

HOUSE BILL 1036

By Haynes

AN ACT to amend Tennessee Code Annotated, Title 33;
Title 53; Title 56 and Title 63, relative to substance
abuse.

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

SECTION 1. This act shall be known and may be cited as the “Addiction Treatment Act of 2015”.

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

(a) As used in this section:

(1) “Controlled substance” means a drug, substance, or immediate precursor identified, defined, or listed in title 39, chapter 17, part 4 and title 53, chapter 11;

(2) “Drug overdose” means an acute condition, including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, resulting from the consumption or use of a controlled substance, or other substance inhaled, ingested, injected, or otherwise introduced into the body by the distressed individual that a reasonable person would believe to be resulting from the consumption or use of a controlled substance or other substance by the distressed individual;

(3) “Drug violation” means:

(A) A violation of § 39-17-418; or

(B) A violation of § 39-17-425;

(4) "Medical assistance" means aid provided to a person by a healthcare professional licensed, registered, or certified under the laws of this state who, acting within the person's lawful scope of practice, may provide diagnosis, treatment, or emergency medical services; and

(5) "Seeks medical assistance" means:

(A) Accesses or assists in accessing medical assistance or the 911 system;

(B) Contacts or assists in contacting law enforcement or a poison control center; or

(C) Provides care or contacts or assists in contacting any person or entity to provide care while awaiting the arrival of medical assistance to aid a person who is experiencing or believed to be experiencing a drug overdose.

(b) Any person who in good faith seeks medical assistance for a person experiencing or believed to be experiencing a drug overdose shall not be arrested, charged, or prosecuted for a drug violation if the evidence for the arrest, charge, or prosecution of the drug violation resulted from seeking such medical assistance. Any person who is experiencing a drug overdose and, in good faith and who seeks medical assistance for or is the subject of a request for medical assistance shall not be arrested, charged, or prosecuted for a drug violation if the evidence for the arrest, charge, or prosecution of the drug violation resulted from seeking such medical assistance. Any such person shall also not be subject to the following, if related to the seeking of medical assistance:

(1) Penalties for a violation of a permanent or temporary protective order or restraining order; or

(2) Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole based on a drug violation.

(c)

(1) The act of providing first aid or other medical assistance to someone who is experiencing a drug overdose may be used as a mitigating factor in a criminal prosecution for which immunity, set out in subsection (b), is not provided.

(2) Nothing in this section shall limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regard to a defendant who does not qualify for the protections of subsection (b) or with regard to other crimes committed by a person who otherwise qualifies for the protections of subsection (b).

(3) Nothing in this section shall limit any seizure of evidence or contraband otherwise permitted by law.

(4) Nothing in this section shall limit or abridge the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in subsection (b).

SECTION 3. Tennessee Code Annotated, Title 53, Chapter 11, Part 3, is amended by adding the following as a new section:

(a) Any product containing buprenorphine, whether with or without naloxone, may only be prescribed for a use recognized by the federal food and drug administration.

This subsection (a) shall not apply to a person:

(1) Who has a documented diagnosis of opiate addiction as shown in their medical record;

(2) Who receives treatment from a provider practicing under 21 U.S.C. § 823(g)(2); and

(3) Who is counted against the total number of patients allowed to the provider as set forth in 21 U.S.C. § 823(g)(2).

(b)

(1) Any prescription for buprenorphine mono or for buprenorphine without use of naloxone for the treatment of substance use disorder shall only be permitted to a patient who is:

(A) Pregnant;

(B) A nursing mother; or

(C) Has a documented history of an adverse reaction or hypersensitivity to naloxone.

(2) If the prescriber of buprenorphine mono or buprenorphine without use of naloxone for a patient under subdivision (b)(1)(A) or (b)(1)(B) is not the patient's obstetrical or gynecological provider, the prescriber shall consult with the patient's obstetrical or gynecological provider to the extent possible to determine whether the prescription is appropriate for the patient.

(c)

(1) Notwithstanding any other provision of this title, a physician licensed under title 63, chapter 6 or 9, is the only healthcare provider authorized to prescribe any buprenorphine product for any federal food and drug administration approved use in recovery or medication-assisted treatment.

(2) Healthcare providers not licensed pursuant to title 63, chapter 6 or 9 and who are otherwise permitted to prescribe Schedule II or III drugs under this title, are prohibited from prescribing any buprenorphine product for treatment of opioid dependence. However, the providers may participate in the assessment and management of patients with an opiate addiction.

(d)

(1) A prescriber who treats a patient with more than sixteen milligrams (16 mg) per day of buprenorphine or its therapeutic equivalent for more than thirty (30) consecutive days for treatment of opioid dependence shall clearly document in the patient's medical record why the patient needs the higher dosage amounts of buprenorphine. A prescriber who does not meet the requirements established in the manner described in subdivision (d)(2) and treats a patient with more than twenty milligrams (20 mg) per day of buprenorphine or its therapeutic equivalent for more than thirty (30) consecutive days for treatment of opioid dependence shall, to the extent possible, either consult with an addiction specialist meeting the requirements established in the manner described in subdivision (d)(2) or refer the patient to the addiction specialist for management of the patient's treatment plan. If a prescribing physician cannot make the required consultation or referral as outlined in this subsection (d), the reasons shall be set out in the medical record.

(2) The board of medical examiners and the board of osteopathic examination shall promulgate rules establishing the requirements for licensees to qualify as addiction specialists.

SECTION 4. Tennessee Code Annotated, Section 56-26-109, is amended by deleting subdivision (11) in its entirety.

SECTION 5. Tennessee Code Annotated, Section 63-1-152, is amended by adding the following new subsection:

(i) The commissioner of health or the commissioner's designee shall make available recommendations for training of first responders, as defined in § 29-34-203, in the appropriate use of opioid antagonists. The recommendations shall include a

provision concerning the appropriate supply of opioid antagonists to first responders to administer consistent with the requirements of this section.

SECTION 6. This act shall take effect July 1, 2015, the public welfare requiring it.