HOUSE BILL 9028
By Moody

SENATE BILL 9025

By Pody

AN ACT to amend Tennessee Code Annotated, Title 53; Title 63 and Title 68, relative to COVID-19.

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

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 6, Part 2, is amended by adding the following as a new section:

(a) A licensing board or disciplinary subcommittee shall not revoke, fail to renew, suspend, or take an action against a physician's license issued under this chapter, based solely on the physician's recommendations to a patient regarding treatment for COVID-19, so long as the physician exercised independent medical judgment and believes that the medical treatment is in the best interest of the patient and the patient provides written, informed consent.

(b) For any drug, biological product, or device prescribed by the physician pursuant to subsection (a), a pharmacy shall not block or attempt to block a patient's access to the drug, biological product, or device solely on the basis that the United States food and drug administration (FDA) has not approved the drug, biological product, or device to treat COVID-19.

(c) As used in this section:

(1) "COVID-19" means the novel coronavirus, SARS-COV-2, and coronavirus disease 2019, including a mutation or variant of the novel coronavirus, SARS-COV-2, and coronavirus disease 2019;

(2) "Pharmacy" has the same meaning as defined in § 63-10-204;

(3) "Treatment for COVID-19" means a procedure, protocol, drug, or remedy intended to prevent, mitigate, or treat COVID-19 and includes the use of an FDA-approved drug, biological product, or device other than for the use or uses approved by the FDA; and

(4) "Written, informed consent" means a written document that is signed by the patient, the patient's legal guardian, or the patient's attorney-in-fact designated by the patient under title 34, chapter 6, part 2, or if the patient is a minor, the patient's parent or legal guardian, and that, at a minimum, includes:

(A) An explanation of the currently approved products and treatments for COVID-19;

(B) Clear identification of the specific proposed procedure, protocol, drug, or remedy that the patient is seeking to use;

(C) A description of the potentially best and worst outcomes of using the investigational drug, biological product, or device and a realistic description of the most likely outcome. The description must include the possibility that new, unanticipated, different, or worse symptoms might result and that death could be hastened by the proposed treatment. The description must be based on the physician's knowledge of the proposed treatment in conjunction with an awareness of the patient's condition; and

(D) A release of liability relative to each treating physician, licensed healthcare provider, and hospital or healthcare facility, as applicable, and the manufacturer of the procedure, protocol, drug, biological product, device, or remedy.

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

(a) A licensing board or disciplinary subcommittee shall not revoke, fail to renew, suspend, or take an action against a physician's license issued under this chapter, based solely on the physician's recommendations to a patient regarding treatment for COVID-19, so long as the physician exercised independent medical judgment and believes that the medical treatment is in the best interest of the patient and the patient provides written, informed consent.

(b) For any drug, biological product, or device prescribed by the physician pursuant to subsection (a), a pharmacy shall not block or attempt to block a patient's access to the drug, biological product, or device solely on the basis that the United States food and drug administration (FDA) has not approved the drug, biological product, or device to treat COVID-19.

(c) As used in this section:

(1) "COVID-19" means the novel coronavirus, SARS-COV-2, and coronavirus disease 2019, including a mutation or variant of the novel coronavirus, SARS-COV-2, and coronavirus disease 2019;

(2) "Pharmacy" has the same meaning as defined in § 63-10-204;

(3) "Treatment for COVID-19" means a procedure, protocol, drug, or remedy intended to prevent, mitigate, or treat COVID-19 and includes the use of an FDA-approved drug, biological product, or device other than for the use or uses approved by the FDA; and

(4) "Written, informed consent" means a written document that is signed by the patient, the patient's legal guardian, or the patient's attorney-in-fact designated by the patient under title 34, chapter 6, part 2, or if the patient is a minor, the patient's parent or legal guardian, and that, at a minimum, includes:

(A) An explanation of the currently approved products and treatments for COVID-19;

(B) Clear identification of the specific proposed procedure, protocol, drug, or remedy that the patient is seeking to use;

(C) A description of the potentially best and worst outcomes of using the investigational drug, biological product, or device and a realistic description of the most likely outcome. The description must include the possibility that new, unanticipated, different, or worse symptoms might result and that death could be hastened by the proposed treatment. The description must be based on the physician's knowledge of the proposed treatment in conjunction with an awareness of the patient's condition; and

(D) A release of liability relative to each treating physician, licensed healthcare provider, and hospital or healthcare facility, as applicable, and the manufacturer of the procedure, protocol, drug, biological product, device, or remedy.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.