

HOUSE BILL 1375  
By Strader

AN ACT to amend Tennessee Code Annotated, Title 53, Chapter 10 and Title 71, relative to legend drugs and to enact the "Medication Misuse and Abuse Prevention Act of 2005".

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

SECTION 1. Tennessee Code Annotated, Section 53-10-104, is amended by adding the following as new subsections:

(d) It is unlawful for a "dispenser", as defined in § 53-10-302, to sell, barter, give away, or otherwise deliver a legend drug, as defined in § 53-10-101 to any individual without verifying, via electronic record, the following:

(1) Other dispensers from whom the individual has attempted to receive or from whom the individual has received legend drug pharmacy services during the previous ninety-day period;

(2) The legend drugs dispensed to that individual during the past ninety-day period, including:

- (A) Prescriber identifier;
- (B) Dispensing date of legend drug;
- (C) Patient identifier;
- (D) Legend substance dispensed identifier;
- (E) Quantity of legend drug dispensed;
- (F) Strength of legend drug dispensed;
- (G) Estimated days supply;
- (H) Dispenser identifier; and
- (I) Other information as required by rule.

(3) If an electronic record card is not available, a dispenser may dispense no greater than a seventy-two hour supply of the prescribed legend drug.

(e) It is unlawful for a dispenser to sell, barter, give away, or otherwise deliver to any individual a second or greater number of prescriptions of a Schedule II, III, and/or IV controlled substance, when that second or greater number of prescriptions are issued:

(1) By a second or greater number of prescribing practitioners, unless:

(A) All prescribing practitioners have entered justification for second or greater number of prescriptions on an electronic record card;

(B) All prescribing practitioners may be contacted prior by the dispenser to the dispensing of the controlled substance and the results of all notifications are entered into the electronic record device;

(C) If the dispenser is unable to comply with (A) or (B) above, no greater than a seventy-two hour supply of the controlled substance may be dispensed. This supply shall not be repeated. Record of this supply shall be entered into an electronic record device.

(2) By the same practitioner, when the second or greater number of prescriptions for controlled substances within the same schedule are being prescribed, unless:

(A) All prescribing practitioners have entered justification for second or greater number of prescriptions on an electronic record card;

(B) The prescribing practitioner may be contacted by the dispenser prior to the dispensing of the controlled substance and provides the dispenser with medical justification for the prescription. This information shall be entered into the electronic record device.

(C) If the dispenser is unable to comply with (2)(A) or (B) above, no greater than a seventy-two hour supply of the controlled substance will be dispensed. This supply shall not be repeated. Record of this action shall be entered into the electronic record device.

(f)

(1) The provisions of subsections (d) and (e) shall apply to prescriptions for enrollees in the TennCare program, and its successor programs, on and after January 1, 2007.

(2) The provisions of subsections (d) and (e) shall apply to all prescriptions regulated under this chapter on and after January 1, 2008.

SECTION 2. Tennessee Code Annotated, Title 53, Chapter 10, Part 1, is amended by adding the following as a new section:

Section 53-10-110. The prescribing party shall enter and store written prescription information on the electronic medical record for prescriptions regulated under this part as provided in § 53-10-104.

SECTION 3. Tennessee Code Annotated, Title 53, Chapter 10, Part 1, is amended by adding the following as a new section:

Section 53-10-111.

(a) A portable medical record software and system shall be developed by the commissioner of commerce and insurance in consultation with the bureau of TennCare which utilizes specially designed software, card readers, and a medical information smart card to capture and transmit healthcare and medical record information, which includes but is not limited to pharmaceutical utilization, between various health care providers, such as those providers authorized by statute to prescribe and dispense legend drugs pursuant to Section 53-10-101.

(b) This electronic medical record device shall have information entered on it in order to record, store, and make available for healthcare providers and medication dispensers the information required by § 53-10-305(a). The electronic format shall facilitate reporting concerning controlled substances as required by § 53-10-305.

(c) The electronic medical record device shall comply with the confidentiality requirements of §§ 53-10-306 and 53-10-308 and any applicable federal law, including, but not limited to those of the Health Insurance Portability and Accessibility Act.

(d) The commissioner of commerce and insurance shall develop and distribute such electronic medical devices and related software and hardware to appropriate persons in this state not participating in the TennCare program on request for use beginning January 1, 2008. The data system shall be compatible with the system instituted by the bureau of TennCare pursuant to this act.

(e) On and after January 1, 2008, residents of Tennessee who do not participate in the TennCare program, or any successor program, shall receive a medical information smart card or similar device that is compatible with the electronic medical record device system maintained by the bureau of TennCare.

SECTION 4. Tennessee Code Annotated, Title 53, Chapter 10, Part 1, is amended by adding the following as a new section:

Section 53-10-112.

(a) The bureau of TennCare shall develop and distribute such electronic medical devices and related software and hardware to enrollees and other appropriate persons in this state participating in the TennCare program on request for use beginning January 1, 2007.

(b) In implementing subsection (a), the bureau of TennCare shall purchase and distribute the electronic medical device system to the following providers who participate

in the TennCare program and who are authorized to prescribe under law: physicians, physician assistants, nurses, dentists, and optometrists. The provisions of this subsection do not authorize any person to prescribe drugs who is not otherwise authorized to prescribe under law.

(c) In implementing subsection (a), the bureau of TennCare shall purchase and distribute the electronic medical device system to all health care practitioners who participate in the TennCare program, or any successor program, and who are also dispensers, pursuant to § 53-10-302, that sell, barter, give away, or otherwise deliver a legend drug pursuant to § 53-10-101.

SECTION 5. This act may be known and cited as the "Medication Misuse and Abuse Prevention Act of 2005".

SECTION 6. This act shall take effect July 1, 2005, the public welfare requiring it.