

SENATE BILL 1663

By Kelsey

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 3; Title 39, Chapter 17, Part 4; Title 53 and Title 63, relative to prescription drugs.

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

SECTION 1. Tennessee Code Annotated, Section 53-11-303, is amended by deleting subdivision (a)(3) and by substituting instead the following:

(3)

(A) Any convictions of the applicant under any federal and state laws relating to any controlled substance;

(B) Any applicant for registration shall supply a fingerprint sample and submit to a criminal history records check to be conducted by the Tennessee bureau of investigation;

SECTION 2. Tennessee Code Annotated, Section 63-51-105(a), is amended by adding the following as a new, appropriately designated subdivision:

() A statement as to whether or not the provider prescribes controlled substances regulated under title 39, chapter 17, part 4, or title 53, chapters 10 and 11, or the federal Controlled Substances Act, compiled at 21 U.S.C. § 801, et seq;

SECTION 3. Tennessee Code Annotated, Section 63-1-134, is amended by adding the following as a new subsection:

(e) For any violation of a statute, rule or order pertaining to a board, commission or agency that involves the unauthorized prescription or dispensing of controlled substances regulated under title 39, chapter 17, part 4, or title 53, chapters 10 and 11, or the federal Controlled Substances Act, compiled at 21 U.S.C. § 801, et seq, the

minimum civil penalty shall be ten thousand dollars (\$10,000) per violation. Any such violation shall also result in a suspension of the person's license for at least six (6) months.

SECTION 4. Tennessee Code Annotated, Section 63-1-134(a), is amended by adding the following language to the beginning of the subsection:

Except as provided in subsection (e),

SECTION 5. Tennessee Code Annotated, Section 63-1-303(a), is amended by adding the following language:

A licensed healthcare practitioner shall notify the board that has licensed the practitioner within ten (10) days of starting or ending work at any pain management clinic.

SECTION 6. Tennessee Code Annotated, Title 63, Chapter 1, Part 3, is amended by adding the following as a new section:

(a) Any pain management clinic may be found to be a public nuisance under title 29, chapter 3, if the pain management clinic has been the site of two (2) or more occurrences of:

- (1) Assault, under § 39-13-101;
- (2) Aggravated assault, under § 39-13-102;
- (3) Theft of property, under § 39-14-103;
- (4) Burglary, under § 39-14-402;
- (5) Aggravated burglary, under § 39-14-403;
- (6) Especially aggravated burglary, under § 39-14-404; or
- (7) A violation of § 39-17-417.

(b) Upon a finding that a pain management clinic is a public nuisance, a court may issue an order of abatement.

SECTION 7. Tennessee Code Annotated, Section 29-3-101(a)(2), is amended by adding the following as a new subdivision:

(C) A pain management clinic that has been the site of two (2) or more occurrences of:

- (i) Assault, under § 39-13-101;
- (ii) Aggravated assault, under § 39-13-102;
- (iii) Theft of property, under § 39-14-103;
- (iv) Burglary, under § 39-14-402;
- (v) Aggravated burglary, under § 39-14-403;
- (vi) Especially aggravated burglary, under § 39-14-404; or
- (vii) A violation of § 39-17-417.

SECTION 8. Tennessee Code Annotated, Section 53-10-312, is amended by adding the following new subsections:

(c) A wholesaler shall take reasonable measures to identify the wholesaler's customers, understand the normal and expected transactions conducted by those customers, and identify those transactions that are suspicious in nature. A wholesaler shall establish internal policies and procedures for identifying suspicious orders and preventing suspicious transactions. A wholesaler shall assess orders for greater than five thousand (5,000) unit doses of any one (1) controlled substance in any one (1) month to determine whether the purchase is reasonable. In making such assessments, a wholesaler may consider the purchasing entity's clinical business needs, location, and population served, in addition to other factors established in the distributor's policies and procedures. A wholesaler shall report to the committee any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the wholesaler believes may indicate that the listed chemical will be used in violation of the law. The wholesaler shall maintain records that document the report submitted to the committee in compliance with this subsection.

(d) In the event of the discovery of the theft or significant loss of controlled substances, a wholesaler shall report such theft or significant loss to the committee and local law enforcement within twenty-four (24) hours after discovery.

SECTION 9. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following new section:

(a) Except as provided in § 63-1-313, a medical practitioner licensed under this title may not dispense a controlled substance listed in Schedule II or Schedule III as provided in title 39, chapter 17, part 4. This section shall not apply to:

(1) The dispensing of complimentary packages of medicinal drugs that are labeled as a drug sample or complimentary drug to the practitioner's own patients in the regular course of practice without the payment of a fee or remuneration of any kind;

(2) The dispensing of controlled substances in the health care system of the department of corrections;

(3) The dispensing of a controlled substance listed in Schedule II or Schedule III in connection with the performance of a surgical procedure. The amount dispensed pursuant to this subdivision (a)(3) may not exceed a 14-day supply. This exception does not allow for the dispensing of a controlled substance listed in Schedule II or Schedule III more than fourteen (14) days after the performance of the surgical procedure;

(4) The dispensing of a controlled substance listed in Schedule II or Schedule III pursuant to an approved clinical trial. For purposes of this subsection, the term "approved clinical trial" means a clinical research study or clinical investigation that, in whole or in part, is state or federally funded or is

conducted under an investigational new drug application that is reviewed by the United States food and drug administration;

(5) The dispensing of methadone in a nonresidential substitution-based treatment center for opiate addiction, as defined in § 68-11-1602; or

(6) The dispensing of a controlled substance listed in Schedule II or Schedule III to a patient of a facility that is licensed by the board for licensing healthcare facilities pursuant to § 68-11-202.

(b) Within ten (10) days after the effective date of this act, each medical practitioner licensed under this title, unless the practitioner meets one (1) of the exceptions listed in subsection (a), shall ensure that the undispensed inventory of controlled substances listed in Schedule II or Schedule III purchased under the physician's drug enforcement administration number for dispensing is:

(1) Returned in compliance with this act to the wholesaler that distributed the controlled substances to the practitioner; or

(2) Turned in to local law enforcement agencies and abandoned.

(c) Wholesalers shall buy back the undispensed inventory of controlled substances listed in Schedule II or Schedule III, which are in the manufacturer's original packing, unopened, and in date, in accordance with the established policies of the wholesaler or the contractual terms between the wholesaler and the practitioner concerning returns.

SECTION 10. Tennessee Code Annotated, Section 63-1-102, is amended by adding the following new, appropriately designated subdivision:

() "Medical practitioner" means a:

(A) Physician licensed under chapter 6 or 9 of this title;

(B) Dentist or dental hygienist licensed under chapter 5 of this title;

- (C) Nurse licensed under chapter 7 of this title;
- (D) Chiropractor licensed under chapter 4 of this title;
- (E) Psychologist licensed under chapter 11 of this title;
- (F) Social worker licensed under chapter 23 of this title; and
- (G) Physician assistant licensed under chapter 19 of this title;

SECTION 11. The commissioner of health is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 12. This act shall take effect January 1, 2015, the public welfare requiring it.