

AMENDMENT NO. _____

FILED
Date _____
Time _____
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Comm. Amdt. _____

Signature of Sponsor

AMEND Senate Bill No. 2091*

House Bill No. 2035

by deleting the word “primary” in the original Section 3 and by substituting instead the word “necessary”.

AND FURTHER AMEND by deleting the last sentence of the original Section 3 in its entirety.

AND FURTHER AMEND by deleting item (4) of the original Section 4 in its entirety.

AND FURTHER AMEND by deleting the last sentence of item (21) of the original Section 4 in its entirety.

AND FURTHER AMEND by deleting the last sentence of item (22) of the original Section 4 in its entirety.

AND FURTHER AMEND by deleting item (24) of the original Section 4 in its entirety and by substituting instead the following:

(24) “Patient profile” is a written or electronic record of individual patient information, created in a pharmacy practice, for use by a pharmacist in the provision of pharmacy patient care services, including drug use review and patient counseling requirements. The profile may include, but is not limited to, demographic information, medical history, medication and devices utilized, testing results and pharmacist comments.

AND FURTHER AMEND by deleting item (31) of the original Section 4 in its entirety and by substituting instead the following:

(31) “Practice of pharmacy” is a patient-oriented health service profession in which pharmacists interact and consult with patients and other health care professionals to enhance patients’ wellness, prevent illness and optimize outcomes. The practice involves interpretation, evaluation and implementation of medical orders and prescription

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orders; responsibility for compounding and dispensing prescription orders, including radioactive substances; participation in drug, dietary supplement and device selection, storage, distribution and administration; drug evaluation, utilization, or regimen review; maintenance of patient profiles and other pharmacy records; provision of patient education and counseling; drug or drug-related research; and those professional acts, professional decisions, or professional services necessary to maintain all areas of a patient's pharmacy-related care.

Nothing in this chapter authorizes a pharmacist to order laboratory tests or prescription drugs except pursuant to a medical order by the attending physician for each patient; provided, however, pharmacists are authorized to conduct and assist patients with tests approved for in-home use. Except as described in this section, pharmacists shall not be authorized to order or prescribe legend drugs or order laboratory tests. Pharmacists may convey orders for laboratory tests and prescription orders where required to carry out a medical order when authorized by the attending physician for each patient.

AND FURTHER AMEND by deleting item (33) of the original Section 4 in its entirety and by substituting instead the following:

(33) "Prescription order" means and includes any order, communicated through written, verbal or electronic means by a physician, certified physician assistant, nurse authorized pursuant to Section 63-6-204, who is rendering service under the supervision, control, and responsibility of a licensed physician, and who meets the requirements pursuant to Section 63-7-207(14), dentist, veterinarian, optometrist

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authorized pursuant to Section 63-8-102(12), or other allied medical practitioner, for any drug, device or treatment. Nothing in this chapter shall prohibit the verbal communication of a direct order for a prescription from a physician to a pharmacist by a registered nurse or physician’s assistant pursuant to Section 63-6-204.

AND FURTHER AMEND by deleting the word “primary” in item (35) of the original Section 4 and by substituting instead the word “necessary”.

AND FURTHER AMEND by adding the following new definition in the original Section 4 to be appropriately numbered:

“Peer review committee” or “pharmacist review committee” is any committee, board, commission or other entity of any national, state or local professional association or society, including an impaired pharmacist peer review committee, a drug utilization review committee, or a committee of any pharmacy benefits management organization, health care provider network, licensed health care institution or any health care organization, system or foundation, the function of which, or one (1) of the functions of which, is to review, evaluate and improve the quality of pharmacy-related services provided by pharmacists or pharmacy auxiliary personnel, to provide intervention, support or rehabilitative referrals or services, or to determine that pharmacy-related services rendered by pharmacists or pharmacy auxiliary personnel were professionally indicated, or were performed in compliance with applicable quality standards, or that the cost of pharmacy-related service rendered by pharmacists or pharmacy auxiliary personnel was reasonable.

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AND FURTHER AMEND by deleting the original Section 6 in its entirety and by substituting instead the following:

Section 6. (a) Any non-prescription drug or device can be sold in its original single package by any retail business unless such non-prescription drug or device is required by federal or state law to be dispensed or sold only by or under the supervision of a pharmacist.

(b) Notwithstanding subsection (a) to the contrary, any insulin preparation shall be dispensed only by or under the supervision of a pharmacist. All insulin preparations must be properly stored in an area not accessible to the general public.

(c) In order to comply with federal and state law requiring pharmacies to maintain patient profiles with a comprehensive list of medications and devices, pharmacists are authorized to execute prescription orders for non-prescription drugs and devices.

(d) Nothing in this section shall be construed as exempting non-prescription drugs and devices dispensed on a prescription order executed by a pharmacist from application of the sales and use tax provisions of Title 67, Chapter 6.

AND FURTHER AMEND by deleting the word “representatives” in the last sentence of the original Section 14(f) and by substituting instead the language “representatives, unless otherwise required by federal or state law”.

AND FURTHER AMEND by deleting the language “professional practice” in the first sentence of the original Section 15 and by substituting instead the language “professional pharmacy practice”.

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AND FURTHER AMEND by deleting the language “professional practices” in the second sentence of the original Section 15 and by substituting instead the language “professional pharmacy practices”.

AND FURTHER AMEND by adding the following language at the end of the original Section 15:

Authority over drug dispensing in the office of a physician licensed to practice under Title 63, Chapter 6, shall be vested in the board of medical examiners.

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

Section _____. (a) Nothing in this chapter shall prohibit the distribution of drugs or sample drugs by a manufacturer’s representatives acting in the normal and customary performance of their duties.

(b) Manufacturers or their agents may distribute free samples of legend drugs or controlled substances to practitioners authorized by law to prescribe or dispense such drugs, or to pharmacies of health care entities at the written request of practitioner in accordance with federal law.

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

Section _____.

(a) It is the policy of the state of Tennessee to encourage committees made up of Tennessee’s licensed pharmacists to candidly, conscientiously and objectively evaluate their peers’ professional conduct, competence and ability to practice pharmacy and their personal conduct as it relates to the performance of

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their professional duties. The state of Tennessee further recognizes that confidentiality is essential both to effective functioning of these peer review committees and to continued improvement in patient care.

(b) All national, state or local public or private organizations, institutions, foundations, systems, provider networks or professional associations or societies, pharmacists, auxiliary pharmacy personnel, pharmacy committee staff personnel, any person under a contract or other formal agreement with a peer review committee and any person who participates with or assists a peer review committee, members of boards of directors or trustees of any public or private hospital, managed care organization or other health care provider, or any individual appointed to any peer review committee, are immune from liability to any patient, individual or organization for furnishing information, data, reports or records to any such committee or for damages resulting from any decision, opinions, actions and proceedings rendered, entered or acted upon by such committees, if made or taken in good faith without malice and on the basis of facts reasonably known or reasonably believed to exist.

(c) Notwithstanding the provisions of subsection (b), any person providing information, whether as a witness or otherwise, to a peer review committee regarding the competence or professional conduct of a pharmacist or pharmacy auxiliary personnel is immune from liability to any person, unless such information is false and the person providing it had actual knowledge of its falsity.

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(d) A member of a peer review committee, or any other person reporting information to a peer review committee, is presumed to have acted in good faith and without malice. Any person alleging lack of good faith has the burden of proving bad faith and malice.

(e) All information, interviews, reports, statements, memoranda or other data furnished to any peer review committee, association board, organization board or other entity and any findings, conclusions or recommendations resulting from the proceedings of such committee, board or entity are privileged. The records and proceedings of any peer review committee, board or entity are confidential and shall be used by such committee, board or entity, and the members thereof, only in the exercise of the proper functions of the committee, board or entity and shall not be public records nor be available for court subpoena or for discovery proceedings. One proper function of a peer review committee includes advocacy for pharmacists and pharmacy auxiliary personnel before other peer review committees, health care organizations, insurance companies, national, state or local accreditation organizations, federal and state agencies and the board of pharmacy of this state or any other state, The disclosure of confidential, privileged peer review committee information during advocacy, or as a report to the board of pharmacy, or to the affected pharmacist or pharmacy auxiliary personnel under review does not constitute either a waiver of confidentiality or privilege. Nothing contained in this subsection applies to records, documents or information otherwise available from original sources and

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such records, documents or information are not to be construed as immune from discovery or use in any civil proceedings solely due to presentation to the committee.

(f) In no event, however, shall the protections provided in this section apply to any type of review by a peer review committee or pharmacist review committee, as defined in this chapter, related to any acts, conduct or professional services rendered by physicians under Title 63, Chapter 6 or 9. A peer review committee or pharmacist review committee may convey information to licensed physicians or physician licensing boards.