

SENATE BILL 2407

By McNally

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 4; Title 53, Chapter 10, Part 3; Title 53, Chapter 11, Part 3; Section 53-11-402; Title 63, Chapter 1, Part 3; Title 63, Chapter 10, Part 2 and Title 71, Chapter 5, Part 26, relative to the monitoring and reporting of persons obtaining or attempting to obtain controlled substances.

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

SECTION 1. Tennessee Code Annotated, Section 53-11-309(a), is amended by deleting the following language:

Any physician, dentist, optometrist, podiatrist, veterinarian, advanced practice nurse with a certificate of fitness issued under title 63, chapter 7, or physician assistant, hereinafter referred to collectively as "health care providers"

and by substituting instead the following language:

Any physician, dentist, optometrist, podiatrist, veterinarian, advanced practice nurse with a certificate of fitness issued under title 63, chapter 7, physician assistant, dispenser as defined in § 53-10-302, hospital licensed under title 68 or the hospital's administrator or administrator's designee, hereinafter referred to collectively as "health care providers"

SECTION 2. Tennessee Code Annotated, Section 53-11-309(d), is amended by designating the existing language as subdivision (1) and by adding the following, to be designated as subdivision (2):

(2) A hospital, hospital administrator or the administrator's designee shall not be subject to a suit for civil damages nor held civilly liable for reporting any person in accordance with subsection (a) who is a hospital employee licensed as a physician,

nurse or physician assistant or for actions taken after reasonable reliance on information in the database.

SECTION 3. Tennessee Code Annotated, Section 53-11-402(a)(6), is amended by deleting the language "physician, nurse practitioner, ancillary staff or other health care provider" and by substituting instead the language "physician, veterinarian, advanced practice nurse with a certificate of fitness issued under title 63, chapter 7, dispenser as defined in § 53-10-302, hospital or the hospital's administrator or the administrator's designee, ancillary staff or other health care provider".

SECTION 4. Tennessee Code Annotated, Section 71-5-2601(a)(1)(A)(iii), is amended by deleting the following language:

physician, nurse practitioner, ancillary staff, or other health care provider from whom the person obtains a controlled substance

and by substituting instead the following language:

physician, dentist, optometrist, podiatrist, veterinarian, advanced practice nurse with a certificate of fitness issued under title 63, chapter 7, physician assistant, dispenser as defined in § 53-10-302, ancillary staff, or other health care provider from whom the person obtains a controlled substance

SECTION 5. Tennessee Code Annotated, Section 53-10-305, is amended by adding the following as new subsections (f) and (g):

(f) Any nonresidential substitution-based treatment center for opiate addiction as defined in § 68-11-1602, or health care provider in such treatment center authorized to prescribe or dispense, under title 63, a controlled substance contained in Schedule II, shall query the database in order to check the prescription history of any patient seeking a prescription for any such controlled substance. The center shall make any report

required by § 53-11-309 or § 71-5-2601 concerning any patient covered by such reporting requirements.

(g) Licensed pharmacists and state and federal law enforcement personnel authorized to have access under § 53-10-306 shall be permitted to have real-time electronic access to the database for purposes permitted under this part.

SECTION 6. Tennessee Code Annotated, Section 53-10-306(a), is amended by adding the following as new subdivision (7):

(7) A hospital licensed under title 68, the hospital's administrator, or the administrator's designee, to the extent the information relates specifically to a current employee of the hospital licensed as a physician, nurse, or physician assistant whom is known or suspected to be prescribing controlled substances and subsequently obtaining such controlled substances for the prescriber's personal use;

SECTION 7. Tennessee Code Annotated, Section 53-10-308, is amended by adding the following as new subsection (d):

(d) All federal law enforcement personnel authorized to have access under § 53-10-306 shall be permitted to have access to the database for purposes permitted under this part without the necessity of obtaining a search warrant.

SECTION 8. Tennessee Code Annotated, Section 63-1-301, is amended by deleting subdivision (5) and by substituting instead the following:

(5) "Pain management clinic" means a privately-owned facility in which the owner is a hospital licensed under title 68 or a medical doctor authorized under the law of this state to prescribe controlled substances and in which a medical doctor, an osteopathic physician, an advanced practice nurse, and/or a physician assistant provides pain management services to patients, a majority of whom are issued a

prescription for, or are dispensed, opioids, benzodiazepine, barbiturates, or carisoprodol, but not including suboxone, for more than ninety (90) days in a twelve-month period; and

SECTION 9. Tennessee Code Annotated, Title 63, Chapter 10, Part 2, is amended by adding the following as a new section:

63-10-216.

(a) For purposes of this section, "photo identification" means a valid driver license or other identification card issued by a governmental entity that includes a person's photograph.

(b) Before a pharmacist or a pharmacy may dispense or deliver a controlled substance as a prescription drug to a person, the pharmacist or pharmacy shall obtain photo identification from the person presenting themselves to take possession of the prescription, and require that person to sign a log identifying the person, which log shall indicate the driver license number or government-issued identification number. The requirement in this subsection (b) to present photo identification shall not apply to persons concerning whom the pharmacist personally knows and for whom the pharmacist will affirm the person's identity.

(c) If the person does not possess photo identification, the pharmacist or pharmacy shall obtain from the person a birth certificate, passport, health insurance card, medicaid or medicare card, electronic benefits transfer card, or hunting or fishing license as a means of identification.

SECTION 10. Tennessee Code Annotated, Section 39-17-431(c)(4), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(4) It is an offense for any individual or corporate entity to interfere with, or require a protocol or procedure that interferes with, the pharmacist's professional duty to counsel and evaluate the patient's appropriate pharmaceutical needs and the exercise of

the pharmacist's professional judgment as to whether it is appropriate to dispense medication as set forth in subsection (d) or otherwise.

SECTION 11. This act shall take effect July 1, 2012, the public welfare requiring it.