

SENATE BILL 1895

By Dickerson

AN ACT to amend Tennessee Code Annotated, Title 63
and Title 71, relative to nurses.

WHEREAS, unlicensed family members have long performed, in a safe manner, health maintenance tasks that are within the scope of services provided by licensed nurses; and

WHEREAS, action needs to be taken to relieve the pressure placed on working family caregivers who help care for family members; and

WHEREAS, the requirement that daily health-related activities must be performed only by licensed nurses constitutes a barrier to cost-effective and independent community living, and may increase the cost of providing services in the community, which limits the availability of state resources to serve more seniors and people with disabilities; and

WHEREAS, teaching, consultation, and oversight of care are among the most critical skills performed by a registered nurse; and

WHEREAS, the opportunity for a registered nurse to delegate certain tasks to an unlicensed person will allow the state to more cost-effectively provide home and community-based services, redirecting funds to be used to serve more seniors and people with disabilities; and

WHEREAS, the opportunity for a registered nurse to delegate certain tasks to an unlicensed person may enhance the viability of healthcare services in home and community-based care settings will allow individuals to live as independently as possible, with appropriate safeguards to ensure health and safety; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 7, is amended by adding the following language as a new part:

63-7-401.

This part shall be known and may be cited as the "Tennessee Nursing Delegation Act for Home and Community Living."

63-7-402.

As used in this part:

(1) "Delegate" means that a registered nurse, licensed to practice in this state pursuant to this chapter:

(A) Authorizes an unlicensed person, who is paid to provide services by private pay or from other sources under a home and community-based services program in this state, to perform a health maintenance task; and

(B) Indicates the authorization described in subdivision (1)(A), in writing, in the patient's medical record, chart, or other documentation;

(2) "Delegation process" means the registered nurse completing a nursing assessment of the patient's healthcare needs, evaluating the ability of the unlicensed person to perform the health maintenance task, teaching the health maintenance task to the unlicensed person, ensuring supervision of the unlicensed person, and re-evaluating the health maintenance task performed by the unlicensed person at regular intervals; and

(3) "Health maintenance task" means a task that can safely be performed according to exact directions, with no need to alter the standard procedure, and the results of which are predictable.

63-7-403.

Notwithstanding any law or rule to the contrary, a registered nurse who is licensed to practice in this state may, contingent upon the registered nurse adhering to a delegation process, delegate health maintenance tasks required by a patient receiving

long-term services and support (LTSS) to an unlicensed person paid to provide services under a home and community-based services program in this state.

63-7-404.

(a) A registered nurse acting within the protocols of the nurse's delegation authority as described in Section 4 of this act, and in accordance with this chapter, shall be immune from liability for any action performed in the course of the nurse's delegation duties.

(b) An unlicensed person following written delegation instructions from a registered nurse, and performing the delegated task or tasks in accordance with such instructions shall be immune from liability.

SECTION 2. Tennessee Code Annotated, Section 63-7-102, is amended by adding the following language as a new subdivision:

(14) Unlicensed persons performing delegated health maintenance tasks in accordance with the Tennessee Nursing Delegation Act for Home and Community Living, compiled in part 4 of this chapter, except as provided in that part.

SECTION 3. The board of nursing shall, after consultation with the bureau of TennCare, the department of intellectual and developmental disabilities, and stakeholder groups representing seniors and people with disabilities, promulgate rules implementing this act. Such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 4. For the purpose of rule promulgation, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2017, the public welfare requiring it.