proceedings, or modification, if the rule is not consistent with a clearly articulated state policy or law established by the general assembly with respect to the regulatory board.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 1217

PASSED: April 10, 2017



RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 24th **day of** April **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 233

HOUSE BILL NO. 58

By Representatives Rogers, Daniel

Substituted for: Senate Bill No. 464

By Senator Bell

AN ACT to amend Tennessee Code Annotated, Title 10, Chapter 7, Part 5, relative to open records requests.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 10-7-503, is amended by deleting subdivision (a)(7)(A) and substituting instead the following:

(i) A governmental entity shall not require a written request or assess a charge to view a public record unless otherwise required by law. Requests to view public records may be submitted in person or by telephone, fax, mail, or email if the governmental entity uses such means of communication to transact official business, or via internet portal if the governmental entity maintains an internet portal that is used for accepting public records requests.

(ii) A governmental entity may require a request for copies of public records to be:

(a) In writing;

(b) On a form that complies with § 10-7-503(c); or

(c) On a form developed by the office of open records counsel.

(iii) If a governmental entity does not require a request for copies to be in writing or on a form in accordance with subdivision (a)(7)(A)(ii), then a request for copies of public records may be submitted as provided in subdivision (a)(7)(A)(i).

(iv) If a governmental entity requires a request to be in writing under subdivision (a)(7)(A)(ii)(*a*), the records custodian of the governmental entity shall accept any of the following:

(a) A request submitted in person or by mail;

(b) An email request if the governmental entity uses email to transact official business; and

(c) A request submitted on an electronic form via internet portal if the governmental entity maintains an internet portal that is used for accepting public records requests.

(v) If a governmental entity requires that a request for copies of public records be made on a form as provided in subdivision (a)(7)(A)(ii), then the governmental entity shall provide such form in the most expeditious means possible when the form is requested.

(vi) A governmental entity may require any person making a request to view or make a copy of a public record to present a government-issued photo identification, if the person possesses photo identification, that includes the person's address. If a person does not possess photo identification, the governmental entity may require other forms of identification acceptable to the governmental entity.

(vii) Notwithstanding any other law to the contrary:

(a) If a person makes two (2) or more requests to view a public record within a six-month period and, for each request, the person fails to view the public record within fifteen (15) business days of receiving notification that the record is available to view, the governmental entity is not required to comply with any public records request from the person for a period of six (6) months from the date of the second request to view the public record unless the governmental entity determines failure to view the public record was for good cause; and

(b) If a person makes a request for copies of a public record and, after copies have been produced, the person fails to pay to the governmental entity the cost for producing such copies, the governmental entity is not required to comply with any public records request from the person until the person pays for such copies; provided, that the person was provided with an estimated cost for producing the copies in accordance with subdivision (a)(7)(C)(ii) prior to producing the copies and the person agreed to pay the estimated cost for such copies.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.

HOUSE BILL NO. 58

PASSED: April 17, 2017

BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 28th day of April 2017

BILL HASLAM, GOVERNOR

State of Tennessee

PUBLIC CHAPTER NO. 240

HOUSE BILL NO. 315

By Representatives Hawk, Casada, Terry, Cameron Sexton

Substituted for: Senate Bill No. 1204

By Senators Norris, Hensley

AN ACT to amend Tennessee Code Annotated, Section 10-7-504; Title 63, Chapter 1, Part 1 and Title 68, Chapter 11, Part 2, relative to healthcare licensure.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 10-7-504, is amended by adding the following language as a new, appropriately designated subsection:

( ) Notwithstanding any law the contrary, examination questions, answer sheets, scoring keys, and other examination data used for the purpose of licensure, certification, or registration of health professionals under title 63 or title 68 shall be treated as confidential and shall not be open for inspection by members of the public; provided, however, that:

(1) A person who has taken such an examination has the right to review the person's own completed examination; and

(2) Final examination scores of persons licensed, certified, or registered as health professionals under title 63 or title 68 shall be open for inspection by members of the public, upon request.

SECTION 2. Tennessee Code Annotated, Section 63-1-104, is amended by adding the following language as new, appropriately designated subsections:

(d) Any board, committee, council, or agency created pursuant to this title or title 68 that regulates health professionals shall have the authority to do the following at its discretion:

(1) Issue a limited license of temporary duration to applicants who have been out of clinical practice or inactive in their practice for an extended period of time, or who have been or are at the time of their application engaged exclusively in administrative practice, provided that the applicant meets all other requirements for licensure;

(2) Restrict the scope of practice under such limited license as deemed appropriate;

(3) Restrict the duration of such limited license as deemed appropriate;

(4) Condition the granting of a full license upon an applicant's completion of any educational measures or supervised practice requirements deemed necessary and appropriate to ensure the applicant's competency to practice the profession for which a license is sought.

(e) At the conclusion of the duration of a limited license granted pursuant to subsection (d), an applicant may be eligible for full licensure if the applicant has completed the educational measures or supervised practice requirements the board, committee, council, or agency deemed necessary and appropriate to ensure the applicant's competency to practice. The board, committee, council, or agency may grant a full license before the conclusion of a limited license's duration if an applicant has

completed the specified educational measures or practice requirements prior to the expiration of the limited license.

(f) A board, committee, council, or agency may promulgate rules establishing other conditions or requirements with respect to the issuance of limited licenses pursuant to this section in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(g) The recipient of a limited license pursuant to this section may engage in the full scope of practice of the applicable profession subject to any limitations or restrictions imposed by the board, committee, council, or agency.

SECTION 3. Tennessee Code Annotated, Section 63-1-117(f), is amended by deleting the subsection in its entirety and substituting instead the following language:

(f) The following materials, documents, and other matters related to, or compiled or created pursuant to, an investigation conducted by or on behalf of the department shall be confidential and shall not be a public record or subject to subpoena before formal disciplinary charges are filed against the provider:

(1) Allegations against the health care provider;

(2) Complainant's identifying information;

(3) Identifying information of a witness who requests anonymity;

(4) Patient's identifying information;

(5) Patient's medical record; and

(6) Any report or documents prepared by or on behalf of the department as a part of an investigation.

SECTION 4. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

For purposes of any action before any board, committee, council, or other agency created pursuant to this title or title 68, in which the standard of care is at issue, members of such a board, committee, council, or agency are entitled to rely upon their own expertise in making determinations concerning the standard of care and are not subject to voir dire concerning such expertise. The standard of care for such actions is a statewide standard of minimal competency and practice; provided, however, that to sustain actions based upon a violation of this standard of care, the board, committee, council, or other agency must, absent admissions or other testimony to the effect that the standard of care was violated, articulate the standard of care in its deliberations. The provisions of title 29, chapter 26, and specifically § 29-26-115(a), concerning the locality rule, do not apply to actions taken pursuant to this title or title 68.

SECTION 5. Tennessee Code Annotated, Section 68-11-218, is amended by deleting the section in its entirety and substituting instead the following language:

(a)

(1) The chief administrative official of each hospital or other health care facility shall report to the respective licensing board, committee, council, or agency any disciplinary action taken concerning any person licensed under title 63 or title 68, when such action is related to professional ethics, professional incompetence or negligence, moral turpitude, or drug or alcohol abuse.

(2) "Disciplinary action" shall include termination, suspension, reduction, or resignation of hospital privileges for any of the reasons listed in subdivision (a)(1).

(3) The report shall be in writing and made within sixty (60) days of the date of the action.

(b) The hospital or health care facility shall make available to the respective licensing board, committee, council, or agency, for examination, all records pertaining to the disciplinary action taken, notwithstanding § 63-1-150, § 63-6-228, or any other provision to the contrary.

(c) Any individual who, as a member of any committee, employee, or contractor of any hospital or health care facility, files a report pursuant to this section, shall be immune from liability to the extent provided in § 63-1-150.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.

HOUSE BILL NO. 315

PASSED: April 20, 2017

BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

RANDY McNALLY
SPEAKER OF THE SENATE

APPROVED this 2nd day of May 2017

BILL HASLAM, GOVERNOR

State of Tennessee

PUBLIC CHAPTER NO. 256

SENATE BILL NO. 458

By Bell, Yager, Yarbro

Substituted for: House Bill No. 448

By Forgety, Hazlewood, Kevin Brooks, Cameron Sexton, Terry

AN ACT to amend Tennessee Code Annotated, Title 49 and Title 63, relative to availability of opioid antagonists in schools.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 50, Part 16, is amended by adding the following as a new section:

(a) The state board of education, in consultation with the department of health, shall develop guidelines for the management of students presenting with a drug overdose for which administration of an opioid antagonist may be appropriate.

(b) Each LEA shall implement a plan based on the guidelines developed pursuant to subsection (a) for the management of students presenting with a drug overdose.

(c)(1) It is the intent of the general assembly that schools, both public and nonpublic, be prepared to treat drug overdoses in the event other appropriate healthcare responses are not available.

(2) Each school within an LEA and each nonpublic school is authorized to maintain an opioid antagonist at the school in at least two (2) unlocked, secure locations, including, but not limited to, the school office and the school cafeteria, so that an opioid antagonist may be administered to any student believed to be having a drug overdose.

(3) Notwithstanding any provision of title 63 to the contrary, a physician may prescribe an opioid antagonist in the name of an LEA or nonpublic school to be maintained for use in schools when necessary. An LEA also may utilize a statewide collaborative pharmacy practice agreement pursuant to § 63-1-157 to obtain an opioid antagonist for administration.

(4) The school nurse, school resource officer, or other trained school personnel may utilize the LEA or nonpublic school supply of opioid antagonists to respond to a drug overdose, under a standing protocol from a physician licensed to practice medicine in all its branches.

(5) If a student is injured or harmed due to the administration of an opioid antagonist that a physician has prescribed to an LEA or nonpublic school under this subsection (c), the physician shall not be held responsible for the injury unless the physician issued the prescription or standing protocol with intentional disregard for safety.

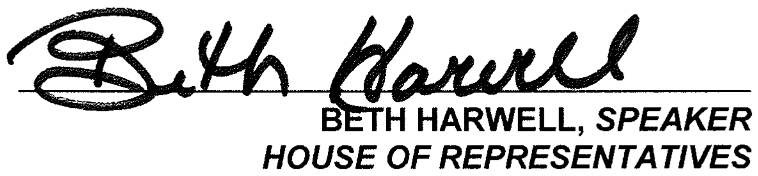
(6) Similarly, if a student is injured or harmed due to the administration of an opioid antagonist to the student by a school nurse, school resource officer, or other trained school personnel under this subsection (c), the school nurse, school resource officer, or school employee shall not be held responsible for the injury unless the school nurse, school resource officer, or school employee administered the opioid antagonist with an intentional disregard for safety.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.

SENATE BILL NO. 458

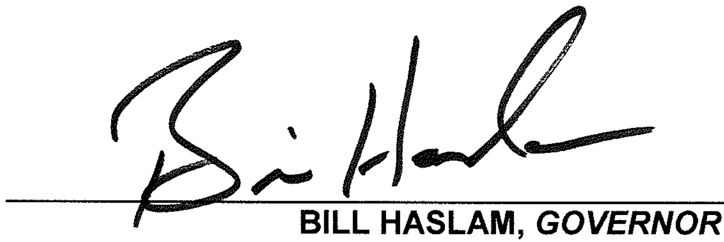
PASSED: **April 20, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE



BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 2nd **day of** May **2017**



BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 259

SENATE BILL NO. 845

By Green, Briggs

Substituted for: House Bill No. 707

By Whitson, Cameron Sexton, Windle, Pitts, Terry, Moody, Johnson, Curcio, Crawford, Sherrell, Kane, Powers, Butt, Keisling, Zachary, Travis, Clemmons, Staples, Harry Brooks, Gant, Mark White

AN ACT to amend Tennessee Code Annotated, Section 63-6-204, relative to the practice of medicine.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-6-204(a)(3), is amended by deleting the subdivision and substituting instead the following:

> (3) This chapter shall not apply to surgeons of the United States army, navy, air force, or marine hospital service regardless of the hospital or practice site; provided, that the surgeon's practice is part of the surgeon's authorized military service or training. This chapter shall also not apply to any registered physician or surgeon of other states when called in consultation by a registered physician of this state, or to midwives, veterinary surgeons, osteopathic physicians, or chiropractors not giving or using medicine in their practice, or to opticians, optometrists, chiropodists, or Christian Scientists.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.

SENATE BILL NO. 845

PASSED: April 20, 2017

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 2nd day of May 2017

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 266

SENATE BILL NO. 150

By Green, Harris, Crowe

Substituted for: House Bill No. 292

By Reedy, Hardaway

AN ACT to amend Tennessee Code Annotated, Title 63 and Title 68, relative to treating minors for sexually transmitted diseases.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-10-104(c), is amended by deleting the subsection and substituting the following:

The following healthcare officers and providers licensed in this state may examine, diagnose, and treat minors infected with STDs without the knowledge or consent of the parents of the minors, and shall incur no civil or criminal liability in connection with the examination, diagnosis, or treatment, except for negligence:

(1) Any state, district, county, or municipal health officer; or

(2) Any physician, nurse practitioner with a certificate of fitness and an appropriate supervising physician, nurse midwife who is an advanced practice registered nurse under § 63-7-126 and who has an appropriate supervising physician, or physician assistant with an appropriate supervising physician.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.

SENATE BILL NO. 150

PASSED: **April 27, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 4th **day of** May **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 329

SENATE BILL NO. 413

By Tracy

Substituted for: House Bill No. 952

By Crawford, Terry, Towns, Ragan

AN ACT to amend Tennessee Code Annotated, Title 63, relative to the practice of medicine.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Visiting Sports Team Act."

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 6, Part 2, is amended by adding the following as a new section:

(a) A physician who is duly qualified to practice medicine under the laws of another state is exempt from the licensure requirements of § 63-6-201, subject to this section, if either of the following applies:

(1) The physician has a written or oral agreement with a sports team to provide care to team members and coaching staff traveling with the team for a specific sporting event to take place in this state; or

(2) The physician has been invited by a national sport governing body to provide services to athletes and coaching staff at a national sport training center in this state or to provide services to athletes and coaching staff at an event or competition in this state that is sanctioned by the national sport governing body.

(b) The exemption provided by this section only applies while:

(1) The physician's practice is limited to that required by the team or the national sport governing body; and

(2) The services provided by the physician are within the physician's scope of practice.

(c) The exemption provided by subsection (a) permits a physician to provide care or consultation to a person specified in subsection (a). Nothing in this section permits a physician exempt by this section to:

(1) Provide care or consultation to any person residing in this state other than a person specified in subsection (a); or

(2) Practice at a licensed healthcare facility in this state.

(d) An exemption pursuant to subdivision (a)(1) is valid while the physician is traveling with the sports team, subject to the following:

(1) The exemption shall not be longer than ten (10) days in duration for each respective sporting event without prior authorization from the board of medical examiners;

(2) The board of medical examiners may grant an extension of not more than twenty (20) additional days per sporting event; and

(3) No physician shall be exempt for more than thirty (30) total days in a calendar year.

(e) An exemption pursuant to subdivision (a)(2) is valid during the time certified by the national sport governing body; however, no physician shall be exempt for more than thirty (30) total days in a calendar year.

(f) No physician exempt pursuant to this section shall dispense or administer controlled substances unless:

(1) The patient to whom the controlled substance is administered or dispensed is over eighteen (18) years of age and is a person described in subdivision (a)(1) or (a)(2); and

(2) The physician reports all controlled substances dispensed or administered to any applicable state controlled substance database in the physician's state of licensure.

(g) For purposes of this section, "sports team" means a professional, semi-professional, or amateur team including, but not limited to, a college, high school, grade school, or non-school affiliated team, such as those associated with the Amateur Athletic Union (AAU).

(h) The board of medical examiners may enter into agreements with medical licensing boards of other states to implement this section. Agreements may include procedures for reporting potential medical license violations.

(i) The board of medical examiners may promulgate rules to effectuate the purposes of this section. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. Tennessee Code Annotated, Title 63, Chapter 9, is amended by adding the following as a new section:

(a) A physician who is duly qualified to practice medicine under the laws of another state is exempt from the licensure requirements of § 63-9-104, subject to this section, if either of the following applies:

(1) The physician has a written or oral agreement with a sports team to provide care to team members and coaching staff traveling with the team for a specific sporting event to take place in this state; or

(2) The physician has been invited by a national sport governing body to provide services to athletes and coaching staff at a national sport training center in this state or to provide services to athletes and coaching staff at an event or competition in this state that is sanctioned by the national sport governing body.

(b) The exemption provided by this section only applies while:

(1) The physician's practice is limited to that required by the team or the national sport governing body; and

(2) The services provided by the physician are within the physician's scope of practice.

(c) The exemption provided by subsection (a) permits a physician to provide care or consultation to a person specified in subsection (a). Nothing in this section permits a physician exempt by this section to:

(1) Provide care or consultation to any person residing in this state other than a person specified in subsection (a); or

(2) Practice at a licensed healthcare facility in this state.

(d) An exemption pursuant to subdivision (a)(1) is valid while the physician is traveling with the sports team, subject to the following:

(1) The exemption shall not be longer than ten (10) days in duration for each respective sporting event without prior authorization from the board of osteopathic examination;

(2) The board of osteopathic examination may grant an extension of not more than twenty (20) additional days per sporting event; and

(3) No physician shall be exempt for more than thirty (30) total days in a calendar year.

(e) An exemption pursuant to subdivision (a)(2) is valid during the time certified by the national sport governing body; however, no physician shall be exempt for more than thirty (30) total days in a calendar year.

(f) No physician exempt pursuant to this section shall dispense or administer controlled substances unless:

(1) The patient to whom the controlled substance is administered or dispensed is over eighteen (18) years of age and is a person described in subdivision (a)(1) or (a)(2); and

(2) The physician reports all controlled substances dispensed or administered to any applicable state controlled substance database in the physician's state of licensure.

(g) For purposes of this section, "sports team" means a professional, semi-professional, or amateur team including, but not limited to, a college, high school, grade school, or non-school affiliated team, such as those associated with the Amateur Athletic Union (AAU).

(h) The board of osteopathic examination may enter into agreements with medical licensing boards of other states to implement this section. Agreements may include procedures for reporting potential medical license violations.

(i) The board of osteopathic examination may promulgate rules to effectuate the purposes of this section. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 4. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2018, the public welfare requiring it.

SENATE BILL NO. 413

PASSED: **May 1, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 9th **day of** May **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 332

SENATE BILL NO. 473

By Roberts

Substituted for: House Bill No. 979

By Calfee, Daniel, Moody, Terry, Harry Brooks, Mark White

AN ACT to amend Tennessee Code Annotated, Title 4; Title 5; Title 6; Title 7; Title 56, Chapter 1, Part 3; Title 62 and Title 63, relative to limiting the authority of political subdivisions of this state to create new occupational licensing requirements.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 76, Part 1, is amended by adding the following as a new section:

(a) This section shall be known and may be cited as the "Freedom to Prosper Act."

(b) Notwithstanding any provision of law to the contrary, on and after July 1, 2017, no political subdivision may:

(1) Impose a licensing requirement on an individual's profession, trade, or occupation if the profession, trade, or occupation is subject to state licensing requirements unless the political subdivision imposed the licensing requirement prior to July 1, 2017; or

(2) Expand or increase any licensing requirement on an individual's profession, trade, or occupation if the licensing requirement existed prior to July 1, 2017, and the profession, trade, or occupation is subject to state licensing requirements.

(c) The prohibitions set out in subsection (b) do not apply to licensing requirements on or any other regulation of law enforcement officers, firefighters, emergency medical service providers, emergency rescue management providers, or any other type of first responder or emergency service provider.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.

SENATE BILL NO. 473

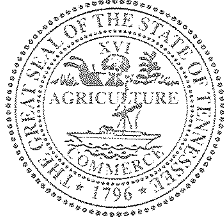
PASSED: **May 1, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 9th **day of** May **2017**

BILL HASLAM, *GOVERNOR*



State of Tennessee

PUBLIC CHAPTER NO. 334

SENATE BILL NO. 523

By Massey

Substituted for: House Bill No. 756

By Favors, Hardaway

AN ACT to amend Tennessee Code Annotated, Title 63 and Title 68, relative to the relationship between physicians and advanced practice registered nurses.

WHEREAS, in 2016, the Tennessee General Assembly created a task force to make recommendations for the improvement of Tennessee residents' health by providing access to quality and cost effective care; and

WHEREAS, a key component of quality and effective healthcare delivery is the interaction and relationship among healthcare providers, particularly between advanced practice registered nurses (APRNs) and physicians in Tennessee; and

WHEREAS, this legislation is limited to specific instances and actions among physicians and APRNs; and

WHEREAS, it is the intent of this legislation to change terminology only. It is not the intent of this legislation to alter or amend the relationships and designated responsibilities between physicians and advanced practice registered nurses, including nurse practitioners, certified nurse midwives, clinical nurse specialists, or certified registered nurse anesthetists existing prior to the effective date of this act; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-1-306(a)(3), is amended by deleting the subdivision and substituting instead the following:

(3)(A) All advanced practice registered nurses licensed under chapter 7 of this title, who practice in a licensed pain clinic, shall collaborate with a pain medicine specialist.

(B) All physician assistants licensed under chapter 19 of this title, who practice in a licensed pain clinic, shall be supervised by a pain medicine specialist.

SECTION 2. Tennessee Code Annotated, Section 63-7-123(b)(1) and (2), is amended by deleting the subdivisions and substituting instead the following:

(1) A nurse who has been issued a certificate of fitness as a nurse practitioner pursuant to § 63-7-207 and this section shall file a notice with the board, containing the name of the nurse practitioner, the name of the licensed physician collaborating with the nurse practitioner who has control and responsibility for prescriptive services rendered by the nurse practitioner, and a copy of the formulary describing the categories of legend drugs to be prescribed and/or issued by the nurse practitioner. The nurse practitioner shall be responsible for updating this information.

(2)(A) The nurse practitioner who holds a certificate of fitness shall be authorized to prescribe and/or issue controlled substances listed in Schedules II, III, IV, and V of title 39, chapter 17, part 4, upon joint adoption of physician collaboration rules concerning controlled substances pursuant to subsection (d).

(B) Notwithstanding subdivision (b)(2)(A), a nurse practitioner shall not prescribe Schedules II, III, and IV controlled substances unless such prescription is

specifically authorized by the formulary or expressly approved after consultation with the collaborating physician before the initial issuance of the prescription or dispensing of the medication.

(C) A nurse practitioner who had been issued a certificate of fitness may only prescribe or issue a Schedule II or III opioid listed on the formulary for a maximum of a non-refillable, thirty-day course of treatment unless specifically approved after consultation with the collaborating physician before the initial issuance of the prescription or dispensing of the medication. This subdivision (b)(2)(C) shall not apply to prescriptions issued in a hospital, a nursing home licensed under title 68, or inpatient facilities licensed under title 33.

SECTION 3. Tennessee Code Annotated, Section 63-7-123(b)(3)(A), is amended by deleting the subdivision and substituting instead the following:

(A) Any prescription written and signed or drug issued by a nurse practitioner under collaboration with and the control of a collaborating physician shall be deemed to be that of the nurse practitioner. Every prescription issued by a nurse practitioner pursuant to this section shall be entered in the medical records of the patient and shall be written on a preprinted prescription pad bearing the name, address, and telephone number of the collaborating physician and of the nurse practitioner, and the nurse practitioner shall sign each prescription so written. Where the preprinted prescription pad contains the names of more than one (1) physician, the nurse practitioner shall indicate on the prescription which of those physicians is the nurse practitioner's primary collaborating physician by placing a checkmark beside or a circle around the name of that physician.

SECTION 4. Tennessee Code Annotated, Section 63-7-123(b)(5), is amended by deleting the word "supervising" and substituting instead the word "collaborating".

SECTION 5. Tennessee Code Annotated, Section 63-7-123(d), is amended by deleting the language "supervision of nurse practitioners by physicians" and substituting instead "collaboration of nurse practitioners with physicians".

SECTION 6. Tennessee Code Annotated, Section 63-10-204(42)(A), is amended by deleting the subdivision and substituting instead the following:

(A)(i) "Prescription order" means and includes any order, communicated through written, verbal, or electronic means by a physician, certified physician assistant, pharmacist in accordance with a collaborative pharmacy practice agreement pursuant to this section, dentist, veterinarian, optometrist authorized pursuant to § 63-8-102(12), or other allied medical practitioner, for any drug, device, or treatment;

(ii) "Prescription order" means and includes any order, communicated through written, verbal, or electronic means by a nurse authorized pursuant to § 63-6-204, who is prescribing in collaboration with and under the control and responsibility of a licensed physician, and who meets the requirements pursuant to § 63-7-207(14);

SECTION 7. Tennessee Code Annotated, Section 63-10-217(d), is amended by deleting the subdivision and substituting instead the following:

(1) If the collaborative practice agreement includes one (1) or more prescribers who are advanced practice registered nurses (APRNs), the collaborating physician who has primary responsibility for collaborating with the APRN, must also approve and sign the collaborative pharmacy practice agreement. The collaborating physician may only approve a collaborative pharmacy practice agreement of an APRN if the services authorized in the agreement are included in the routine services delivered by the collaborating physician in the physician's medical practice. An authorizing prescriber entering into collaborative pharmacy practice agreements shall be available for consultation with the pharmacist or pharmacists as needed.

(2) If the collaborative practice agreement includes one (1) or more prescribers who are physician assistants (PAs), the supervising physician who has primary responsibility for supervising the PA, must also approve and sign the collaborative pharmacy practice agreement. The supervising physician may only approve a collaborative pharmacy practice agreement of a PA if the services authorized in the agreement are included in the routine services delivered by the supervising physician in the physician's medical practice. An authorizing prescriber entering into collaborative pharmacy practice agreements shall be available for consultation with the pharmacist or pharmacists as needed.

SECTION 8. Tennessee Code Annotated, Section 63-51-105, is amended by deleting the word "and" at the end of subdivision (a)(17), deleting subdivision (a)(18), and substituting instead the following:

(18) For the profile of a holder of a certificate of fitness pursuant to § 63-7-123, the name of the holder's collaborating physician; and

(19) For any physician assistant licensed under § 63-19-105, the name of the assistant's supervising physician.

SECTION 9. Tennessee Code Annotated, Section 63-51-115(a), is amended by deleting the last sentence of the subsection and substituting instead the following:

The department shall also allow a supervising physician at any time the opportunity to review, accept, and update the existence of a supervisory relationship between the physician and a physician assistant licensed under § 63-19-105. The department shall also allow a collaborating physician at any time the opportunity to review, accept, and update the existence of a collaborating relationship between the physician and the holder of a certificate of fitness pursuant to § 63-7-123.

SECTION 10. Tennessee Code Annotated, Section 63-51-115(c), is amended by inserting the language "collaborating physician," between the language "care organization," and "or supervisory physician".

SECTION 11. Tennessee Code Annotated, Section 63-51-115(d), is amended by deleting the subsection and substituting instead the following:

(d) Nothing contained in this section shall repeal or override the confidentiality provisions contained in title 53, chapter 10, part 3, except to the extent that the department uses the information to update the existence of:

(1) A collaborating relationship between a physician and a holder of a certificate of fitness pursuant to § 63-7-123; or

(2) A supervisory relationship between a physician and a physician assistant licensed under § 63-19-105.

SECTION 12. Tennessee Code Annotated, Section 68-1-128(a)(2), is amended by deleting the language "physician supervisor" and substituting instead the language "collaborating physician or physician supervisor, as appropriate,".

SECTION 13. Tennessee Code Annotated, Section 68-1-128(e), is amended by deleting the language "supervising physician's licensing board" and substituting instead the language "collaborating physician's or supervising physician's licensing board, as appropriate".

SECTION 14. Tennessee Code Annotated, Section 68-1-128, is amended by deleting the language "supervising physician" wherever it appears and substituting instead the language "collaborating physician or supervising physician, as appropriate,".

SECTION 15. This act shall take effect July 1, 2017, the public welfare requiring it.

SENATE BILL NO. 523

PASSED: **April 27, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 9th **day of** May **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 350

SENATE BILL NO. 639

By Roberts

Substituted for: House Bill No. 607

By Gant, Cameron Sexton, Terry, Hardaway

AN ACT to amend Tennessee Code Annotated, Title 63; Title 68 and Title 71, relative to health care.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 6, Part 7, is amended by adding the following new section:

(a) Notwithstanding this title to the contrary, a healthcare provider may satisfy one (1) hour of continuing education requirements for maintaining a license issued pursuant to this title through the performance of one (1) hour of voluntary provision of healthcare services as provided in this part. The maximum amount of hours of a continuing education requirement that a healthcare provider may satisfy through the voluntary provision of healthcare services pursuant to this subsection (a) is the lesser of eight (8) hours annually or twenty percent (20%) of the total annual required for the applicable license.

(b) Upon providing evidence of completion of the voluntary provision of healthcare services, the healthcare provider shall identify in any documentation required to be submitted to the applicable licensing board, the name and contact information of the sponsoring organization.

(c) The division of health related boards may promulgate rules to administer this section in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, including a fee to be charged to the healthcare provider for satisfying continuing education requirements pursuant to this section.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 639

PASSED: **May 3, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 11th **day of** May **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 353

SENATE BILL NO. 1180

By Hensley, Gresham, Beavers, Bailey, Bowling, Jackson

Substituted for: House Bill No. 1189

By Matthew Hill, Matlock, Byrd, Lynn, Terry, Rudd, Eldridge, Weaver, Butt, Goins, Gant, Howell, Smith, Zachary, Dunn, Moody, Kane, Littleton, Cameron Sexton, Kevin Brooks, Lamberth, Timothy Hill, Holsclaw, Sherrell, Williams, Powers, Van Huss, Jerry Sexton, Kumar, Holt, Calfee, Keisling, Sparks, Dawn White, Doss, Harry Brooks

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 15, Part 2, relative to abortion.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Tennessee Infants Protection Act."

SECTION 2. Tennessee Code Annotated, Section 39-15-201(c)(3), is amended by deleting the subdivision in its entirety.

SECTION 3. Tennessee Code Annotated, Title 39, Chapter 15, Part 2, is amended by adding the following new sections:

39-15-211.

(a) As used in this section and in § 39-15-212:

(1) "Abortion" means the use of any instrument, medicine, drug, or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant with intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus;

(2) "Gestational age" or "gestation" means the age of an unborn child as calculated from the first day of the last menstrual period of a pregnant woman;

(3) "Medical emergency" means a condition that, in the physician's good faith medical judgment, based upon the facts known to the physician at the time, so complicates the woman's pregnancy as to necessitate the immediate performance or inducement of an abortion in order to prevent the death of the pregnant woman or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman that delay in the performance or inducement of the abortion would create;

(4) "Pregnant" means the human female reproductive condition, of having a living unborn child within her body throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth;

(5) "Serious risk of the substantial and irreversible impairment of a major bodily function" means any medically diagnosed condition that so complicates the pregnancy of the woman as to directly or indirectly cause the substantial and irreversible impairment of a major bodily function. Such conditions include pre-eclampsia, inevitable abortion, and premature rupture of the membranes and, depending upon the circumstances, may also include,

but are not limited to, diabetes and multiple sclerosis, but does not include any condition relating to the woman's mental health;

(6) "Unborn child" means an individual living member of the species, homo sapiens, throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth; and

(7) "Viable" and "viability" mean that stage of fetal development when the unborn child is capable of sustained survival outside of the womb, with or without medical assistance.

(b)(1) No person shall purposely perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman when the unborn child is viable.

(2) It shall be an affirmative defense to any criminal prosecution brought under subdivision (b)(1) that the abortion was performed or induced, or attempted to be performed or induced, by a licensed physician and that the physician determined, in the physician's good faith medical judgment, based upon the facts known to the physician at the time, that either:

(A) The unborn child was not viable; or

(B) The abortion was necessary to prevent the death of the pregnant woman or to prevent serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman. No abortion shall be deemed authorized under this subdivision (b)(2)(B) if performed on the basis of a claim or a diagnosis that the woman will engage in conduct which would result in her death or substantial and irreversible impairment of a major bodily function or for any reason relating to her mental health.

(3) Except in a medical emergency that prevents compliance with the viability determination required by § 39-15-212, the affirmative defense set forth in subdivision (b)(2)(A) does not apply unless the physician who performs or induces, or attempts to perform or induce, the abortion makes the viability determination required by § 39-15-212 and, based upon that determination, certifies in writing that, in such physician's good faith medical judgment, the unborn child is not viable.

(4) Except in a medical emergency that prevents compliance with one (1) or more of the following conditions, the affirmative defense set forth in subdivision (b)(2)(B) does not apply unless the physician who performs or induces, or attempts to perform or induce, the abortion complies with each of the following conditions:

(A) The physician who performs or induces, or attempts to perform or induce, the abortion certifies in writing that, in such physician's good faith medical judgment, based upon the facts known to the physician at the time, the abortion is necessary to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman;

(B) Another physician who is not associated in a practice with the physician who intends to perform or induce the abortion certifies in writing that, in such physician's good faith medical judgment, based upon the facts known to the physician at the time, the abortion is necessary to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman;

(C) The physician performs or induces, or attempts to perform or induce, the abortion in a hospital that has appropriate neonatal services for premature infants. This requirement does not apply if there is no hospital within thirty (30) miles with neonatal services and the physician who intends to perform or induce the abortion has admitting privileges at the hospital where the abortion is to be performed or induced;

(D) The physician who performs or induces, or attempts to perform or induce, the abortion terminates or attempts to terminate the pregnancy in the manner that provides the best opportunity for the unborn child to survive, unless that physician determines, in such physician's good faith medical judgment, based upon the facts known to the physician at the time, that the termination of the pregnancy in that manner poses a significantly greater risk of the death of the pregnant woman or a significantly greater risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman than would other available methods of abortion;

(E) The physician certifies in writing the available methods or techniques considered and the reasons for choosing the method or technique employed; and

(F) The physician who performs or induces, or attempts to perform or induce, the abortion has arranged for the attendance in the same room in which the abortion is to be performed or induced, or attempted to be performed or induced, at least one (1) other physician who is to take control of, provide immediate medical care for, and take all reasonable steps necessary to preserve the life and health of the unborn child immediately upon the child's complete expulsion or extraction from the pregnant woman.

(5) For purposes of this section, there shall be a rebuttable presumption that an unborn child of at least twenty-four (24) weeks gestational age is viable.

(6) A violation of subdivision (b)(1) is a Class C felony.

(7) The applicable licensing board shall revoke the license of any person licensed to practice a healthcare profession in this state who violates subdivision (b)(1), in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, without regard to whether the person has been charged with or has been convicted of having violated subdivision (b)(1) in a criminal prosecution. In any proceeding brought by the board of medical examiners or the board of osteopathic examination to revoke the license of a physician for violating subdivision (b)(1), a physician who has not been convicted in a criminal prosecution of having violated subdivision (b)(1) may raise the affirmative defense set forth in subdivision (b)(2).

(8) A pregnant woman upon whom an abortion is performed or induced, or attempted to be performed or induced, in violation of subdivision (b)(1) is not guilty of violating subdivision (b)(1), or of attempting to commit or conspiring to commit a violation of subdivision (b)(1).

(c) Neither this section nor § 39-15-212 repeals or limits § 39-15-202, § 39-15-209, or any other law that restricts or regulates the performance of an abortion or attempt to procure a miscarriage.

39-15-212.

(a) Except in a medical emergency that prevents compliance with this subsection (a), no physician shall perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman after the beginning of the twentieth week of pregnancy, as measured by gestational age, unless, prior to the performance or inducement of the abortion, or the attempt to perform or induce the abortion, the physician determines, in the physician's good faith medical judgment, that the unborn child is not viable. In making the good faith medical determination, the physician shall perform a medical examination of the pregnant woman and assess gestational age, weight, bi-parietal diameter, and other factors that the physician in the physician's good faith medical judgement would consider in determining whether an unborn child is viable.

(b) Except in a medical emergency that prevents compliance with this subsection (b), no physician shall perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman after the beginning of her twentieth week of pregnancy (as measured by gestational age), without first entering the determination

made in subsection (a) and the associated findings of the medical examination and assessment described in subsection (a) in the medical record of the pregnant woman.

(c) A violation of subsection (a) or (b) is a Class A misdemeanor.

(d) The appropriate licensing authority shall suspend, for a period of not less than six (6) months, the medical license of a physician who violates subsection (a) or (b).

SECTION 4. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 5. This act shall take effect July 1, 2017, the public welfare requiring it.

SENATE BILL NO. 1180

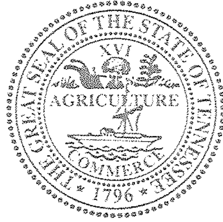
PASSED: **May 3, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 11th **day of** May **2017**

BILL HASLAM, *GOVERNOR*



State of Tennessee

PUBLIC CHAPTER NO. 355

SENATE BILL NO. 1320

By Crowe, Briggs

Substituted for: House Bill No. 519

By Cameron Sexton, Matheny, Hardaway

AN ACT to amend Tennessee Code Annotated, Title 53; Title 63 and Title 68, relative to disposal of prescription drugs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 11, Part 2, is amended by adding the following as a new section:

Notwithstanding any rule to the contrary, a nursing home, as defined in § 68-11-201, is authorized to participate in a drug donation repository program under title 63, chapter 10 until such time as the board for licensing health care facilities promulgates rules to effectuate such participation. Nothing in this title or title 63 precludes a nursing home from utilizing a drug donation repository program for drug disposal services.

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 11, Part 2, is amended by adding the following as a new section:

(a) Notwithstanding this title or any rule, the board for licensing health care facilities is directed to use emergency rulemaking under § 4-5-208 to promulgate rules by January 1, 2018, to permit facilities licensed under this part to dispose of controlled substances and other prescription drugs by destruction using any means permitted by the federal drug enforcement administration.

(b) Notwithstanding this title or any rule, the board for licensing health care facilities is directed to use emergency rulemaking under § 4-5-208 to promulgate rules by January 1, 2018, to permit the disposal by donation or other means, including a drug donation repository program, of prescription drugs that are not controlled substances.

SECTION 3. Notwithstanding this act or the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5, any rule promulgated to implement this act shall be provided to the chairs of the health committee of the house of representatives and the health and welfare committee of the senate by the secretary of state, after approval by the attorney general and reporter, and at the same time the text of the rule is made available to the government operations committees of the senate and the house of representatives for purposes of conducting the review required by § 4-5-226 in order for chair of the health committee of the house of representatives and chair of the health and welfare committee of the senate to be afforded the opportunity to comment on the rule.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 1320

PASSED: **May 3, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 11th **day of** May **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 365

HOUSE BILL NO. 664

By Representatives Matthew Hill, Lamberth, Terry, Favors, Hardaway, Forgety, Crawford, Daniel, Powers

Substituted for: Senate Bill No. 595

By Senators Watson, Bowling

AN ACT to amend Tennessee Code Annotated, Title 63, relative to the Interstate Medical Licensure Compact.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 6, is amended by adding the following as a new part:

63-6-1301. This part shall be known and may be cited as the "Interstate Medical Licensure Compact".

63-6-1302. The Interstate Medical Licensure Compact is enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

INTERSTATE MEDICAL LICENSURE COMPACT

SECTION 1. PURPOSE

In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The Compact creates another pathway for licensure and does not otherwise change a state's existing Medical Practice Act. The Compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the Compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the Compact.

SECTION 2. DEFINITIONS

In this compact:

(a) "Bylaws" means those bylaws established by the Interstate Commission pursuant to Section 11 for its governance, or for directing and controlling its actions and conduct.

(b) "Commissioner" means the voting representative appointed by each member board pursuant to Section 11.

(c) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.

(d) "Expedited License" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact.

(e) "Interstate Commission" means the interstate commission created pursuant to Section 11.

(f) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.

(g) "Medical Practice Act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

(h) "Member Board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.

(i) "Member State" means a state that has enacted the Compact.

(j) "Practice of Medicine" means the clinical prevention, diagnosis, or treatment of human disease, injury, or condition requiring a physician to obtain and maintain a license in compliance with the Medical Practice Act of a member state.

(k) "Physician" means any person who:

(1) Is a graduate of a medical school accredited by the Liaison Committee on Medical Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the International Medical Education Directory or its equivalent;

(2) Passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

(3) Successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;

(4) Holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(5) Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

(6) Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(7) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to non-payment of fees related to a license;

(8) Has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration; and

(9) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

(l) "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.

(m) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section 12 of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(n) "State" means any state, commonwealth, district, or territory of the United States.

(o) "State of Principal License" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the Compact.

SECTION 3. ELIGIBILITY

(a) A physician must meet the eligibility requirements as defined in Section 2(k) to receive an expedited license under the terms and provisions of the Compact.

(b) A physician who does not meet the requirements of Section 2(k) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the Compact, relating to the issuance of a license to practice medicine in that state.

SECTION 4. DESIGNATION OF STATE OF PRINCIPAL LICENSE

(a) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the Compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

(1) the state of primary residence for the physician, or

(2) the state where at least 25% of the practice of medicine occurs, or

(3) the location of the physician's employer, or

(4) if no state qualifies under subsection (1), subsection (2), or subsection (3), the state designated as state of residence for purpose of federal income tax.

(b) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subsection (a).

(c) The Interstate Commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

SECTION 5. APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

(a) A physician seeking licensure through the Compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(b) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of

qualification, verifying or denying the physician's eligibility, to the Interstate Commission.

(i) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the Interstate Commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

(ii) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. 731.202.

(iii) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(c) Upon verification in subsection (b), physicians eligible for an expedited license shall complete the registration process established by the Interstate Commission to receive a license in a member state selected pursuant to subsection (a), including the payment of any applicable fees.

(d) After receiving verification of eligibility under subsection (b) and any fees under subsection (c), a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the Medical Practice Act and all applicable laws and regulations of the issuing member board and member state.

(e) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(f) An expedited license obtained through the Compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a non-disciplinary reason, without redesignation of a new state of principal licensure.

(g) The Interstate Commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

SECTION 6. FEES FOR EXPEDITED LICENSURE

(a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the Compact.

(b) The Interstate Commission is authorized to develop rules regarding fees for expedited licenses.

SECTION 7. RENEWAL AND CONTINUED PARTICIPATION

(a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the Interstate Commission if the physician:

(1) Maintains a full and unrestricted license in a state of principal license;

(2) Has not been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(3) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to non-payment of fees related to a license; and

(4) Has not had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

(b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(c) The Interstate Commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(d) Upon receipt of any renewal fees collected in subsection (c), a member board shall renew the physician's license.

(e) Physician information collected by the Interstate Commission during the renewal process will be distributed to all member boards.

(f) The Interstate Commission is authorized to develop rules to address renewal of licenses obtained through the Compact.

SECTION 8. COORDINATED INFORMATION SYSTEM

(a) The Interstate Commission shall establish a database of all physicians licensed, or who have applied for licensure, under Section 5.

(b) Notwithstanding any other provision of law, member boards shall report to the Interstate Commission any public action or complaints against a licensed physician who has applied or received an expedited license through the Compact.

(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the Interstate Commission.

(d) Member boards may report any non-public complaint, disciplinary, or investigatory information not required by subsection (c) to the Interstate Commission.

(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(f) All information provided to the Interstate Commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

(g) The Interstate Commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

SECTION 9. JOINT INVESTIGATIONS

(a) Licensure and disciplinary records of physicians are deemed investigative.

(b) In addition to the authority granted to a member board by its respective Medical Practice Act or other applicable state law, a member board

may participate with other member boards in joint investigations of physicians licensed by the member boards.

(c) A subpoena issued by a member state shall be enforceable in other member states.

(d) Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

(e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

SECTION 10. DISCIPLINARY ACTIONS

(a) Any disciplinary action taken by any member board against a physician licensed through the Compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the Medical Practice Act or regulations in that state.

(b) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the Medical Practice Act of that state.

(c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:

(i) impose the same or lesser sanction(s) against the physician so long as such sanctions are consistent with the Medical Practice Act of that state; or

(ii) pursue separate disciplinary action against the physician under its respective Medical Practice Act, regardless of the action taken in other member states.

(d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license(s) issued to the physician by any other member board(s) shall be suspended, automatically and immediately without further action necessary by the other member board(s), for ninety (90) days upon entry of the order by the disciplining board, to permit the member board(s) to investigate the basis for the action under the Medical Practice Act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the ninety (90) day suspension period in a manner consistent with the Medical Practice Act of that state.

SECTION 11. INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

(a) The member states hereby create the "Interstate Medical Licensure Compact Commission".

(b) The purpose of the Interstate Commission is the administration of the Interstate Medical Licensure Compact, which is a discretionary state function.

(c) The Interstate Commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties

set forth in the Compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the Compact.

(d) The Interstate Commission shall consist of two voting representatives appointed by each member state who shall serve as Commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A Commissioner shall be a(n):

(1) Allopathic or osteopathic physician appointed to a member board;

(2) Executive director, executive secretary, or similar executive of a member board; or

(3) Member of the public appointed to a member board.

(e) The Interstate Commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the Commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(f) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

(g) Each Commissioner participating at a meeting of the Interstate Commission is entitled to one vote. A majority of Commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission. A Commissioner shall not delegate a vote to another Commissioner. In the absence of its Commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d).

(h) The Interstate Commission shall provide public notice of all meetings and all meetings shall be open to the public. The Interstate Commission may close a meeting, in full or in portion, where it determines by a two-thirds vote of the Commissioners present that an open meeting would be likely to:

(1) Relate solely to the internal personnel practices and procedures of the Interstate Commission;

(2) Discuss matters specifically exempted from disclosure by federal statute;

(3) Discuss trade secrets, commercial, or financial information that is privileged or confidential;

(4) Involve accusing a person of a crime, or formally censuring a person;

(5) Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) Discuss investigative records compiled for law enforcement purposes; or

(7) Specifically relate to the participation in a civil action or other legal proceeding.

(i) The Interstate Commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

(j) The Interstate Commission shall make its information and official records, to the extent not otherwise designated in the Compact or by its rules, available to the public for inspection.

(k) The Interstate Commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. When acting on behalf of the Interstate Commission, the executive committee shall oversee the administration of the Compact including enforcement and compliance with the provisions of the Compact, its bylaws and rules, and other such duties as necessary.

(l) The Interstate Commission may establish other committees for governance and administration of the Compact.

SECTION 12. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the duty and power to:

(a) Oversee and maintain the administration of the Compact;

(b) Promulgate rules which shall be binding to the extent and in the manner provided for in the Compact;

(c) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the Compact, its bylaws, rules, and actions;

(d) Enforce compliance with Compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

(e) Establish and appoint committees including, but not limited to, an executive committee as required by Section 11, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties;

(f) Pay, or provide for the payment of the expenses related to the establishment, organization, and ongoing activities of the Interstate Commission;

(g) Establish and maintain one or more offices;

(h) Borrow, accept, hire, or contract for services of personnel;

(i) Purchase and maintain insurance and bonds;

(j) Employ an executive director who shall have such powers to employ, select or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation;

(k) Establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

(l) Accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of them in a manner consistent with the conflict of interest policies established by the Interstate Commission;

(m) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed;

(n) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(o) Establish a budget and make expenditures;

(p) Adopt a seal and bylaws governing the management and operation of the Interstate Commission;

(q) Report annually to the legislatures and governors of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the Interstate Commission;

(r) Coordinate education, training, and public awareness regarding the Compact, its implementation, and its operation;

(s) Maintain records in accordance with the bylaws;

(t) Seek and obtain trademarks, copyrights, and patents; and

(u) Perform such functions as may be necessary or appropriate to achieve the purposes of the Compact.

SECTION 13. FINANCE POWERS

(a) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

(b) The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

(c) The Interstate Commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(d) The Interstate Commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the Interstate Commission.

SECTION 14. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall, by a majority of Commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact within twelve (12) months of the first Interstate Commission meeting.

(b) The Interstate Commission shall elect or appoint annually from among its Commissioners a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission.

(c) Officers selected in subsection (b) shall serve without remuneration from the Interstate Commission.

(d) The officers and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission

that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(1) The liability of the executive director and employees of the Interstate Commission or representatives of the Interstate Commission, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(2) The Interstate Commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(3) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

SECTION 15. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

(b) Rules deemed appropriate for the operations of the Interstate Commission shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" of 2010, and subsequent amendments thereto.

(c) Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with

applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the Interstate Commission.

SECTION 16. OVERSIGHT OF INTERSTATE COMPACT

(a) The executive, legislative, and judicial branches of state government in each member state shall enforce the Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of the Compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

(b) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the Compact which may affect the powers, responsibilities or actions of the Interstate Commission.

(c) The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, the Compact, or promulgated rules.

SECTION 17. ENFORCEMENT OF INTERSTATE COMPACT

(a) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Compact.

(b) The Interstate Commission may, by majority vote of the Commissioners, initiate legal action in the United States District Court for the District of Columbia, or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the Compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(c) The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

SECTION 18. DEFAULT PROCEDURES

(a) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the Compact, or the rules and bylaws of the Interstate Commission promulgated under the Compact.

(b) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the Compact, or the bylaws or promulgated rules, the Interstate Commission shall:

(1) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; and

(2) Provide remedial training and specific technical assistance regarding the default.

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the

Commissioners and all rights, privileges, and benefits conferred by the Compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(d) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the Interstate Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(e) The Interstate Commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state, or the withdrawal of a member state.

(f) The member state which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

(g) The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the Compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(h) The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

SECTION 19. DISPUTE RESOLUTION

(a) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the Compact and which may arise among member states or member boards.

(b) The Interstate Commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

SECTION 20. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

(a) Any state is eligible to become a member state of the Compact.

(b) The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than seven (7) states. Thereafter, it shall become effective and binding on a state upon enactment of the Compact into law by that state.

(c) The governors of non-member states, or their designees, shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the Compact by all states.

(d) The Interstate Commission may propose amendments to the Compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

SECTION 21. WITHDRAWAL

(a) Once effective, the Compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the Compact by specifically repealing the statute which enacted the Compact into law.

(b) Withdrawal from the Compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

(c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the Compact in the withdrawing state.

(d) The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt of notice provided under subsection (c).

(e) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the Compact or upon such later date as determined by the Interstate Commission.

(g) The Interstate Commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

SECTION 22. DISSOLUTION

(a) The Compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the Compact to one (1) member state.

(b) Upon the dissolution of the Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

SECTION 23. SEVERABILITY AND CONSTRUCTION

(a) The provisions of the Compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

(b) The provisions of the Compact shall be liberally construed to effectuate its purposes.

(c) Nothing in the Compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

SECTION 24. BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

(b) All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

(c) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

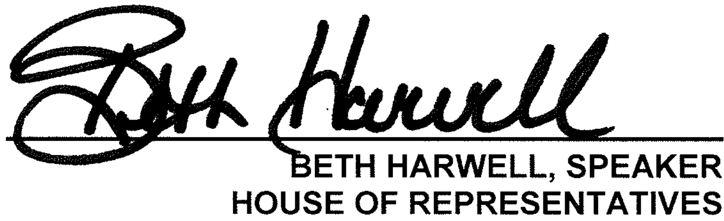
(d) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(e) In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

SECTION 2. This act shall take effect January 1, 2019, the public welfare requiring it.

HOUSE BILL NO. 664

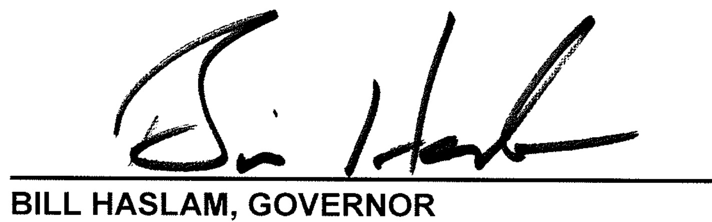
PASSED: May 4, 2017



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 11th day of May 2017



BILL HASLAM, GOVERNOR

State of Tennessee

PUBLIC CHAPTER NO. 392

SENATE BILL NO. 429

By Kelsey, Haile, Harris

Substituted for: House Bill No. 137

By Cameron Sexton, Terry, Hazlewood, Thompson

AN ACT to amend Tennessee Code Annotated, Title 56; Title 63 and Title 68, relative to a prescription drug donation repository program.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 10, is amended by deleting part 5 and substituting the following:

63-10-501.

As used in this part:

(1) "Anti-rejection drug" means a prescription drug that suppresses the immune system to prevent or reverse rejection of a transplanted organ;

(2) "Board" means the board of pharmacy;

(3) "Cancer drug" means a prescription drug that is used to treat any of the following:

(A) Cancer or the side effects of cancer; or

(B) The side effects of any prescription drug that is used to treat cancer or the side effects of cancer;

(4) "Controlled substance" means the same as defined in § 39-17-402;

(5) "Department" means the department of health;

(6) "Donor" means a person, a pharmacy, or medical facility as well as any drug manufacturer or wholesaler licensed by the board of pharmacy, who donates prescription drugs to a repository program approved pursuant to this part;

(7) "Eligible Individual" means an indigent person or an uninsured person who meets all other criteria established by board rule;

(8) "Indigent" means a person with an income that is below two hundred percent (200%) of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services;

(9) "Medical facility" means any of the following:

(A) A physician's office;

(B) A hospital;

(C) A health clinic;

(D) A nonprofit health clinic, which includes a federally qualified health center as defined in 42 U.S.C. § 1396d(l)(2)(B); a rural health clinic, as defined in 42 U.S.C. § 1396d(l)(1); and a nonprofit health clinic that provides medical care to patients who are indigent, uninsured, or underinsured;

(E) A free clinic as defined in § 63-6-703;

(F) A charitable organization as defined in § 48-101-501; or

(G) A nursing home as defined in § 68-11-201;

(10) "Pharmacy" means a pharmacy as defined in § 63-10-204;

(11) "Prescription drug" means the same as defined in § 63-10-204, except the drug is only tablet or capsule form, and includes cancer drugs and anti-rejection drugs, but does not include controlled substances and drugs covered by the risk evaluation and mitigation strategy program of the federal food and drug administration; and

(12) "Supplies" means the supplies necessary to administer the prescription drugs donated.

63-10-502.

(a)(1) The department of health, in cooperation with the board of pharmacy, may promulgate rules to establish and enforce a prescription drug donation repository program under which a person or organization may donate prescription drugs and supplies for use by an organization that has received a determination of exemption from the United States internal revenue service pursuant to 26 U.S.C. § 501(c)(3), and that meets eligibility criteria specified by rule for administering the program.

(2) Enforcement authority for rules promulgated pursuant to this part shall vest in the board of pharmacy.

(3) Organizations who administer a drug donation repository program shall report the following data to the department every year:

(A) Number of donors during the reporting year;

(B) Number of donations during the reporting year;

(C) List of prescription drugs and supplies donated during the reporting year;

(D) Number of people who received donations of prescription drugs or supplies during the reporting year;

(E) Total number of prescription drugs and supplies dispensed during the reporting year; and

(F) Total cost to eligible individuals who received donations during the reporting year.

(4) Rules promulgated pursuant to this part shall specify the format and method of transmission for data reported pursuant to subdivision (a)(3).

(b) Donations of prescription drugs and supplies under the program may be made directly to the repository program as required by the department or on the premises of a medical facility or pharmacy that elects to participate in the program and meets the requirements established by the department. Donations of prescription drugs and supplies may be made by mail.

(c) A medical facility or pharmacy may charge an individual who receives a prescription drug or supplies a handling fee that does not exceed an amount established by rule.

(d) A medical facility or pharmacy that receives prescription drugs or supplies may distribute the prescription drugs or supplies to another eligible medical facility or pharmacy for use pursuant to the program.

(e) Participation in the program is voluntary.

63-10-503.

(a) A prescription drug or supplies may be accepted and dispensed under the prescription drug donation repository program if all of the following conditions are met:

(1) The prescription drug is in its original sealed and tamper-evident packaging. However, a prescription drug in a single-unit dose or blister pack with the outside packaging opened may be accepted if the single-unit dose packaging remains intact;

(2) The prescription drug or supplies are inspected before the prescription drug or supplies are dispensed by a licensed pharmacist employed by or under contract with the medical facility or pharmacy, and the licensed pharmacist determines that the prescription drug or supplies are not adulterated or misbranded; and

(3) The prescription drug or supplies are prescribed by a healthcare practitioner for use by an eligible individual and are dispensed by a pharmacist.

(b) A prescription drug or supplies donated under this part shall not be resold.

(c)(1) If a donor receives official notice of a recall of a prescription drug donated pursuant to this part, the donor shall make every effort, as required by rule, to notify the repository program to whom the drugs were donated of the recall.

(2) If an organization who is administering a drug repository program receives official notice of a recall of a prescription drug donated pursuant to this part, the organization shall make every effort as required by rule, to notify the pharmacy, medical facility, or patient, if known, to whom such donated drugs were dispensed, of the recall.

(3) Any donor or drug repository program who receives notice of a recall shall dispose of all recalled prescription drugs pursuant to board of pharmacy rules.

(d) A prescription drug dispensed through the prescription drug donation repository program is not eligible for reimbursement under the medical assistance program.

(e) The department shall adopt rules establishing all of the following:

(1) Requirements for medical facilities and pharmacies to accept and dispense donated prescription drugs and supplies, including all of the following:

(A) Eligibility criteria for participation by medical facilities and pharmacies;

(B) Standards and procedures for accepting, safely storing, and dispensing donated prescription drugs and supplies;

(C) Standards and procedures for inspecting donated prescription drugs to determine if the prescription drugs are in their original sealed and tamper-evident packaging, or if the prescription drugs are in single-unit doses or blister packs and the outside packaging is opened, if the single-unit dose packaging remains intact; and

(D) Standards and procedures for inspecting donated prescription drugs and supplies to determine that the prescription drugs and supplies are not adulterated or misbranded;

(2) Additional eligibility criteria for indigent or uninsured persons;

(3) Necessary forms for administration of the prescription drug donation repository program, including forms for use by individuals who donate, accept, distribute, or dispense the prescription drugs or supplies under the program;

(4) A means by which an individual who is eligible to receive donated prescription drugs and supplies may indicate eligibility;

(5) The maximum handling fee that a medical facility or pharmacy may charge for accepting, distributing, or dispensing donated prescription drugs and supplies under the program; and

(6) A list of prescription drugs that the prescription drug donation repository program will accept.

63-10-504.

(a) Except for gross negligence, willful misconduct, or bad faith, a drug manufacturer is not civilly liable or subject to criminal prosecution for injury, death, or loss to a person or property for matters related to the donation, acceptance, or dispensing of a prescription drug manufactured by the drug manufacturer that is donated under this part, including liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

(b) Except as provided in subsection (d), a medical facility or another person who is not a drug manufacturer subject to subsection (a) is not civilly liable or subject to criminal prosecution for injury to or the death of an individual to whom a donated prescription drug is dispensed under this part except due to its own gross negligence, willful misconduct, or bad faith. The medical facility or other person who is not a drug manufacturer subject to subsection (a) is also exempt from disciplinary action related to the facility's or person's acts or omissions related to the donation, acceptance, distribution, or dispensing of a donated prescription drug under this part.

(c) Except for gross negligence, willful misconduct, or bad faith, the department of health or the board of pharmacy shall not be civilly liable or subject to criminal prosecution for injury, death, or loss to a person or property resulting from matters related to the donation, acceptance, distribution, or dispensing of a prescription drug donated pursuant to this part.

(d) The immunity and exemption provided in subsections (b) and (c) do not extend to the following:

(1) The donation, acceptance, distribution, or dispensing of a donated prescription drug under this part by a person if the person's acts or omissions are not performed reasonably and in good faith; or

(2) Acts or omissions outside the scope of the program.

63-10-505.

This part shall not restrict the use of samples by a physician or other person legally authorized to prescribe drugs pursuant to this title during the course of the physician's or other person's duties at a medical facility or pharmacy.

63-10-506.

This part does not authorize the resale of prescription drugs by any person.

63-10-507.

A medical facility or pharmacy may not dispense a prescription drug after the expiration date of the drug.

63-10-508.

Notwithstanding this title or title 68, or any rule, a long-term care facility licensed under title 68 may donate prescription drugs to the repository program established by this part.

63-10-509.

The department of health, in consultation with the board, is authorized to promulgate rules to effectuate the purposes of this part. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

63-10-510.

Notwithstanding this part or the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, any rule promulgated to implement the provisions of this part shall be provided to the chairs of the health committee of the house of representatives and the health and welfare committee of the senate by the secretary of state, after approval by the attorney general and reporter, at the same time the text of the rule is made available to the government operations committees of the senate and the house of representatives for purposes of conducting the review required by § 4-5-226 in order for the health committee of the house of representatives and the health and welfare committee of the senate to be afforded the opportunity to comment on the rule.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 3. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on January 1, 2018, the public welfare requiring it.

SENATE BILL NO. 429

PASSED: **May 4, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, ***SPEAKER***
HOUSE OF REPRESENTATIVES

APPROVED this 18th **day of** May **2017**

BILL HASLAM, ***GOVERNOR***

State of Tennessee

PUBLIC CHAPTER NO. 396

SENATE BILL NO. 489

By Briggs, Massey, Yarbro

Substituted for: House Bill No. 948

By Whitson, Powell, Sargent, Casada, DeBerry, Littleton, Gilmore, Camper, Akbari, Staples, Hawk, Mitchell, Hardaway, Kane, Matheny, McDaniel, Jernigan, Kumar, Clemmons, Ragan, Butt, Ramsey, Jones, Favors, Holsclaw, Eldridge, Sherrell, Thompson, Curcio, Hazlewood, Mark White, Gravitt, Stewart, Turner, Powers, Cooper

AN ACT to amend Tennessee Code Annotated, Title 33; Title 63 and Title 68, relative to training of health professionals.

WHEREAS, the General Assembly finds that, according to the Tennessee Department of Health, there are more than nine hundred fifty (950) suicide deaths in the State of Tennessee annually, more than the number killed by homicide, HIV infection, and drunk driving; and

WHEREAS, four thousand nine hundred twenty-one Tennesseans died by suicide between 2011 and 2015; and

WHEREAS, research indicates that for every suicide death, at least six people experience a major life disruption, equating to over fifty-seven hundred Tennesseans each year; and

WHEREAS, between 2011 and 2015, the suicide rate for the State of Tennessee has exceeded the national average; and

WHEREAS, suicide is the ninth-leading cause of death in the State of Tennessee and the third-leading cause of death among people between the ages of fifteen and twenty-four; and

WHEREAS, national studies have shown that veterans, active-duty military personnel, and National Guardsmen face an elevated risk of suicide as compared to the general population, and that a positive correlation exists between post-traumatic stress disorder and suicide; and

WHEREAS, numerous men and women from Tennessee have deployed in support of the wars in Afghanistan and Iraq; and

WHEREAS, research continues as to the effects of wartime service and injuries such as traumatic brain injury, post-traumatic stress disorder, and other service-related conditions, which may increase the risk of suicide in veterans; and

WHEREAS, as more men and women separate from the military and transition back into civilian life, community mental health providers will become a vital resource to help these veterans and their families deal with issues that may arise; and

WHEREAS, the suicide rate for youth aged 10-17 in Tennessee nearly doubled between 2006 and 2015, contributing to an overall increase in our State's suicide rate; and

WHEREAS, suicide is one of the most disruptive and tragic events a family and a community can experience; and

WHEREAS, it is estimated that ninety percent of people who die by suicide have a diagnosable psychiatric disorder at the time of their death, and most of them exhibit warning signs or behaviors prior to an attempt; and

WHEREAS, it is the intent of the General Assembly to help lower the suicide rate in the State of Tennessee by requiring certain health professionals to complete training in suicide prevention,

assessment and screening, treatment, management, and postvention as part of their continuing education, continuing competency, and recertification requirements; and

WHEREAS, mental health professionals have a duty to protect service recipients who are likely to injure or kill themselves unless prevented from doing so, in accordance with Tennessee Code Annotated § 33-3-206; and

WHEREAS, such professionals require specialized training to address suicide risk and suicide intent within service recipients; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section:

63-1-122.

(a) This section shall be known and may be cited as the "Kenneth and Madge Tullis, MD, Suicide Prevention Training Act".

(b) As used in this section:

(1) "Board" means a health-related board created in this title or title 68 and includes the:

(A) Board for professional counselors, marital and family therapists, and clinical pastoral therapists, created by § 63-22-101;

(B) Board of social work licensure, created by § 63-23-101;

(C) Board of alcohol and drug abuse counselors, created by § 68-24-601; and

(D) Board of occupational therapy, created by § 63-13-216; and

(2) "Training program" means an empirically supported training program that covers the following elements:

(A) Suicide prevention;

(B) Suicide assessment and screening;

(C) Suicide treatment;

(D) Suicide management; and

(E) Suicide postvention.

(c) The department of mental health and substance abuse services shall:

(1) Develop, in collaboration with the Tennessee Suicide Prevention Network, a model list of training programs;

(2) When developing the model list, consider training programs of at least two (2) hours in length that are based on expert consensus and adhere to high standards of suicide prevention;

(3) When developing the model list, consult with the boards; public and private institutions of higher education; experts in suicide prevention, assessment, treatment, management, and postvention; and affected professional associations; and

(4) Report, in collaboration with the Tennessee Suicide Prevention Network, the model list of training programs to the department of health no later than December 15, 2017.

(d) A board may approve a training program that excludes an element described in the definition of training program if the element is inappropriate for the profession in question or inappropriate for the level of licensure or credentialing of that profession based on the profession's scope of practice.

(e) Beginning January 1, 2020, each of the following professionals certified or licensed under this title or title 68 shall, at least once every five (5) years, complete a training program that is approved by rule by the respective boards:

(1) A social worker licensed under chapter 23 of this title;

(2) A marriage and family therapist, professional counselor, or pastoral counselor certified or licensed under chapter 22 of this title;

(3) An alcohol and drug abuse counselor certified under title 68, chapter 24; and

(4) An occupational therapist licensed under chapter 13 of this title.

(f) A professional listed in subsection (e) applying for initial licensure or certification on or after January 1, 2020, is not required to complete the training program required by this section for two (2) years after initial licensure or certification if the professional can demonstrate successful completion of a two-hour academic training program that meets criteria established by the profession's board and that was completed no more than two (2) years prior to the application for initial licensure or certification.

(g) The hours spent completing the training program under this section count toward meeting any applicable continuing education requirements for each profession.

(h) Nothing in this section expands or limits the scope of practice of any profession regulated under this title or title 68.

SECTION 2. The department of health, the department of mental health and substance abuse services, and each board that governs professionals subject to this act are authorized to promulgate rules to effectuate the purposes of this act. All rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 489

PASSED: **May 4, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 18th **day of** May **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 410

SENATE BILL NO. 789

By Dickerson

Substituted for: House Bill No. 1370

By Sargent

AN ACT to amend Tennessee Code Annotated, Title 63 and Title 68, relative to surgical assistants.

WHEREAS, surgical assisting is an established health profession in Tennessee; and

WHEREAS, surgical assistants aid in ensuring a safe surgical environment by maximizing patient safety by using appropriate techniques for processes, including, but not limited to, maintaining hemostasis, proper patient positioning, clear visualization of the operative site, proper closure of the operative site, and correct dressing of a wound; and

WHEREAS, it is necessary to encourage the most effective utilization of the skills of surgical assistants by enabling them to perform tasks delegated by a licensed physician; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 6, Part 2, is amended by adding the following as a new section:

(a) No person shall use or assume the title "registered surgical assistant" unless such person is registered with the board as a registered surgical assistant.

(b) The board shall register as a registered surgical assistant any applicant who presents satisfactory evidence that the applicant:

(1) Holds and maintains a current credential as a surgical assistant or surgical first assistant issued by the National Board of Surgical Technology and Surgical Assisting, the National Surgical Assistant Association, or the National Commission for Certification of Surgical Assistants or their successors;

(2) Has successfully completed a surgical assistant training program during the applicant's service as a member of any branch of the armed forces of the United States; or

(3) Has practiced as a surgical assistant at any time in the six (6) months prior to July 1, 2017, provided the applicant registers with the board by December 31, 2019.

(c) The board shall have the authority to deny, restrict, condition, revoke, or otherwise discipline the registration of a surgical assistant for violation of this section, violation of any rules promulgated pursuant to this section, or any basis provided in § 63-6-214.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.

SENATE BILL NO. 789

PASSED: **May 8, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 18th **day of** May **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 413

SENATE BILL NO. 806

By Dickerson, Bowling, Briggs, Haile, Yarbro

Substituted for: House Bill No. 770

By Hazlewood, Favors, Jernigan, Faison, Love, Hardaway, Casada, Williams, Eldridge, Cameron Sexton, Wirgau, Farmer, Gilmore, Clemmons, Miller, Jones, Powell, Staples, Fitzhugh, Stewart, Pitts, Beck, Akbari, Turner, Shaw, Towns, Cooper, Mitchell, Thompson, Ramsey, Holsclaw

AN ACT to amend Tennessee Code Annotated, Title 68, relative to public health.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 1, Part 1, is amended by adding the following as a new, appropriately designated section:

(a) If approved by the department of health, any nongovernmental organization, including an organization that promotes scientifically proven ways of mitigating health risks associated with drug use and other high-risk behaviors, may establish and operate a needle and hypodermic syringe exchange program. The objectives of the program shall be to do all of the following:

(1) Reduce the spread of human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), viral hepatitis, and other bloodborne diseases in this state;

(2) Reduce needle stick injuries to law enforcement officers and other emergency personnel; and

(3) Encourage individuals who inject drugs to enroll in evidence-based treatment.

(b) Programs established pursuant to this section shall offer all of the following:

(1) Disposal of used needles and hypodermic syringes;

(2) Needles, hypodermic syringes, and other injection supplies at no cost and in quantities sufficient to ensure that needles, hypodermic syringes, and other injection supplies are not shared or reused. A program shall strive for one-to-one syringe exchanges. No public funds may be used to purchase needles, hypodermic syringes, or other injection supplies;

(3) Reasonable and adequate security of program sites, equipment, and personnel. Written plans for security shall be provided to the law enforcement offices with jurisdiction in the program location and shall be updated annually;

(4) Educational materials on all of the following:

(A) Overdose prevention;

(B) The prevention of HIV, AIDS, and viral hepatitis transmission;

(C) Drug abuse prevention;

(D) Treatment for mental illness, including treatment referrals; and

(E) Treatment for substance abuse, including referrals for medication assisted treatment;

(5) Access to naloxone for the treatment of a drug overdose, or referrals to programs that provide access to naloxone for the treatment of a drug overdose; and

(6) Personal consultations from a program employee or volunteer concerning mental health or addiction treatment as appropriate for each individual requesting services.

(c)(1) It is an exception to the application of title 39, chapter 17, part 4, if an employee, volunteer, or participant of a program established pursuant to this section possesses any of the following:

(A) Needles, hypodermic syringes, or other injection supplies obtained from or returned to a program established pursuant to this section; or

(B) Residual amounts of a controlled substance contained in a used needle, used hypodermic syringe, or used injection supplies obtained from or returned to a program established pursuant to this section.

(2)(A) The exception provided in this subsection (c) shall apply only if the person claiming the exception provides written verification that a needle, syringe, or other injection supplies were obtained from a needle and hypodermic syringe exchange program established pursuant to this section. For a participant in the program, this exception shall only apply to possession when the participant is engaged in the exchange or in transit to or from the exchange.

(B) In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer who, acting on good faith, arrests or charges a person who is thereafter determined to be entitled to immunity from prosecution under this section shall not be subject to civil liability for the arrest or filing of charges.

(3) In addition to any other applicable immunity or limitation on civil liability, a nongovernmental organization and an employee or volunteer of that organization are not subject to civil liability for establishing, operating, or participating in a program established pursuant to this section in the absence of gross negligence or willful, intentional, or malicious conduct.

(d) Prior to commencing operations of a program established pursuant to this section and obtaining approval from the department of health as required by subsection (a), the nongovernmental organization shall report to the department of health all of the following information:

(1) The legal name of the organization or agency operating the program;

(2) The areas and populations to be served by the program; and

(3) The methods by which the program will meet the requirements of subsection (b).

(e) Not later than one (1) year after commencing operations of a program established pursuant to this section, and every twelve (12) months thereafter, each organization operating such a program shall report the following information to the department of health:

(1) The number of individuals served by the program;

(2) The number of needles, hypodermic syringes, and needle injection supplies dispensed by the program and returned to the program;

(3) The number of naloxone kits distributed by the program; and

(4) The number and type of treatment referrals provided to individuals served by the program, including a separate report of the number of individuals referred to programs that provide access to naloxone that is approved by the federal food and drug administration for the treatment of a drug overdose.

(f) The department of health shall annually compile a report containing the information submitted to the department pursuant to subsection (e) and submit the report to the members of the general assembly.

(g) A program established pursuant to this section shall not conduct an exchange within two thousand feet (2,000') of any school or public park.

(h) The commissioner of health is authorized to promulgate rules to effectuate the purposes of this act. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act compiled in title 4, chapter 5.

SECTION 2. Notwithstanding this act or the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5, any rule promulgated to implement the provisions of this act shall be provided to the chairs of the health committee of the house of representatives and the health and welfare committee of the senate by the secretary of state, after approval by the attorney general and reporter, at the same time the text of the rule is made available to the government operations committees of the senate and the house of representatives for purposes of conducting the review required by § 4-5-226 in order for the health committee of the house of representatives and the health and welfare committee of the senate to be afforded the opportunity to comment on the rule.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 806

PASSED: May 4, 2017

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 18th day of May 2017

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 420

SENATE BILL NO. 1170

By Hensley, Crowe, Jackson, Briggs

Substituted for: House Bill No. 629

By Kumar, Staples, Pitts, Jernigan, Powell, Daniel, Swann, Gant, Favors

AN ACT to amend Tennessee Code Annotated, Title 4; Title 63 and Title 68, relative to palliative care.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. (a) There is created the state palliative care and quality of life task force.

(b) As used in this section:

(1) "Appropriate" means consistent with:

(A) Applicable legal, health, and professional standards;

(B) A patient's clinical and other circumstances; and

(C) A patient's reasonably known wishes and beliefs;

(2) "Commission" means the Tennessee commission on aging and disability; and

(3) "Palliative care" means an approach that improves the quality of life of patients and their families facing the problems associated with chronic life-threatening illness, through the prevention and relief of suffering by means of early identification and assessment and treatment of pain and other problems, physical, psychosocial, and spiritual. Palliative care includes, but is not limited to:

(A) Discussions involving a patient's goals for treatment;

(B) Discussions involving treatment options that are appropriate to the patient, including, where appropriate, hospice care; and

(C) Comprehensive pain and symptom management.

(c) The task force shall consist of the following members:

(1) One (1) member of the senate appointed by the speaker of the senate;

(2) One (1) member of the house of representatives appointed by the speaker of the house of representatives;

(3) One (1) person with interdisciplinary palliative care medical or nursing experience, appointed by the executive director of the commission;

(4) One (1) person with experience as a patient and family caregiver, appointed by the executive director of the commission;

(5) One (1) person from the department of health with knowledge of palliative care appointed by the commissioner of health;

(6) Two (2) healthcare professionals with palliative care work experience and expertise in palliative care delivery models in a variety of inpatient, outpatient, and community settings involving diverse patient populations, appointed by the executive director of the commission;

(7) Two (2) hospice palliative medicine nurses certified to practice in this state, appointed by the executive director of the commission;

(8) The executive director of the Tennessee commission on aging and disability; and

(9) One (1) physician or nurse with expertise in pediatric palliative care, appointed by the executive director of the commission.

(d) The task force shall:

(1) Assess the current status of palliative care in this state;

(2) Examine the existing barriers, services, and resources addressing the needs of persons who could benefit from palliative care; and

(3) Develop recommendations to address problems associated with the availability of palliative care.

(e) The task force shall include an examination of the following in its assessment and recommendations:

(1) Needed state policies or responses, including directions for the provision of clear and coordinated services and support to enhance the delivery of palliative care in this state; and

(2) Legislative remedies for consideration in the 110th general assembly.

(f)(1) Members of the task force shall serve without compensation or reimbursement for any expenses incurred while participating in the business of the task force.

(2) All legislative members of the task force shall remain members of the task force until the task force reports its findings and recommendations to the general assembly.

(g) The selection of members of the task force shall strive to be inclusive and to reflect the racial, sex, geographic, urban and rural, and economic diversity of the state.

(h) The legislative member with the most seniority in the general assembly shall call the first meeting of the task force at which time the members shall elect a chair and vice chair.

(i) The commission on aging and disability shall provide necessary administrative support for the task force. The chair of the task force may call on appropriate state agencies for reasonable assistance in the work of the task force.

(j) The task force shall hold public meetings and utilize technological means, such as webcasts, to gather feedback on the recommendations from the general public as needed.

(k) The task force shall submit its findings and recommendations to the governor and the general assembly in the form of a report no later than January 15, 2018. On June 30, 2018, the task force shall terminate and stand dissolved and discharged from any further duties.

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 1, is amended by adding the following as a new part 26:

68-1-2601.

There is established a statewide palliative care consumer and professional information and education program, referred to in this part as the "program".

68-1-2602.

The purpose of the program is to maximize the effectiveness of palliative care initiatives in this state by ensuring that comprehensive and accurate information and education about palliative care is available to the public, healthcare providers, and healthcare facilities.

68-1-2603.

The state palliative care and quality of life task force shall publish information about palliative care and available resources relating to such care on its website, including links to external resources about palliative care for the public, healthcare providers, and healthcare facilities. The information and resources shall include, but not be limited to, the following:

(1) Continuing educational opportunities for healthcare providers;

(2) Information about palliative care delivery in the home, primary, secondary, and tertiary environments;

(3) Best practices for palliative care delivery; and

(4) Consumer educational materials and referral information for palliative care, including hospice.

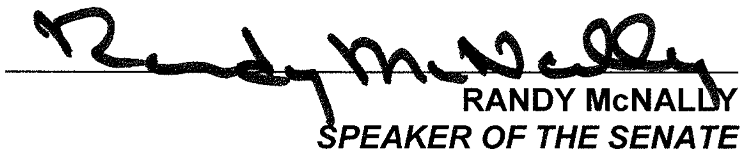
68-1-2604.

The information and education program established by this part shall terminate on June 30, 2018.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 1170

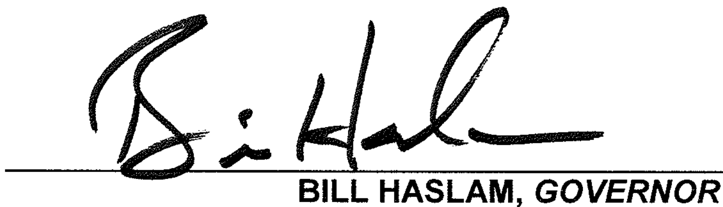
PASSED: **May 9, 2017**



RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 18th **day of** May **2017**



BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 438

SENATE BILL NO. 298

By Briggs, Overbey, Haile, Dickerson, Bowling, Bailey

Substituted for: House Bill No. 413

By Williams, Hawk, Gravitt, Carter, Hazlewood, McCormick, DeBerry, Eldridge, Mark White, Jernigan, Howell, Staples, Coley, Terry, Holsclaw, Thompson

AN ACT to amend Tennessee Code Annotated, Title 33; Title 56, Chapter 7; Title 63, Chapter 6; Title 63, Chapter 9 and Title 68, relative to physicians.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 6, Part 2, is amended by adding the following as a new section to be appropriately designated:

(a) As used in this section:

(1) "Continuing medical education" means continued postgraduate medical education required by the board of medical examiners intended to provide medical professionals with knowledge of new developments or reinforcement of previously learned information in their field;

(2) "Maintenance of certification" means any process requiring periodic recertification examinations or other activities to maintain specialty medical board certification;

(3) "Maintenance of licensure" means the proprietary framework for physician license renewal established through the Federation of State Medical Boards or its successor organization, which includes additional periodic testing or requirements other than continuing medical education; and

(4) "Specialty medical board certification" means certification by a board that specializes in one (1) particular area of medicine and typically requires additional examinations other than the board of medical examiners' requirements to practice medicine.

(b) The board shall not deny a physician licensure based on a physician's non-participation in any form of maintenance of licensure, including requiring any form of maintenance of licensure tied to maintenance of certification. The board's regular requirements, including continuing medical education, demonstrate professional competency.

(c) The board shall not require any form of specialty medical board re-certification or any maintenance of certification to practice medicine in this state.

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 9, is amended by adding the following as a new section to be appropriately designated:

(a) As used in this section:

(1) "Continuing medical education" means continued postgraduate medical education required by the board of osteopathic medical examination intended to provide medical professionals with knowledge of new developments or reinforcement of previously learned information in their field;

(2) "Maintenance of certification" means any process requiring periodic recertification examinations or other activities to maintain specialty medical board certification;

(3) "Maintenance of licensure" means the proprietary framework for physician license renewal established through the Federation of State Medical Boards or its successor organization, which includes additional periodic testing or requirements other than continuing medical education; and

(4) "Specialty medical board certification" means certification by a board that specializes in one (1) particular area of medicine and typically requires additional examinations other than the board of osteopathic examination's requirements to practice medicine.

(b) The board shall not deny a physician licensure based on a physician's non-participation in any form of maintenance of licensure, including requiring any form of maintenance of licensure tied to maintenance of certification. The board's regular requirements, including continuing medical education, demonstrate professional competency.

(c) The board shall not require any form of specialty medical board recertification or any maintenance of certification to practice medicine in this state.

SECTION 3. (a) There is appointed a task force to study the issues created by the maintenance of certification process for Tennessee physicians.

(b) The speaker of the house of representatives shall appoint three (3) members of the house of representatives to the task force. The speaker of the senate shall appoint three (3) members of the senate to the task force.

(c) Representatives from hospitals, the insurance industry, the physician community, and the American Board of Medical Specialties shall provide information to the task force upon request.

(d) Task force meetings shall be open to the public, with proper notice being provided in advance of the meetings. The public and citizens of this state shall have a reasonable opportunity to be heard.

(e) The task force shall review the overall maintenance of certification process and shall review the use of maintenance of certification by hospitals, insurance companies, and entities that license Tennessee physicians. The task force shall also strategize and make recommendations for improvement of the current process, as well as reviewing alternatives that can be created to replace maintenance of certification, including but not limited to, an expansion of continuing medical education.

(f) The staff for the health committee of the house of representatives and the commerce and labor committee of the senate is authorized to provide support to the task force if requested by the chair of the task force.

(g) The task force shall provide a report with recommendations to the health committee of the house of representatives and the commerce and labor committee of the senate by January 15, 2018, at which time it shall cease to exist.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 298

PASSED: **May 10, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 25th **day of** May **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 444

SENATE BILL NO. 1016

By Gardenhire

Substituted for: House Bill No. 1027

By Love, Hardaway

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29, Part 2 and Title 38, Chapter 7, Part 2, relative to the medical examiner advisory council.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-237(a), is amended by deleting subdivision (53).

SECTION 2. Tennessee Code Annotated, Section 4-29-240(a), is amended by inserting the following language as a new subdivision:

( ) Tennessee medical examiner advisory council, created by § 38-7-201;

SECTION 3. Tennessee Code Annotated, Section 38-7-201, is amended by deleting the section and substituting instead the following:

(a)(1) There is created the Tennessee medical examiner advisory council, referred to in this section as the "council."

(2)(A) The council shall consist of fifteen (15) members, each of whom shall be a resident of this state. The membership of the council consists of:

(i) The director of the Tennessee bureau of investigation, who shall be a permanent ex officio voting member of the council;

(ii) The following members appointed by the governor:

(*a*) One (1) forensic pathologist from each of the five (5) regional forensic centers;

(*b*) One (1) district attorney general;

(*c*) One (1) district public defender;

(*d*) Three (3) county medical examiners, one (1) from each grand division of Tennessee;

(*e*) One (1) administrator from a non-hospital affiliated regional forensic center;

(*f*) One (1) licensed funeral director; and

(*g*) One (1) county mayor; and

(iii) The state chief medical examiner who shall serve as an ex officio voting member of the council.

(B) All regular appointments to the council shall be for terms of three (3) years with a maximum of two (2) consecutive terms. Each member shall

serve until a successor is appointed. Vacancies shall be filled by appointment of the governor for the remainder of an unexpired term.

(b) Each member of the council shall receive reimbursement for travel expenses in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

(c) If an appointed administrator of the council is absent from more than half of the meetings scheduled in any calendar year without good cause, then a vacancy is created. The vacancy shall be filled by the governor.

(d) The council shall organize annually and shall meet to organize at the call of the prior year's chair. The council shall select the chair of the council. Meetings shall be held at least quarterly with additional meetings as frequently as may be required.

(e) Meetings of the council shall permit members to electronically participate in the meetings.

(f) The council shall have the power and duty to:

(1) Review candidates and make a recommendation to the commissioner of health on the appointment of the chief medical examiner and deputy state medical examiners;

(2) Assist the chief medical examiner in the development and updating of guidelines for death investigations and forensic autopsies in this state, to be promulgated as rules through the department of health;

(3) Submit an annual report on the standards and guidelines of the medical examiners system to the chairs of the health committee of the house of representatives and the health and welfare committee of the senate;

(4) Periodically review standards and guidelines promulgated by the department of health for the medical examiner system; and

(5) Provide reports and recommendations to the commissioner on causes of death which may need public health intervention, funding issues, information technology needs, and any other issues as the council sees fit.

SECTION 4. This act shall take effect July 1, 2017, the public welfare requiring it.

SENATE BILL NO. 1016

PASSED: **May 10, 2017**

RANDY McNALLY
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 25th **day of** May **2017**

BILL HASLAM, *GOVERNOR*

State of Tennessee

PUBLIC CHAPTER NO. 481

HOUSE BILL NO. 1067

By Representatives Holsclaw, Faison

Substituted for: Senate Bill No. 1309

By Senator Crowe

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 9; Title 63 and Title 68, relative to inappropriate involvement of healthcare practitioners with controlled substances.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section to be appropriately designated:

(a) As used in this section:

(1) "Confirmed drug test" means a confirmed test as defined in § 50-9-103;

(2) "Drug" means a drug as defined in § 50-9-103;

(3) "Employer" means a covered employer, as defined in § 50-9-103, that is a healthcare facility licensed under title 68, chapter 11, part 2, or any other healthcare employer that employs healthcare practitioners; and

(4) "Healthcare practitioner" or "practitioner" means any person required to be licensed, permitted, certified, or authorized:

(A) Under this title by a board or committee under the division of health-related boards specified in § 68-1-101(a)(8), who has humans for patients; or

(B) Under title 68, chapter 24, part 6; or

(C) Under title 68, chapter 140.

(b) A healthcare practitioner violates the practitioner's practice act by refusing to submit to a drug test or testing positive for any drug on any government or private sector preemployment or employer-ordered confirmed drug test for an employer when the practitioner does not have a lawful prescription for using the drug or a valid medical reason for using the drug.

(c)

(1)

(A) If a healthcare practitioner refuses to submit to a drug test or tests positive for any drug on any government or private sector preemployment or employer-ordered confirmed drug test for a covered employer, then this section shall apply to the practitioner.

(B) The practitioner shall be given three (3) business days from the time of notification to the practitioner of the confirmed test result to:

(i) Produce a lawful prescription for the drug or a valid medical reason for using the drug to the employer; or

(ii) Report to the substance abuse peer assistance or treatment program of the appropriate board for the practitioner.

(C) So long as the practitioner obtains and maintains the advocacy of the substance abuse peer assistance or treatment program, unless otherwise required by law, the employer is not required to notify the appropriate board for the practitioner of the violation of the practitioner's practice act.

(2)

(A) Whenever a healthcare practitioner who has been referred by the practitioner's employer or who has self-reported to the substance abuse peer assistance or treatment program of the appropriate board pursuant to subdivision (c)(1) fails to obtain or maintain the advocacy of the program, the program shall report the practitioner to the appropriate board concerning the violation of the practitioner's practice act.

(B)

(i) So long as the practitioner complies with the terms and conditions of a referral to a substance abuse peer assistance or treatment program, the practitioner's license or certificate shall not be suspended or revoked by the appropriate board for a positive result on a confirmed drug test or a refusal to submit to a drug test.

(ii) The board shall suspend the license, certificate, permit, or authorization of a healthcare practitioner who has been referred to the substance abuse peer assistance or treatment program pursuant to this subsection (c) when the practitioner fails to comply with the terms and conditions of the program.

(iii) The board is not prohibited from taking any other disciplinary action authorized by law for conduct other than a positive result on a confirmed drug test or a refusal to submit to a drug test.

(iv) A substance abuse peer assistance or treatment program shall promptly report any failure of a practitioner who has reported to the program pursuant to this subsection (c) to maintain compliance with the terms and conditions of the program to the appropriate licensing board.

(d) Any drug test used for action pursuant to this section shall comply with the requirements of title 50, chapter 9. The employer of the healthcare practitioner shall promptly report, as determined by rule and subject to subsection (c), a practitioner who tests positive for any drug on a confirmed drug test, or who refuses to submit to a drug test, to the department.

(e) The commissioner of health is authorized to promulgate rules to effectuate the purposes of this section. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section to be appropriately designated:

A quality improvement committee, as defined in § 63-1-150, may share information concerning substance abuse by a healthcare practitioner licensed or certified under this title with another quality improvement committee pursuant to § 63-1-150(d)(3) or § 68-11-272(c)(3) in furtherance of the functions of the committees.

SECTION 3. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section:

Notwithstanding any law, rule, or policy of a board or the department of health, emergency action by the department or the board under § 4-5-320(c) shall not require the prior approval of the attorney general and reporter.

SECTION 4. Tennessee Code Annotated, Title 50, Chapter 9, is amended by adding the following as a new section:

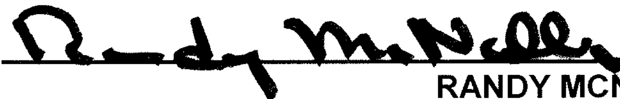
Notwithstanding this chapter, a covered employer who has employees who are healthcare practitioners for the purposes of Section 1 shall report a healthcare practitioner who tests positive for any drug on any government or private sector preemployment or employer-ordered confirmed drug test, or who refuses to submit to a drug test, to the department of health and the practitioner's licensing or certifying board as required by Section 1.

SECTION 5. This act shall take effect July 1, 2017, the public welfare requiring it.

HOUSE BILL NO. 1067

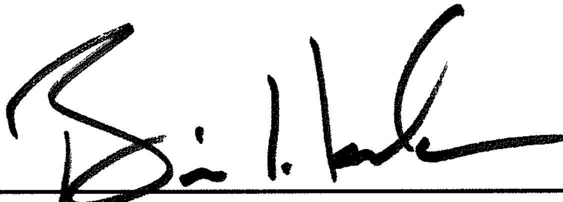
PASSED: May 9, 2017

BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES



RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 6th day of June 2017



BILL HASLAM, GOVERNOR

State of Tennessee

PUBLIC CHAPTER NO. 483

HOUSE BILL NO. 1207

By Representatives Kumar, Johnson, Terry, Butt, Ragan, Kevin Brooks, Gravitt, Holsclaw, Powell, Daniel, Curcio, Keisling, Powers, Love, Sherrell, Doss

Substituted for: Senate Bill No. 1041

By Senators Haile, Crowe, Bailey, Tracy

AN ACT to amend Tennessee Code Annotated, Title 4; Title 29; Title 33; Title 38; Title 39; Title 40; Title 41; Title 49; Title 53; Title 56; Title 63; Title 68 and Title 71, relative to substance abuse.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-1-128, is amended by adding the following new subsection (c) and redesignating existing subsections accordingly:

(c)

(1) In addition to identifying prescribers pursuant to subsections (a) and (b), beginning July 1, 2017, and annually thereafter, the department shall identify high-risk prescribers based on clinical outcomes, including patient overdoses. The determination of which providers are high-risk prescribers, including the criteria to make such determination, shall be made by the department. Providers determined to be high-risk prescribers pursuant to this subdivision (c)(1) shall be subject to selected chart review and investigation by the department.

(2) If a prescriber is identified as a high-risk prescriber pursuant to subdivision (c)(1), the department shall submit the high-risk prescriber's information to the board that issued the prescriber's license for appropriate action.

(3) Upon receiving information pursuant to subdivision (c)(2), the licensing board shall notify the prescriber and, if applicable, the prescriber's supervising physician, of the prescriber's identification as a high-risk prescriber and, as applicable, require the prescriber to:

(A) Participate in continuing education that is designed to inform providers about the risks, complications, and consequences of opioid addiction. The specific continuing education courses and number of hours to be completed by the prescriber shall be determined by the licensing board;

(B) Make available, in the prescriber's waiting room and clinic areas where the prescriber's patient can view, educational literature that warns persons of risks, complications, and consequences of opioid addiction. The specific literature to be made available pursuant to this subdivision (c)(2)(B) shall be determined by the department and made available on the department's website;

(C) Obtain written consent on a form that explains the risks of, complications of, medical and physical alternatives to, and consequences of opioid therapy and addiction to any patient who will receive opioid therapy for more than three (3) weeks with daily dosages of sixty (60) morphine milligram equivalents (MME) or higher. The consent shall include a certification from the patient that the patient understands the information. In order to continue to treat the patient, the provider must

assure that the consent is signed by the patient and made part of the patient's health record; and

(D) Renew the consent described in subdivision (c)(3)(C) at four-week intervals for patients who continue to receive opioid therapy. In order to continue to treat the patient, the provider must assure that the consent is signed by the patient and made part of the patient's health record.

(4) An identified high-risk prescriber must comply with the requirements set out in subdivision (c)(3) for a period of one (1) year from the time the provider was notified of the provider's identification as a high-risk prescriber of opioids. Failure of a prescriber to comply with the requirements set out in subdivision (c)(3) shall be treated as an act constituting unprofessional conduct for which disciplinary action may be instituted under the authority of the board that issued the prescriber's license.

(5) All costs associated with this subsection (c) shall be paid by the identified provider.

(6) If the provider disputes the identification of the provider as a high-risk prescriber of opioids, the provider may request the department conduct an internal review of the identification, which shall be done by the commissioner or the commissioner's designee. Any such internal review is not subject to the provisions of title 4, chapter 5, part 3.

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 1, Part 8, is amended by adding the following as a new section:

On or before January 15, 2018, the commissioner of health, in consultation with the perinatal advisory committee and with the assistance of relevant state agencies, shall report to the health committee of the house of representatives and the health and welfare committee of the senate concerning the following aspects of births involving neonatal abstinence syndrome and opioid use by women of childbearing age for the last two (2) available fiscal years or calendar years, as may be available:

(1) From data available to the bureau of TennCare, the number of births involving neonatal abstinence syndrome to enrollees in the TennCare program, the lengths of stay in a hospital for infants born with neonatal abstinence syndrome to enrollees in the TennCare program, and the costs to the program of those births;

(2) From information available to managed care organizations participating in the TennCare program, a description of any initiatives by the managed care organizations to address health outcomes, costs, and other issues raised by births involving neonatal abstinence syndrome and opioid use by women of childbearing age;

(3) From data available to the department of health, and district and county health departments, the number of women with a substance abuse diagnosis involving opioid use who received family planning services and the number of those women who received long acting reversible contraceptives;

(4) From data available to the department of children's services, the number of cases involving investigations that included an infant born with neonatal abstinence syndrome, the number of such infants in custody of the department, and the number of visits made by the department to families with an infant born with neonatal abstinence syndrome; and

(5) From data available to the bureau of TennCare and the department of health, the number of cases in which the source of opiates in the mother of an infant born with neonatal abstinence syndrome can be reasonably associated with a substance prescribed to the mother.

SECTION 3. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Bureau" means the bureau of TennCare; and

(2) "Managed care organization" or "MCO" means a health maintenance organization, behavioral health organization, or managed health insurance issuer that participates in the TennCare program.

(b) The general assembly finds that issues raised by births of children with neonatal abstinence syndrome and the use of opioids by women of childbearing age constitute a critical problem for enrollees in the TennCare program, healthcare providers, the TennCare program, public health, and the fiscal well-being of the state.

(c) In order to address issues raised by births of children with neonatal abstinence syndrome and the use of opioids by women of childbearing age in the TennCare program, the bureau is directed to promptly fully review these issues and to develop an appropriate and accountable policy response that includes both primary prevention and secondary prevention.

(d) On or before September 1, 2017, the bureau shall issue appropriate requests for information for program initiatives aimed at primary prevention and secondary prevention of births involving neonatal abstinence syndrome and the use of opioids by women of childbearing age enrolled in the TennCare program.

(e)

(1) Each MCO that participates in the TennCare program shall provide the overall medical loss ratio for the MCO with respect to the TennCare program. The MCO shall also calculate a medical loss ratio with respect to expenditures associated with neonatal abstinence syndrome and the use of opioids by women of childbearing age enrolled in the TennCare program.

(2) For purposes of this subsection (f), "medical loss ratio" means the ratio of medical claims and quality improvement activities to the total funds received by the MCO from the bureau pursuant to its contractor risk agreement.

(f) Nothing in this section shall affect contracts in effect on the effective date of this act with the managed care organizations for program services related to opioid use by women of childbearing age enrolled in the TennCare program.

(g) The bureau shall report concerning the progress and implementation of the program authorized by this section to the speaker of the house of representatives, the speaker of the senate, the comptroller of the treasury, the chair of the health committee of the house of representatives, and the chair of the health and welfare committee of the senate beginning on September 1, 2017, and thereafter on a quarterly basis.

(h) The bureau shall recommend to the general assembly any legislation necessary to implement initiatives selected under subsection (g) on or before January 15, 2018.

(i) If the commissioner of finance and administration, in consultation with the bureau, determines that a federal waiver or an amendment to an existing federal waiver is necessary in order to implement initiatives under this section, the commissioner shall promptly apply for an appropriate waiver or waiver amendment to the United States department of health and human services.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

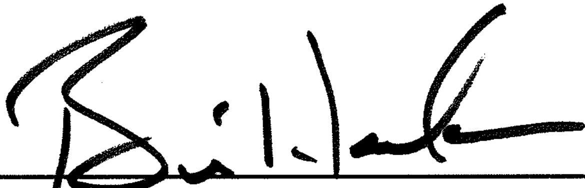
HOUSE BILL NO. 1207

PASSED: May 10, 2017

BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 6th day of June 2017



BILL HASLAM, GOVERNOR

State of Tennessee

PUBLIC CHAPTER NO. 484

HOUSE BILL NO. 1209

By Representatives Fitzhugh, Miller, Akbari, Camper, Towns, Staples, Hardaway, Clemmons, Stewart, Powell, Favors, Turner

Substituted for: Senate Bill No. 669

By Senators Harris, Dickerson, Yarbro, Briggs

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 1, Part 1, relative to the Addiction Treatment Act of 2015.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-1-152, is amended by adding the following language as a new subsection:

> Any person treated for a drug-related overdose with an opioid antagonist by a first responder shall be taken to a medical facility by emergency medical services for evaluation.

SECTION 2. Tennessee Code Annotated, Section 63-1-152, is amended by adding the following language as a new subsection:

> Any person treated for a drug-related overdose with an opioid antagonist by a first responder shall be taken to a medical facility by emergency medical services for evaluation, unless the person is competent to refuse medical treatment and chooses to refuse treatment.

SECTION 3. This act shall take effect July 1, 2017, the public welfare requiring it.

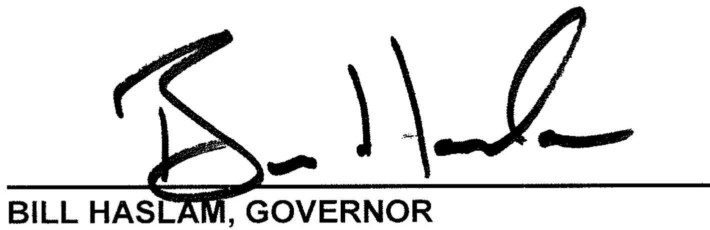
HOUSE BILL NO. 1209

PASSED: May 10, 2017

BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 6th day of June 2017



BILL HASLAM, GOVERNOR