

Amendment No. 2 to SB1309

Watson  
Signature of Sponsor

**AMEND Senate Bill No. 1309**

**House Bill No. 1067\***

by deleting all language after the enacting clause and substituting instead the following:

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

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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.