

SENATE BILL 2498

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 4,
Chapter 29, Part 2; Title 63 and Title 68, relative to
professions of the healing arts.

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

SECTION 1. Tennessee Code Annotated, Section 4-29-241(a), is amended by inserting the following as a new subdivision:

() Board of ultrasound sonographers, created by § 63-15-104;

SECTION 2. Tennessee Code Annotated, Title 63, is amended by adding the following as a new chapter:

63-15-101.

This chapter shall be known and may be cited as the "Tennessee Ultrasound Sonographer Practice Act".

63-15-102.

It is the purpose of this chapter to establish minimum education, training, and certification guidelines and safety protocols for ultrasound sonographers in non-clinical 3D/4D ultrasound boutiques in this state.

63-15-103.

As used in this chapter:

(1) "Applicant" means any person seeking a license under this chapter;

(2) "Board" means the board of ultrasound sonographers established pursuant to § 63-15-104; and

(3) "Practice" means rendering or offering to render ultrasound sonography services.

63-32-104.

(a) There is created the board of ultrasound sonographers. The board shall consist of five (5) members to be appointed by the governor as follows:

- (1) Four (4) members shall be ultrasound sonographers; and
- (2) One (1) member shall represent the public at large.

(b) No member shall serve on the board for more than two (2) consecutive terms. Any vacancy shall be filled by the governor.

(c) The board members shall serve without compensation but are entitled to reimbursement of any travel expenses incurred. All reimbursement for travel must be in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

63-15-105.

(a) The ultrasound sonographer members of the board shall:

- (1) Be citizens of the United States and residents of this state; and
- (2) Have engaged in the practice of ultrasound sonography and services.

(b) The public member of the board shall be a citizen of the United States and resident of this state and shall have no connection whatsoever with the practice of ultrasound sonography.

(c) The governor may remove members of the board, after notice and opportunity for hearing, for incompetence, neglect of duty, unprofessional conduct, conviction of any felony, failure to meet the qualifications of this chapter, or committing any act prohibited by this chapter.

63-15-106.

The governor shall call the first meeting of the board, at which time the board shall elect from its members a chairperson, vice chairperson, and any other officers as deemed necessary who shall hold office according to the rules adopted by the board.

The board shall meet annually, and may hold additional meetings each year as provided by the rules adopted by the board.

63-15-107.

(a) The board shall perform duties, and possess and exercise powers, relative to the protection of the public health and the control and regulation of ultrasound sonographers as prescribed in this chapter.

(b) The board has the power and authority to:

(1) Enforce this chapter, and it shall be granted all of the necessary duties, powers, and authority to carry out this responsibility;

(2) Promulgate, repeal, and enforce rules as it deems necessary for the administration and enforcement of this chapter in the protection of public health, safety, and welfare;

(3) License duly qualified applicants by examination or reinstatement;

(4) Implement a disciplinary process;

(5) Enforce qualifications for licensure;

(6) Set standards for competency of licensees continuing in or returning to practice;

(7) Issue orders when a license is surrendered to the board while a complaint, investigation, or disciplinary action against the licensee is pending;

(8) Adopt, revise, and enforce rules regarding advertising by licensees, including rules to prohibit false, misleading, or deceptive practices;

(9) Adopt, publish in print or electronically, and enforce a code of ethics;

(10) Establish examination and licensing fees;

(11) Request and receive the assistance of public postsecondary institutions or other state entities;

(12) Prepare information of consumer interest describing the regulatory functions of the board and describing the procedures by which consumer complaints are filed with and resolved by the board;

(13) Establish continuing education requirements; and

(14) Adopt a seal that shall be affixed only in such manner as prescribed by the board.

63-15-108.

The board may grant, upon application and payment of proper fees, a license without examination to a person who, at the time of application, either:

(1) Holds a valid license as a licensed ultrasound sonographer issued by another state, political territory, or jurisdiction acceptable to the board if, in the board's opinion, the requirements for that license are substantially equal to or greater than the requirements of this chapter; or

(2) Presents evidence satisfactory to the board that the applicant is in good standing with the American Registry of Diagnostic Medical Sonographers, or its successor organization.

63-15-109.

Each applicant for a license as an ultrasound sonographer shall be at least eighteen (18) years of age; shall have submitted a completed application upon a form and in such manner as the board prescribes, accompanied by applicable fees; and shall be in compliance with the following requirements:

(1) Have a minimum two-year associate degree in sonography at an accredited institution;

(2)

(A) Be registered with the American Registry of Diagnostic Medical Sonographers (ARDMS) and have met the continuing education requirements of the registry; or

(B) Be in the process of applying for registration with the ARDMS, provided that the applicant satisfies the requirements for registration within ninety (90) days of becoming employed as an ultrasound sonographer;

(3) Be registered with the American Registry of Radiologic Technologists;

and

(4) Completion of other requirements as may be prescribed by the board.

63-15-110.

(a) The board may require that all applications be made under oath.

(b) After evaluation of an application and other evidence submitted, the board shall notify each applicant that the application and submitted evidence are satisfactory and accepted or unsatisfactory and rejected. If rejected, the notice must state the reasons for the rejection.

63-15-111.

Examinations to determine competence must be administered to qualified applicants at least once each calendar year. The examinations may be administered by a national testing service. The board shall prescribe or develop the examinations.

63-15-112.

(a) A license issued by the board is the property of the board and must be surrendered on demand.

(b) The licensee shall display the license certificate in an appropriate and public manner.

(c) The licensee shall inform the board of any change of address.

(d) The license shall be renewed biennially if the licensee is not in violation of this chapter at the time of application for renewal and if the applicant fulfills current requirements of continuing education as established by the board.

(e) Each person licensed under this chapter is responsible for renewing the license before the expiration date.

(f) Under procedures and conditions established by the board, a licensee may request that the license be declared inactive. The licensee may apply for active status at any time and, upon meeting the conditions set by the board, shall be declared active.

63-15-113.

The board may:

(1) Refuse to grant or renew a license to an applicant;

(2) Administer a public or private reprimand, but a private reprimand shall not be disclosed to any person except the licensee;

(3) Suspend any licensee for a definite period or for an indefinite period in connection with any condition that may be attached to the restoration of such license;

(4) Limit or restrict any licensee as the board deems necessary for the protection of the public;

(5) Revoke any license;

(6) Condition any penalty imposed upon, or withhold formal disposition pending, the applicant or licensee's submission to care, counseling, or treatment as the board may direct;

(7) Impose a fine not to exceed five hundred dollars (\$500) for each violation of a law or rule relating to the profession regulated by this chapter upon a finding by a majority of the entire board that the licensee or applicant has:

(A) Failed to demonstrate the qualifications or standards for a license contained in this chapter or under the laws or rules under which licensure is sought or held. It is incumbent upon the applicant to demonstrate to the satisfaction of the board that the applicant meets all the requirements for the issuance of a license. If the board is not satisfied as to the applicant's qualifications, the board may deny a license without a prior hearing. However, an applicant must be allowed to appear before the board if the applicant so desires;

(B) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of a business or profession licensed under this chapter or on any document required by this chapter; practiced fraud or deceit or intentionally made a false statement in obtaining a license to practice the licensed business or profession; or made a false statement or deceptive registration with the board;

(C) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States. As used in this subdivision (7)(C) and in subdivision (7)(D), "felony" includes any offense that, if committed in this state, is deemed a felony, without regard to its designation elsewhere; and, as used in this subdivision (7)(C), "convicted" includes a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought;

(D)

(i) Been arrested, charged, and sentenced for the commission of any felony, or any crime involving moral turpitude, where:

(a) A plea of nolo contendere was entered to the charge;

(b) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(c) An adjudication or sentence was otherwise withheld or not entered on the charge.

(ii) The plea of nolo contendere or the order entered, relating to probation of first offenders, or other first offender treatment is conclusive evidence of arrest and sentencing for the crime;

(E) Had the applicant's license to practice a business or profession licensed under this chapter revoked, suspended, or annulled by any licensing authority other than the board; had other disciplinary action taken against the applicant or licensee by any licensing authority other than the board; was denied a license by any licensing authority other than the board, pursuant to disciplinary proceedings; or was refused the renewal of a license by any licensing authority other than the board, pursuant to disciplinary proceedings;

(F) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public that materially affects the fitness of the licensee or applicant to practice a business or

profession licensed under this title, or is of a nature likely to jeopardize the interest of the public. The conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of the licensed business or profession but shows that the licensee or applicant has committed any act or omission that is indicative of bad moral character or untrustworthiness. Unprofessional conduct includes any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing practice of the business or profession licensed under this chapter;

(G) Knowingly performed any act that in any way aids, assists, procures, advises, or encourages any unlicensed person or any licensee whose license has been suspended or revoked by a professional licensing board to practice a business or profession licensed under this chapter or to practice outside the scope of any disciplinary limitation placed upon the licensee by the board;

(H) Violated a statute, law, or any rule of this state, any other state, the board of ultrasound sonographers, the United States, or any other lawful authority, without regard to whether the violation is criminally punishable, when the statute, law, or rule relates to or in part regulates the practice of a business or profession licensed under this chapter and when the licensee or applicant knows or should know that the action violates the statute, law, or rule; or violated an order that the board previously entered in a disciplinary hearing, consent decree, or license reinstatement;

(I) Been adjudged mentally incompetent by a court of competent jurisdiction within or outside of this state. Any such adjudication automatically suspends the license of the person and prevents the reissuance or renewal of any license so suspended for so long as the adjudication of incompetence is in effect; or

(J) Displayed an inability to practice a business or profession licensed under this chapter with reasonable skill and safety to the public or has become unable to practice the licensed business or profession with reasonable skill and safety to the public by reason of illness or the use of alcohol, drugs, narcotics, chemicals, or any other type of material.

63-15-114.

(a) On and after twelve (12) months following the effective date of this act, no person without a license as an ultrasound sonographer issued pursuant to this chapter shall hold themselves out as an ultrasound sonographer.

(b) Violation of subsection (a) is a Class B misdemeanor.

63-15-115.

Proceedings under this chapter are governed by the Uniform Administrative Procedure Act, compiled in title 4, chapter 5.

SECTION 3. Tennessee Code Annotated, Section 68-1-101(a)(8), is amended by inserting the following as a new subdivision:

Board of ultrasound sonographers;

SECTION 4. For the purpose of promulgating rules, 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, 2019, the public welfare requiring it.