

Amendment No. 1 to SB0734

Bailey  
Signature of Sponsor

**AMEND Senate Bill No. 734**

**House Bill No. 628\***

by deleting all language after the enacting clause and substituting:

SECTION 1. This act is known and may be cited as the "Tennessee Wellness Law."

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section:

**63-1-173.**

(a) As used in this section:

(1) "Career fatigue":

(A) Means a work-related, psychological disorder that manifests in emotional exhaustion, depersonalization, and a diminished sense of personal accomplishment; and

(B) Does not mean:

(i) Substance use disorder;

(ii) A mental health condition; or

(iii) Another condition that impairs a physician's judgment or adversely affects a physician's ability to practice medicine in a competent, ethical, and professional manner;

(2) "Health insurance entity" has the same meaning as defined in § 56-7-109;

(3) "Physician" means a person licensed pursuant to chapter 6 or 9 of this title; and

(4) "Physician wellness program":

(A) Means the program that:

(i) Is organized or contracted for by a statewide advocacy organization that has its principal place of business in this state and that serves physicians licensed to practice medicine in this state; and

(ii) Provides counseling, coaching, or similar services to address issues pertaining to career fatigue; and

(B) Does not mean a program that provides counseling, coaching, or similar services to address issues related to substance abuse, a mental health condition, or another condition that impairs a physician's judgment or adversely affects the physician's ability to practice medicine in a competent, ethical, and professional manner.

(b) An individual or entity that provides, discloses, or receives information related to career fatigue as part of a physician wellness program is, with respect to the information provided, disclosed, or received, immune from:

(1) Civil liability or a civil cause of action; and

(2) An administrative sanction or other proceeding.

(c) This section does not:

(1) Authorize a physician to withhold information requested in accordance with contractual terms between a health insurance entity and a statewide advocacy organization or information requested in an application used by a health insurance entity for credentialing or contracting purposes, including a Council for Affordable Quality Healthcare application;

(2) Waive a physician's obligation to disclose information regarding:

(A) A substance use disorder;

(B) A mental health condition; or

(C) Another condition that impairs the physician's judgment or adversely affects the physician's ability to practice medicine in a competent, ethical, and professional manner; or

(3) Authorize a statewide advocacy organization to withhold information in accordance with contractual terms between the statewide advocacy organization and a health insurance entity.

SECTION 3. Tennessee Code Annotated, Section 56-7-1001, is amended by adding the following as new subsections:

(g)

(1) A health insurance entity shall not require the disclosure of a physician's participation in a physician wellness program, as defined in § 63-1-173, as a condition of credentialing, contracting, or network participation with the health insurance entity.

(2) A health insurance entity that is unable to assess a physician's risk of future impairment due to disclosures prohibited by subdivision (g)(1) is immune from civil liability, a civil cause of action, or an administrative sanction or other proceeding related to harm caused by the physician.

(h) An individual or entity that provides, discloses, or receives information related to career fatigue as part of a physician wellness program is, with respect to the information provided, disclosed, or received, immune from:

(1) Civil liability or a civil cause of action; and

(2) An administrative sanction or other proceeding.

(i) This section does not:

(1) Authorize a physician to withhold information requested in accordance with contractual terms between a health insurance entity and a statewide advocacy organization or information requested in an application used

by a health insurance entity for credentialing or contracting purposes, including a Council for Affordable Quality Healthcare application;

(2) Waive a physician's obligation to disclose information regarding:

(A) A substance use disorder;

(B) A mental health condition; or

(C) Another condition that impairs the physician's judgment or adversely affects the physician's ability to practice medicine in a competent, ethical, and professional manner; or

(3) Authorize a statewide advocacy organization to withhold information in accordance with contractual terms between the statewide advocacy organization and a health insurance entity.

SECTION 4. Tennessee Code Annotated, Section 33-2-422, is amended by adding the following as a new subsection:

(f) A facility shall not require a physician to disclose the physician's participation in a physician wellness program, as defined by § 63-1-173, in order to obtain privileges or credentials at the facility unless otherwise required by a federal condition of participation.

SECTION 5. Tennessee Code Annotated, Title 50, Chapter 1, Part 1, is amended by adding the following as new sections:

**50-1-109.**

An employer, as defined in § 50-1-304, shall not require a physician, or a prospectively employed physician, to disclose participation in a physician wellness program, as defined in § 63-1-173, as a condition of employment or continued employment.

**50-1-110.**

An employer, as defined in § 50-1-304, shall not require an independent contractor, or a prospective independent contractor, who is licensed pursuant to title 63,

chapter 6 or 9, to disclose participation in a physician wellness program, as defined in § 63-1-173.

SECTION 6. Tennessee Code Annotated, Title 63, Chapter 6, Part 1, is amended by adding the following as a new section:

The board shall not require an applicant for licensure pursuant to this title to disclose career fatigue, as defined in § 63-1-173, as a requirement for initial licensure.

SECTION 7. Tennessee Code Annotated, Title 63, Chapter 9, Part 1, is amended by adding the following as a new section:

The board shall not require an applicant for licensure pursuant to this title to disclose career fatigue, as defined in § 63-1-173, as a requirement for initial licensure.

SECTION 8. Tennessee Code Annotated, Section 68-11-242, is amended by adding the following as a new subsection:

(f) A facility shall not require a physician to disclose the physician's participation in a physician wellness program, as defined by § 63-1-173, in order to obtain privileges or credentials at the facility unless otherwise required by a federal condition of participation.

SECTION 9. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section:

(a) Notwithstanding another law, a licensing board established pursuant to this title or title 68 shall enter into an executive session for any discussion or deliberation of licensee or prospective licensee health conditions, including mental health conditions and substance use disorders, revealed during an application process. The discussion and deliberation of the executive session is not a public meeting as described in § 8-44-102. Minutes and recordings of such executive session, portions of an application involving an applicant's health condition, and records involving an applicant's health condition are confidential, privileged, and not public records subject to inspection by citizens of this state, as described in §§ 8-44-104(a) and 10-7-503. An applicant or

licensee may access records of the applicant's or licensee's own application and related proceedings, as may the applicant's or licensee's authorized representative or attorney, or an attorney for this state. The licensing board shall not vote during an executive session described in this subsection (a).

(b) An executive session is required for proceedings involving conditions that impair a physician's ability to practice medicine in a competent, ethical, and professional manner. An attorney for the state may be present for the entirety of the proceeding and may advocate on behalf of the department as is reasonably necessary during such proceeding, including the executive session.

(c) At the discretion of an applicant for a license, an authorized representative or attorney for the applicant for a license before a board established pursuant to this title or title 68, may be present for the entirety of any proceeding, including an executive session, and may advocate on behalf of the applicant as is reasonably necessary during such proceeding or executive session.

SECTION 10. The department of mental health and substance abuse services and the department of health are authorized to promulgate rules to effectuate this act. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 11. This act takes effect July 1, 2024, the public welfare requiring it.