

SENATE BILL 676

By Yager

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 53 and Title 63, relative to prescription drug
abuse.

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

SECTION 1. Tennessee Code Annotated, Section 53-11-301, is amended by deleting the section in its entirety and by substituting instead the following:

53-11-301. The board of pharmacy and the appropriate occupational or professional licensing board governing persons who may legally dispense controlled substances shall promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution and dispensing of controlled substances within this state. On or before October 1, 2013, such rules shall:

- (1) Create a standard of care for all prescribers and dispensers of controlled substances for treatment of chronic pain, including adoption of protocols for diagnosis and treatment;
- (2) Establish restrictions on prescription of controlled substances in such quantities or combinations as may be medically appropriate;
- (3) Establish protocols for notification of law enforcement when abuse of controlled substances or violation of laws regarding prescribing, dispensing or possessing controlled substances is suspected, within the limitations of state and federal privacy laws and regulations; and
- (4) In consultation with the Tennessee bureau of investigation, develop standards for analyzing data in the controlled substance database to identify patterns of prescription drug prescribing and dispensing that raise a reasonable likelihood of improper or illegal prescribing, dispensing or diversion.

SECTION 2. Tennessee Code Annotated, Section 53-11-302, is amended by adding the following as a new subsection (g):

(g) Prior to issuance of any initial or renewal registration under this part, the applicant must demonstrate to the state board of pharmacy and the appropriate occupational or professional licensing board the completion of at least eight (8) hours of annual pain management training, which shall include medicine addiction education, guidelines for prescribing, risk management tools and other pertinent information for the safe prescribing and dispensing of narcotics.

SECTION 3. Tennessee Code Annotated, Section 53-11-308, is amended by deleting the section in its entirety and by substituting instead the following:

(a) No controlled substance in Schedule II or III may be dispensed without the written prescription of a practitioner, except that in emergency situations Schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of § 53-11-306.

(b) Prescriptions for controlled substances in Schedule II or III must be legibly printed or typed so as to be capable of being understood by the pharmacist filling the prescription, must contain the name of the prescribing practitioner, the name and strength of the drug prescribed, the quantity of the drug prescribed in both textual and numerical formats, the directions for use of the drug, must be dated with the abbreviated month written out on the face of the prescription, and must be either written on a standardized counterfeit-proof prescription pad meeting standards established by the state board of pharmacy or electronically prescribed in a manner to be determined by the state board of pharmacy.

(c) No controlled substance in Schedule II or III may be dispensed directly by a practitioner or pain management clinic, as defined in title 63, chapter 1, part 3.

(d) No prescription for a Schedule II substance may be refilled. No prescription for a Schedule III or Schedule IV substance may be filled or refilled more than six (6) months after the date of the written or oral prescription or be refilled more than (5) times, unless renewed by the practitioner.

(e) No practitioner may issue a prescription for any controlled substance in Schedule II or III to be dispensed for periods greater than thirty (30) days at a time. No pharmacist may dispense any controlled substance in Schedule II or III, pursuant to a prescription or otherwise, for periods greater than thirty (30) days at a time.

(f) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.

(g) Any practitioner prescribing to a patient a controlled substance in Schedule II or III, either alone, concurrently or sequentially with any other controlled substance in Schedule II or III, for a period greater than thirty (30) days shall require that patient to undergo urine drug testing at least every thirty (30) days to ensure that the patient is not abusing the prescribed controlled substance or substances.

(h) On or before October 1, 2013, the state board of pharmacy shall promulgate rules necessary to implement this section, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 4. Tennessee Code Annotated, Section 63-1-301(5), is amended by deleting subdivision (5) in its entirety and by substituting instead the following:

(5) "Pain management clinic" means a privately-owned facility in which a medical doctor, an osteopathic physician, an advanced practice nurse, and/or a physician assistant provides pain management services to patients, a majority of whom are issued a prescription for, or are dispensed, opioids, benzodiazepine, barbiturates, or carisoprodol, but not including suboxone, for more than ninety (90) days in a twelve-

month period. "Pain management clinic" shall also mean any privately owned clinic, facility or office which advertises in any medium for any type pain management services, or employs a practitioner who is primarily engaged in the treatment of pain; and

SECTION 5. Tennessee Code Annotated, Section 63-1-301, is amended by adding the following as a new subdivision to be appropriately designated:

() "Primarily engaged in the treatment of pain" means that the majority of the patients seen by the practitioner are prescribed or dispensed controlled substances, as defined in title 39, chapter 17, part 4, for the treatment of chronic nonmalignant pain.

SECTION 6. Tennessee Code Annotated, Section 63-1-303(c), is amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c) The rules adopted pursuant to subsection (b) shall address the following topics, among others:

(1) The operation of the clinic, including requirements:

(A) That patients have current and valid government issued identification;

(B) That patients be referred to the clinic from a primary care physician or other licensed physician treating the patient for the condition or conditions underlying the patient's chronic pain; and

(C) That patients submit to urine drug screening in accordance with a written drug screening policy and compliance plan, which is to include testing on initial assessment or upon new admission and upon any subsequent visits;

(2) Personnel requirements for the clinic;

(3) Training requirements for clinic providers who are regulated by that board;

(4) Patient records, including a requirement that such records must include a current MRI, X-ray, CT scan or other current diagnostic testing demonstrating a basis for the prescribing of a controlled substance, as defined in title 39, chapter 17, part 4;

(5) Standards to ensure quality of patient care;

(6) Infection control;

(7) Health and safety requirements;

(8) Certificate application and renewal procedures and requirements;

(9) Data collection and reporting requirements;

(10) Inspections and complaint investigations; and

(11) Patient billing procedures.

SECTION 7. Tennessee Code Annotated, Section 63-1-306(a), is amended by adding the following language at the end of the subsection:

The medical director shall be on-site at the pain management clinic at least fifty percent (50%) of the clinic's weekly total number of operating hours.

SECTION 8. Tennessee Code Annotated, Section 63-1-310(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a) A pain management clinic may accept only a check or credit card in payment for services provided at the clinic, except as provided in subsection (b).

SECTION 9. The board of pharmacy or any board operating under Tennessee Code Annotated, title 63, is authorized to use emergency rules under Tennessee Code Annotated, § 4-5-208(a)(5), in order to promulgate any rules required by this act.

SECTION 10. This act shall take effect on October 1, 2013, the public welfare requiring it, except for rulemaking purposes for which purposes it shall take effect on becoming a law the public welfare requiring it.