

SENATE BILL 639

By Roberts

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 68, Chapter 1, is amended by adding the following language as a new part:

68-1-2101.

As used in this part:

(1) "Contract" means an agreement executed in compliance with this part between a medical professional and a free or charitable healthcare clinic licensed by the department or a governmental contractor;

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

(3) "Governmental contractor" means the department, county health departments, special purpose districts with healthcare responsibilities, a hospital owned and operated by a governmental entity, or any other healthcare entity designated by the department;

(4) "Healthcare provider" or "provider" means:

(A) A birthing center licensed under § 68-11-202;

(B) An ambulatory surgical treatment center licensed under § 68-11-202;

(C) A hospital licensed under § 68-11-202;

(D) A health maintenance organization as defined in § 56-32-102;

(E) A health care professional association;

(F) A free or charitable clinic qualified as exempt from federal income taxation under § 501(a) of the Internal Revenue Code, and described in § 501(c) of the Internal Revenue Code, which delivers medical services free of charge to low-income patients, any state or federally funded community health center, or any volunteer corporation or volunteer healthcare provider that delivers healthcare services to low-income patients; or

(G) Any other medical facility the primary purpose of which is to deliver human medical services or treatment, including an office maintained by a medical professional;

(5) "Low-income patient" means:

(A) A person eligible for Tennessee's medicaid program under title 71, chapter 5; or

(B) A person who is without health insurance and whose annual household income does not exceed two hundred percent (200%) of the federal poverty level as defined by the federal office of management and budget; and

(6) "Medical professional" or "professional" means:

(A) A physician licensed under title 63, chapter 6 or 9;

(B) A physician's assistant licensed under title 63, chapter 19;

(C) A chiropractic physician licensed under title 63, chapter 4;

(D) A registered nurse, nurse midwife, licensed practical nurse, or registered nurse practitioner licensed under title 63, chapter 7;

(F) A midwife certified under title 63, chapter 29;

(G) A dentist or dental hygienist licensed under title 63, chapter 5;

(H) A student enrolled in an accredited program that prepares the student for licensure as any one (1) of the professionals listed in this subdivision (6).

68-1-2102.

(a)

(1) A healthcare provider or individual medical professional that executes a contract with the department or a governmental contractor to deliver volunteer healthcare services to eligible low-income patients shall be considered an agent of the state for purposes of the Tennessee Governmental Tort Liability Act, compiled in title 29, chapter 20, while acting within the scope of the duties under the contract so long as the contract complies with this section and regardless of whether the individual treated is later found to be ineligible. As an agent of the state, the healthcare provider or medical professional under contract with the state shall not be named as a defendant in any action arising out of medical care or treatment provided under the terms of contracts entered into under this section.

(2) A contract entered into by a healthcare provider under this section must cover all employees of the healthcare provider, and the individual employee is not required to enter into a contract under this section with respect to the healthcare services the employee delivers in connection with the employee's employment.

(b) Notwithstanding title 63 to the contrary, medical professionals may fulfill one (1) hour of continuing education credit by the performance of one (1) hour of volunteer services to eligible patients as provided in this section, up to a maximum of eight (8) credits per licensure period.

(c) The contract must provide that:

(1) The contract applies only to volunteer healthcare services delivered by the healthcare provider or individual medical professional to low-income patients eligible to receive such services;

(2) The healthcare provider or individual medical professional shall not be named as a defendant in any action arising out of medical care or treatment provided within the scope of the contract;

(3) If a patient treated by the healthcare provider or medical professional under the contract is later found to be ineligible, the healthcare provider or medical professional is immune from liability in any action arising out of medical care or treatment provided to the individual prior to a determination of ineligibility;

(4) The right of dismissal or termination of any healthcare provider or individual medical professional under the contract is retained by the department or the government contractor;

(5) The department or governmental contractor has the right to terminate the contract with the healthcare provider or individual medical professional with appropriate cause if the department or governmental contractor provides the healthcare provider or individual medical professional with written notice of its intent to terminate the contract, and the reasons for the decision, at least five (5) business days in advance of the contract termination date;

(6) The department or governmental contractor has access to the records of any patient served by the healthcare provider or individual medical professional under the contract;

(7) Adverse incidents and information on treatment outcomes must be reported by any healthcare provider or individual medical professional to the

department or governmental contractor if the incidents and information pertain to a patient treated under the contract. If the incident involves a licensed professional or facility, the incident report must also be submitted to the appropriate licensing body, which shall review the incident to determine whether it involves conduct by the licensee that is subject to disciplinary action. All patient medical records and any identifying information contained in adverse incident reports and treatment outcomes that are obtained by governmental entities or licensing bodies under this subdivision (c)(7) are confidential;

(8) Patient selection and initial referral may be made by the department, governmental contractor, healthcare provider, or individual medical professional;

(9) If emergency care is required the patient need not be referred before receiving treatment, but must be referred within forty-eight (48) hours after treatment is commenced or within forty-eight (48) hours after the patient has the mental capacity to consent to treatment, whichever occurs later; and

(10) The healthcare provider or individual medical professional is subject to supervision and regular inspection by the department or governmental contractor.

(d) A governmental contractor that is also a healthcare provider is not required to enter into a contract under this section with respect to the healthcare services delivered by its employees.

(e) The healthcare provider or the individual medical professional shall provide written notice to each patient served under the contract, or the patient's legal representative, receipt of which must be acknowledged in writing, that the provider, individual medical professional, or any employee or agent thereof is an agent of the state with respect to the services provided and that the exclusive remedy for injury or damage

suffered as the result of any act or omission of the provider, individual medical professional, or any employee or agent thereof acting within the scope of duties pursuant to the contract is by commencement of an action pursuant to the Tennessee Governmental Tort Liability Act, compiled in title 29, chapter 20. The healthcare provider or individual medical professional may comply with this subsection (e) by posting the notice in a place conspicuous to all persons visiting the provider's or medical professional's place of business.

(f) The department shall establish a quality assurance program to monitor services delivered under any contract entered into pursuant to this section.

(g) The department shall annually report to the speaker of the senate, the speaker of the house of representatives, the minority leaders, and the chairs of the health and welfare committee of the senate and the health committee of the house of representatives, summarizing the efficacy of access and treatment outcomes with respect to providing healthcare services for low-income patients pursuant to this part. The report must include statistics for any and all claims pending and paid, and defense and handling costs associated with all claims brought against contract providers under this section. The department shall provide on its website a listing of all providers volunteering under this program with hours, number of patient visits, and value of healthcare-related goods and services provided.

(h) Governmental contractors other than the department, healthcare providers, and individual medical professionals are responsible for their own costs and attorney's fees for malpractice litigation arising out of healthcare services delivered under a contract.

68-1-2103.

The department may adopt rules to administer this part in a manner consistent with its purpose to provide and facilitate access to appropriate, safe, and cost-effective healthcare services and to maintain health care quality. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

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