

SENATE BILL 2234

By Jackson

AN ACT to amend Tennessee Code Annotated, Title 33; Title 63 and Title 68, relative to the availability of healthcare personnel in healthcare facilities during a healthcare staffing crisis.

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

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 1, Part 1, is amended by adding the following as a new section:

(a) As used in this section, "healthcare staffing crisis" means:

(1) There is a shortage of qualified staff for healthcare facilities in this state as a result of an infectious disease or a catastrophic event; and

(2) The shortage described in subdivision (a)(1) has the potential of compromising the health, safety, or welfare of the citizens of this state.

(b)

(1) Notwithstanding a law to the contrary, the commissioner of health may implement the following measures if the commissioner determines a healthcare staffing crisis exists:

(A) Allow a healthcare professional, who is licensed in another state and does not hold a valid license in this state, to temporarily engage in the practice of the professional's profession in this state while employed by a facility licensed under title 33 or this title. If the commissioner implements this subdivision (b)(1)(A), then the commissioner must make available forms and a process for professionals to practice under this subdivision (b)(1)(A). The forms and process must be published on the department of health's health professional boards'

website. A healthcare professional practicing in this state pursuant to this subdivision (b)(1)(A) is subject to the licensing fees, rules, and disciplinary actions applicable to licensed healthcare professionals in this state that are not contrary to this subdivision (b)(1)(A);

(B)

(i) Allow a healthcare professional licensed under title 63 or this title to perform tasks outside of the professional's scope of practice, if the tasks are performed in a hospital licensed under this title or in a psychiatric hospital, in a behavioral health residential facility, or by a behavioral health crises services provider licensed under title 33. The commissioner shall approve a professional pursuant to this subdivision (b)(1)(B) pursuant to a facility- or provider-specific plan of delegation, as follows:

(a) In the case of a hospital licensed under this title, the plan has been submitted by the facility's chief medical officer and approved by the commissioner of health or the commissioner's designee; or

(b) In the case of a facility or provider licensed under title 33, the plan has been submitted by the facility's or provider's chief medical or chief executive officer and jointly approved by the commissioner of mental health and substance abuse services, or the commissioner's designee, and the commissioner of health, or the commissioner's designee;

(ii) The plan of delegation must include the specific types of licensees covered, the specific tasks outside of the professional's licensed scope of practice that are permitted, and the specific circumstances and directives under which the tasks are permitted;

(iii) The approval of the plan may be subject to conditions set by the commissioner, or the commissioner's designee, and may be rescinded in that person's sole discretion;

(iv) A professional performing tasks pursuant to this subdivision (b)(1)(B) remains subject to rules and disciplinary action as if the professional were acting within the professional's licensed scope of practice;

(C)

(i) Allow a student actively enrolled in a graduate school program or an undergraduate respiratory care program, the educational standards of which meet the training requirements for a license under title 63 or this title, to perform supervised tasks within the licensed scope of practice of that license, if the tasks are performed in a hospital licensed under this title or in a psychiatric hospital, in a behavioral health residential facility, or by a behavioral health crises services provider licensed under title 33, pursuant to a facility- or provider-specific plan of delegation, as follows:

(a) In the case of a hospital licensed under this title, the plan has been submitted by the facility's chief

medical officer and approved by the commissioner of health or the commissioner's designee, or

(b) In the case of a facility or provider licensed under title 33, the plan has been submitted by the facility's or provider's chief medical or chief executive officer and jointly approved by the commissioner of mental health and substance abuse services, or the commissioner's designee, and the commissioner of health, or the commissioner's designee;

(ii) The plan of delegation pursuant to this subdivision (b)(1)(C) must include the specific types of programs in which a student must be enrolled to perform tasks in accordance with the plan, the specific tasks within the relevant scope of practice that the student is permitted to perform, and the specific circumstances and directives under which the tasks are permitted;

(iii) The commissioner or the commissioner's designee approving the plan may include conditions and may rescind approval in that person's sole discretion;

(iv) A student performing tasks pursuant to this subdivision (b)(1)(C) may be subject to disciplinary action upon applying for a license described in subdivision (b)(1)(C)(i) for actions inconsistent with the scope of practice for that license; and

(D) Temporarily suspend the effectiveness of a rule applicable to facilities or providers licensed under title 33, title 63, or this title; provided:

(i) The temporary suspension is consistent with regulations, or the waiver of regulations, issued by the federal centers for medicare and medicaid services; and

(ii) In the case of a facility or provider licensed under title 33, the temporary suspension is effective only to the extent that the commissioner of mental health and substance abuse services has concurred in the temporary suspension of the rule.

(2) It is within the commissioner of health's sole discretion to determine whether a healthcare staffing crisis exists pursuant to this section. However, if the commissioner makes that determination and implements the measures described in subdivision (b)(1), then the commissioner must provide the governor, the speaker of the senate, and the speaker of the house of representatives written notice of the healthcare staffing crisis and the intended measures prior to implementation of those measures.

(c) The commissioner may impose geographic and time limitations on the measures authorized by this section but shall not extend the measures for longer than one hundred eighty (180) days, unless the commissioner provides an additional finding addressed to the governor, the speaker of the senate, and the speaker of the house of representatives that a healthcare staffing crisis still exists.

SECTION 2. Tennessee Code Annotated, Section 63-7-110, is amended by adding the following as a new subsection:

(d)

(1) Notwithstanding a law to the contrary, a graduate nurse may engage in the practice of practical nursing without a license for a period not to exceed

one hundred twenty (120) calendar days from the date of receipt of the first authorization to take the NCLEX-PN examination if:

(A) The graduate nurse's practice occurs in a healthcare institution licensed under title 33 or 68, or an affiliate of the institution;

(B) The graduate nurse is at all times working under the supervision of an individual licensed in this state to practice practical nursing or professional nursing. The graduate nurse shall provide the healthcare institution or affiliate of the institution in which the nurse is practicing with the following:

(i) Proof of the first authorization to take the NCLEX-PN examination; and

(ii) Proof of graduation from an approved school of nursing within the previous ninety (90) days;

(C) The supervising individual described in subdivision (d)(1)(B) is limited to supervising no more than one (1) graduate nurse at a time; and

(D) The graduate nurse is prohibited from:

(i) Being deemed a licensed practical nurse pursuant to this section; and

(ii) Using another title or identifying as anything but a "graduate nurse" in a clinical setting.

(2) As used in this subsection (d):

(A) "Graduate nurse" means an individual who:

(i) Holds a diploma or degree from an approved school of nursing that entitles the individual to take the NCLEX-PN licensing examination; and

(ii) Has received authorization to take the NCLEX-PN examination;

(B) "NCLEX-PN" means the national council licensure examination for practical nurses; and

(C) "Supervision" means that the graduate nurse's supervising individual is located in the same unit as the graduate nurse when the graduate nurse is performing duties pursuant to this subsection (d).

SECTION 3. The department of health and department of mental health and substance abuse services are authorized to promulgate rules to effectuate the purposes of 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 4. This act takes effect upon becoming a law, the public welfare requiring it.