

SENATE BILL 735

By Briggs

AN ACT to amend Tennessee Code Annotated, Title 49;
Title 63 and Title 68, relative to graduate
physicians.

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

WHEREAS, it is the intent of the General Assembly to ensure healthcare availability for
the general population; and

WHEREAS, there is a well-known physician shortage; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Title 63, is amended by adding the following
as a new chapter:

63-15-101.

This chapter is known and may be cited as the "Graduate Physicians Act."

63-15-102.

As used in this chapter:

(1) "Graduate physician" means a medical school graduate who:

(A) Is a resident and citizen of the United States or a legal
resident alien in the United States;

(B) Has successfully completed Step 1 and Step 2 of the United
States Medical Licensing Examination (USMLE), or the equivalent of Step
1 and Step 2 of any other medical licensing examination that is approved
by the board of medical examiners, within the two-year period
immediately preceding the date of the person's application for licensure

as a graduate physician, but not more than three (3) years after graduation from a medical school or school of osteopathic medicine;

(C) Has not completed an approved postgraduate residency and has successfully completed Step 2 of the USMLE, or the equivalent of Step 2 of any other medical licensing examination that is approved by the board of medical examiners, within the immediately preceding two-year period unless, two (2) years from the date of the graduate's successful completion of Step 2, the graduate was serving as a resident physician in an accredited residency in the United States and was serving in that capacity for the thirty-day period immediately preceding the date of the graduate's application for licensure as a graduate physician; and

(D) Is proficient in the English language;

(2) "Graduate physician collaborative practice arrangement" means an agreement between a licensed physician and a graduate physician that meets the requirements of this chapter;

(3) "Medical school graduate" means any person who has graduated from a medical school described in § 63-6-207 or a school of osteopathic medicine described in § 63-9-104; and

(4) "Primary care services" means outpatient services in pediatrics, internal medicine, and family medicine.

63-15-103.

A graduate physician collaborative practice arrangement must limit the graduate physician to providing primary care services in a:

(1) Medically underserved rural area of this state;

(2) Pilot project area established for graduate physicians to practice; or

(3) Rural health clinic under the federal Rural Health Clinic Services Act of 1977 (Pub. L. No. 95-210).

63-15-104.

(a) A graduate physician is considered a physician assistant for purposes of the regulations of the centers for medicare and medicaid services.

(b) Graduate physicians are subject to the supervision requirements established in any controlling federal law, any supervision requirements provided in this chapter, and any supervision requirements established by the board of medical examiners. Graduate physicians are not subject to any additional supervision requirements, other than the supervision requirements outlined in this subsection (b).

63-15-105.

(a) The board of medical examiners, in consultation with the board of osteopathic examination, shall establish the process for licensure of graduate physicians. The board of medical examiners is authorized to promulgate rules to establish licensure and renewal procedures, supervision requirements, additional requirements for graduate physician collaborative practice arrangements, and fees, and to address any other matters necessary to protect the public and discipline the profession. The board of medical examiners may deny an application for licensure or suspend or revoke the license of a graduate physician for violation of the standards provided in §§ 63-6-214 and 63-9-111, as applicable, or for a violation of the standards of conduct established by the board of medical examiners by rule.

(b) Any rule promulgated under the authority delegated to the board of medical examiners in this chapter becomes effective only if it complies with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) In order to remain licensed as a graduate physician, the graduate physician must successfully complete Step 3 of the United States Medical Licensing Exam (USMLE) no later than one (1) year from the date that the graduate obtained a graduate physician license. If the graduate physician does not successfully complete Step 3 of the USMLE, then the graduate physician's license must be revoked.

63-15-106.

A graduate physician shall clearly identify as a graduate physician and is permitted to use the identifiers "doctor" or "Dr." A graduate physician shall not practice, or attempt to practice, without a graduate physician collaborative practice arrangement, except as otherwise provided in this chapter.

63-15-107.

The licensed physician collaborating with a graduate physician is responsible for supervising the activities of the graduate physician and must accept full responsibility for the primary care services provided by the graduate physician.

63-15-108.

(a) This chapter applies to all graduate physician collaborative practice arrangements. To be eligible to practice as a graduate physician, a licensed graduate physician must enter into a graduate physician collaborative practice arrangement with a licensed physician no later than six (6) months after the date on which the graduate physician obtains initial licensure. Any renewal of a graduate physician license must include verification of the actual location at which the graduate physician was practicing during the immediately preceding licensure period, pursuant to a graduate physician collaborative practice arrangement.

(b) A licensed physician may enter into a graduate physician collaborative practice arrangement with a graduate physician. Graduate physician collaborative

practice arrangements must take the form of a written agreement that includes mutually agreed upon protocols and any standing orders for the delivery of primary care services. Graduate physician collaborative practice arrangements may delegate to a graduate physician the authority to administer or dispense drugs and provide treatment, as long as the delivery of the primary care services is within the scope of the graduate physician's practice and is consistent with the graduate physician's skill, training, and competence and the skill, training, and competence of the collaborating physician. The collaborating physician must be board-certified in the specialty that the graduate physician is practicing, which must only include pediatrics, internal medicine, or family medicine.

(c) The graduate physician collaborative practice arrangement must contain the following provisions:

(1) Complete names, home and business addresses, and telephone numbers of the collaborating physician and the graduate physician;

(2) A list of all offices and locations, other than the offices and locations provided pursuant to subdivision (c)(1) where the collaborating physician has authorized the graduate physician to prescribe;

(3) A requirement that a prominently displayed disclosure statement informing patients that they may be seen by a graduate physician, and advising patients that the patient has the right to see the collaborating physician, be posted in every office where the graduate physician is authorized to prescribe;

(4) All specialty or board certifications of the collaborating physician and all certifications of the graduate physician;

(5) The manner of collaboration between the collaborating physician and the graduate physician, including how the collaborating physician and the graduate physician will:

(A) Engage in collaborative practice consistent with each professional's skill, training, education, and competence;

(B) Maintain geographic proximity. However, the graduate physician collaborative practice arrangement may only allow for geographic proximity to be waived for no more than twenty-eight (28) days per calendar year for rural health clinics defined by Pub. L. No. 95-210, as long as the graduate physician collaborative practice arrangement includes alternative plans as required in subdivision (c)(5)(C). The exception to the geographic proximity requirement applies only to independent rural health clinics, provider-based rural health clinics if the provider is a critical access hospital as provided in 42 U.S.C. § 1395i-4, and provider-based rural health clinics if the primary location of the hospital sponsor is more than twenty-five (25) miles from the clinic. The collaborating physician must maintain documentation related to the geographic proximity requirement and present the documentation to the board of medical examiners upon request; and

(C) Provide for patient care coverage during absence, incapacity, infirmity, or emergency by the collaborating physician;

(6) A description of the graduate physician's controlled substance prescriptive authority in collaboration with the collaborating physician, including a list of the controlled substances that the collaborating physician authorizes the graduate physician to prescribe, supported by documentation evidencing that the

authority given is consistent with each professional's education, knowledge, skill, and competence, excluding Schedule 1 and Schedule 2 controlled substances;

(7) A list of all other graduate physician collaborative practice arrangements of the collaborating physician and the graduate physician;

(8) The duration of the graduate physician collaborative practice arrangement between the collaborating physician and the graduate physician;

(9) A provision describing the time and manner of the collaborating physician's review of the graduate physician's delivery of primary care services. The provision must require the graduate physician to submit to the collaborating physician a minimum of twenty-five percent (25%) of the charts documenting the graduate physician's delivery of primary care services for review by the collaborating physician or by any other physician designated in the graduate physician collaborative practice arrangement every fourteen (14) days after the initial observation year. For the first three (3) months of the initial observation year, the collaborating physician shall review one hundred percent (100%) of the charts documenting the graduate physician's delivery of primary care services. For months four (4) through twelve (12), the collaborating physician shall review seventy-five percent (75%) of the charts documenting the graduate physician's delivery of primary care services; and

(10) The collaborating physician, or any other physician designated in the graduate physician collaborative practice arrangement, shall review a minimum of fifty percent (50%) of the charts in which the graduate physician prescribes controlled substances every fourteen (14) days. The charts reviewed under this subdivision (c)(10) may be counted in the total number of charts that the collaborating physician is required to review under subdivision (c)(9).

63-15-109.

(a) The board of medical examiners shall promulgate rules regulating the use of graduate physician collaborative practice arrangements for graduate physicians. The rules must specify:

(1) The geographic areas to be covered;

(2) The methods of treatment that may be covered by the graduate physician collaborative practice arrangement;

(3) The educational methods and programs to be performed during the collaborative practice service, developed in consultation with deans of medical schools and primary care residency program directors in this state, which must facilitate the advancement of the graduate physician's medical knowledge and capabilities, the successful completion of which may lead to credit toward a future residency program that deems the documented educational achievements of the graduate physician through the methods and programs acceptable; and

(4) Require review of the services provided under a graduate physician collaborative practice arrangement, which includes delegating authority from the collaborating physician to the graduate physician to prescribe controlled substances, which may include Schedule III, Schedule IV, and Schedule V drugs.

(b) A collaborating physician shall not enter into a graduate physician collaborative practice arrangement with more than three (3) graduate physicians at the same time.

63-15-110.

(a) Any rules related to the dispensing or distribution of medications, controlled substances, or devices by prescription or prescription drug orders under this chapter requires approval of the state board of pharmacy. The board of medical examiners shall

promulgate rules applicable to graduate physicians that are consistent with the guidelines established for federally funded clinics. The rulemaking authority granted to the board of medical examiners in this subsection (a) does not extend to graduate physician collaborative practice arrangements of hospital employees providing inpatient care within hospitals.

(b) The state board of medical examiners shall not deny, revoke, suspend, or otherwise take disciplinary action against a collaborating physician for primary care services delegated to a graduate physician as long as the provisions of this section and any applicable rules promulgated by the board are satisfied.

(c) Within thirty (30) days of any licensure change, and on each renewal, the state board of medical examiners shall require every physician to identify whether the physician is engaged in a graduate physician collaborative practice arrangement, including graduate physician collaborative practice arrangements delegating the authority to prescribe controlled substances, and to report to the board the name of each graduate physician with whom the physician has entered into an arrangement. The board may make the information available to the public. The board shall track the reported information and may routinely conduct reviews or inspections to ensure that the arrangements are being carried out in compliance with this chapter.

(d) A contract or other agreement cannot require a physician to act as a collaborating physician for a graduate physician against the physician's will. A physician has the right to refuse to act as a collaborating physician, without penalty, for a particular graduate physician. A contract or other agreement cannot limit the collaborating physician's authority over any protocols or standing orders, or delegate the physician's authority to a graduate physician. However, this subsection (d) does not authorize a

physician in implementing protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by a hospital's medical staff.

(e) A contract or other agreement cannot require a graduate physician to serve as a graduate physician for any collaborating physician against the graduate physician's will. A graduate physician has the right to refuse to collaborate, without penalty, with a particular physician.

(f) All collaborating physicians and graduate physicians under a graduate physician collaborative practice arrangement must wear identification badges while acting within the scope of the arrangement. The identification badges must prominently display the licensure status of the collaborating physician and the graduate physician.

63-15-111.

(a) The collaborating physician shall document the completion of at least a six-month period of time during which the graduate physician must practice while the collaborating physician is continuously present before practicing in a setting where the collaborating physician is not continuously present.

(b) The collaborating physician must complete a certification course, which may include material on the laws pertaining to the professional relationship. The certification course must be approved by the board of medical examiners.

(c) A graduate physician collaborative practice arrangement supersedes current hospital licensing regulations governing hospital medication orders under protocols or standing orders for the purpose of delivering inpatient or emergency care within a hospital as defined in § 68-11-201, if the protocols or standing orders have been approved by the hospital's medical staff and pharmaceutical therapeutics committee.

63-15-112.

(a) A graduate physician with controlled substance prescriptive authority as provided in this chapter may prescribe any controlled substance listed in Schedule III, Schedule IV, or Schedule V of §§ 39-17-409 - 39-17-414. Prescriptions for Schedule III medications prescribed by a graduate physician with controlled substance prescriptive authority are restricted to only those medications containing hydrocodone. The graduate physician's authority to prescribe any controlled substances must be filed with the board of medical examiners. The collaborating physician maintains the right to limit a specific scheduled drug or scheduled drug category that the graduate physician is permitted to prescribe. Any limitations must be listed in the graduate physician collaborative practice arrangement. Graduate physicians shall not prescribe controlled substances for themselves or for family members. Schedule III and Schedule IV controlled substances are limited to a five-day supply without refills, unless the patient was originally prescribed the medication by the collaborating physician during the immediately preceding six-month period. Graduate physicians who are authorized to prescribe controlled substances under this section must register with the federal drug enforcement agency, and shall include the graduate physician's drug enforcement agency registration number on all prescriptions for controlled substances.

(b) The collaborating physician is responsible for documenting the completion of at least one hundred twenty (120) hours of practice performed by the graduate physician in a twelve-month period, during which time the graduate physician practiced with the collaborating physician on-site before the graduate physician prescribed any controlled substances, including any Schedule III, Schedule IV, or Schedule V controlled substances, outside of the collaborating physician's presence.

(c) A graduate physician may obtain prescriptive authority from the board of medical examiners upon verification of the necessary license issued in accordance with

chapter 6 or 9 of this title, but may only authorize the graduate physician to prescribe Schedule III, Schedule IV, or Schedule V drugs.

SECTION 2. Tennessee Code Annotated, Section 63-9-113, is amended by deleting the language "or a pharmacist" and substituting instead the language "a graduate physician, or a pharmacist".

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.