

SENATE BILL 521

By Hensley

AN ACT to amend Tennessee Code Annotated, Title 24; Title 49; Title 53; Title 56; Title 63; Title 68 and Title 71, relative to physician-led patient care teams.

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 “Tennessee Healthcare Improvement Act of 2015.”

SECTION 2. Tennessee Code Annotated, Section 24-9-101(a)(6), is amended by deleting the language “advanced practice nurse” and substituting instead the language “advanced practice registered nurse”.

SECTION 3. Tennessee Code Annotated, Sections 49-2-124(c)(3) and (4), are amended by deleting the language “advanced practice nurse” and substituting instead the language “advanced practice registered nurse”.

SECTION 4. Tennessee Code Annotated, Section 53-10-104(c), is amended by deleting the language “a nurse practitioner” and substituting instead the language “an advanced practice registered nurse”.

SECTION 5. Tennessee Code Annotated, Section 53-10-302(13), is amended by deleting the subdivision and substituting instead the following:

(13) “Prescriber” means an individual licensed as a medical doctor, podiatrist, dentist, optometrist, veterinarian, osteopathic physician, or physician assistant who has the authority to issue prescriptions for controlled substances, or an advanced practice registered nurse with a certificate of fitness to prescribe and the relationship with a physician that is required by § 63-7-123;

SECTION 6.

(a) Tennessee Code Annotated, Section 53-11-309(a), is amended by deleting the language “advanced practice nurse” and substituting instead the language “advanced practice registered nurse”.

(b) Tennessee Code Annotated, Section 53-11-309(a), is amended by deleting the language “advanced practice nurse” and substituting instead the language “advanced practice registered nurse”.

SECTION 7.

(a) Tennessee Code Annotated, Section 53-11-309(b), is amended by deleting the language “advanced practice nurse” and substituting instead the language “advanced practice registered nurse”.

(b) Tennessee Code Annotated, Section 53-11-309(b), is amended by deleting the language “advanced practice nurse” and substituting instead the language “advanced practice registered nurse”.

SECTION 8.

(a) Tennessee Code Annotated, Section 53-11-402(a)(6), is amended by deleting the language “nurse practitioner” and substituting instead the language “advanced practice registered nurse”.

(b) Tennessee Code Annotated, Section 53-11-402(a)(6), is amended by deleting the language “nurse practitioner” and substituting instead the language “advanced practice registered nurse”.

SECTION 9. Tennessee Code Annotated, Section 56-54-103(9), is amended by deleting subdivision (A) and substituting instead the following:

(A) A person licensed in either title 63, except chapter 12, or title 68 to provide health care or related services, including, but not limited to, an acupuncturist, a physician, a surgeon, an osteopathic physician, a dentist, a nurse, an optometrist, a podiatrist, a chiropractor, a physical therapist, a psychologist, a pharmacist, an optician, a physician assistant, an advanced practice registered nurse, or an orthopedic physician

assistant. If the person is deceased, this includes the person's estate or personal representative; or

SECTION 10. Tennessee Code Annotated, Section 63-1-109(a), is amended by deleting subdivision (7) and substituting instead the following:

(7) "Advanced practice registered nurse," "nurse practitioner," "nurse anesthetist," "nurse midwife," or "clinical nurse specialist," as applicable, for those practicing advanced practice registered nursing;

SECTION 11. Tennessee Code Annotated, Section 63-1-301, is amended by deleting the language "Advanced practice nurse" in subdivision (1) and substituting instead the language "Advanced practice registered nurse"; and by deleting the language "advanced practice nurses" in subdivision (6)(A) and substituting instead the language "advanced practice registered nurses,".

SECTION 12. Tennessee Code Annotated, Section 63-1-313(a), is amended by deleting the language "advanced practice nurse" and substituting instead the language "advanced practice registered nurse".

SECTION 13. Tennessee Code Annotated, Section 63-6-244(d), is amended by deleting the language "advanced practice nurse" and substituting instead the language "advanced practice registered nurse".

SECTION 14. Tennessee Code Annotated, Section 63-6-802(9), is amended by deleting the language "advanced practice nurse" and substituting instead the language "advanced practice registered nurse".

SECTION 15. Tennessee Code Annotated, Section 63-7-103(b), is amended by deleting the subsection and substituting instead the following:

Notwithstanding the provisions of subsection (a), the practice of professional nursing does not include acts of medical diagnosis and treatment or the development of a medical plan of care and therapeutics for a patient, including, but not limited to, the

administration, dispensing, or prescribing of pharmaceuticals, except to the extent those acts are expressly delegated by a patient care team physician to an advanced practice registered nurse, as authorized by §§ 63-7-123 and 63-7-207.

SECTION 16. Tennessee Code Annotated, Section 63-7-115(b), is amended by deleting the subsection and substituting instead the following:

(b) The board shall have concurrent enforcement power with the division to revoke or suspend any certificate of fitness of an advanced practice registered nurse who has been issued a certificate of fitness pursuant to § 63-1-104 or to otherwise discipline an advanced practice registered nurse in accordance with this section.

SECTION 17. Tennessee Code Annotated, Section 63-7-123, is amended by deleting the section and substituting instead the following:

(a) As used in this section, unless the context otherwise requires:

(1) "APRN" means an advanced practice registered nurse who is certified by the board pursuant to § 63-7-126;

(2) "Board" means the board of nursing;

(3) "Collaboration" means the communication and decision-making process among members of a patient care team related to the treatment and care of a patient, and includes:

(A) Communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments; and

(B) Development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies;

(4) “Complex medical condition” means a diagnosis, treatment, or procedure that has a high degree of outcome variation and requires specialized skills possessed by a physician or a patient care team to provide care for the patient in order to prevent a serious adverse outcome. “Complex medical condition” also means a condition that is emergent, persistent, substantially disabling, or life-threatening; requires the use of anesthesia, other than local anesthesia; or that requires interventions across a variety of domains of care to prevent a serious adverse outcome. Examples of complex medical conditions include, but are not limited to, the following:

- (A) Surgery defined as Level II or Level III in § 63-6-221, regardless of the setting;
- (B) Transplantation;
- (C) Chronic kidney disease;
- (D) Heart disease;
- (E) Infertility;
- (F) Neonatology;
- (G) Obesity;
- (H) Pregnancy;
- (I) Nonroutine women’s health services;
- (J) Chronic pain;
- (K) Bipolar disorder;
- (L) Schizophrenia;
- (M) Neurological damage or disease;
- (N) Gene mutation including, but not limited to, sickle cell and cystic fibrosis;
- (O) Uncontrolled diabetes or hypertension;

- (P) Lifelong disabilities requiring ventilator support;
- (Q) Neonatal abstinence syndrome;
- (R) Any condition or combination of conditions that result in increasing medical fragility;
- (S) Advanced cancer and cancer treatment;
- (T) Cosmetic medical services, as defined in § 63-1-153;
- (U) Hormone replacement therapy;
- (V) Any condition that requires more than a ninety-day prescription for an opiate or a benzodiazepine;
- (W) Chronic obstructive pulmonary disease; and
- (X) Treatment and care of patients twelve (12) years of age and under;

(5) "Patient care team" means a multidisciplinary team of healthcare providers actively functioning as a unit with the management and leadership of one (1) or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients; and

(6) "Patient care team physician" means a physician who is actively licensed to practice medicine in Tennessee pursuant to title 63, chapter 6 or 9, who regularly practices medicine in Tennessee, and who provides management and leadership in the care of patients as part of a patient care team.

(b)

(1) Every APRN shall practice as part of a patient care team, in collaboration with the patient care team physician or physicians, and shall render medical care, including, but not limited to, diagnosis and treatment, and the administration, prescribing, and dispensing of pharmaceuticals, only as part of the patient care team.

(2) Each member of a patient care team may have delineated responsibilities related to the care of patients and shall provide healthcare services.

(3) Each member of a patient care team shall provide healthcare services within the scope of that team member's practice act and the rules that are applicable to that team member's practice area. Every APRN shall engage in collaboration with at least one (1) patient care team physician, as evidenced in a written practice agreement.

(4) The practice of patient care teams in all settings shall include the periodic review of patient charts or electronic health records, and may require patient care team physician visits to the site where health care is delivered in the manner and frequency that is determined to be appropriate by the patient care team, as evidenced by the practice agreement.

(5) In delineating the responsibilities of each member of the patient care team, the team shall consider the education, training, and experience of each team member and the complexity of the tasks and procedures that each team member is expected to perform.

(6) Practice agreements shall include a provision for appropriate physician review or referral of a complex medical condition.

(7) Every practice agreement shall include a formulary that lists the categories of legend drugs and controlled substances that each APRN may prescribe or issue.

(8) Service on a patient care team by a patient care team member shall not, by the existence of that service alone, establish or create liability for the acts or omissions of other team members.

(9) Every practice agreement shall be:

(A) Signed by all members of the patient care team;

(B) Maintained at every practice site at which any member of the patient care team practices; and

(C) Provided to the boards upon request.

(10) Any complaints against an APRN or a patient care team physician shall be reported to the department of health investigations unit.

(11) Any patient receiving services from an APRN, shall be fully informed that the individual is an APRN, or a sign shall be conspicuously placed within the practice site indicating that certain services may be rendered by an APRN.

(c) The board of medical examiners and the board of osteopathic examination, in consultation with the board of nursing, shall promulgate rules that establish minimum requirements for physician involvement and referral for a complex medical condition when services are provided by an APRN. If a decision by the board of medical examiners or the board of osteopathic examination as to who or what constitutes a complex medical condition contradicts any decision made by the board of nursing concerning a similar complex medical condition, the decision and rules of the board of medical examiners or the board of osteopathic examination shall supersede the decision made by the board of nursing. The minimum requirements for complex medical conditions shall be included in every practice agreement. Nothing in this subsection (c) shall prevent an APRN from providing medical services to a patient with a complex medical condition if the medical services are authorized in the practice agreement.

(d) The board of nursing, in consultation with the board of medical examiners and the board of osteopathic examination, shall promulgate rules that establish minimum requirements for physician involvement or referrals for all services provided by an APRN that are not considered to be a complex medical condition. The minimum requirements

for medical conditions that are not complex shall be included in every practice agreement.

(e) The board shall issue a certificate of fitness to APRNs who meet the qualifications, competencies, training, education, and experience, pursuant to § 63-7-207(14), sufficient to prepare those persons to write and sign prescriptions or issue drugs within the limitations and provisions of § 63-1-132.

(1) A nurse who has been issued a certificate of fitness as an APRN pursuant to § 63-7-207 and this section, and is engaged in active practice, shall file a notice with the board, containing the name of the APRN, the name of the licensed physician acting as the APRN's patient care team physician, and a copy of the formulary describing the categories of legend drugs to be prescribed or issued by the APRN. The APRN shall be responsible for updating this information within thirty (30) days of a change.

(2)

(A) Except as otherwise specifically prohibited, an APRN who holds a certificate of fitness shall be authorized to prescribe or issue controlled substances listed in Schedules II, III, IV, and V of title 39, chapter 17, part 4, if permitted by the APRN's practice agreement.

(B) Notwithstanding subdivision (e)(2)(A), an APRN shall not prescribe a Schedule II, III, or IV controlled substance unless the prescription is specifically authorized by the formulary or expressly approved after consultation with a patient care team physician before the issuance of the prescription or dispensing of the medication.

(C) An APRN who has been issued a certificate of fitness may prescribe or issue a Schedule II or III opioid listed on the formulary only for a maximum of a nonrefillable, thirty-day course of treatment, unless

specifically approved after consultation with a patient care team physician before the initial issuance of the prescription or dispensing of the medication. This subdivision (e)(2)(C) shall not apply to prescriptions issued in a hospital, a nursing home licensed under title 68, or inpatient facilities licensed under title 33.

(3)

(A) Any prescription written and signed, or drug issued, by an APRN under a practice agreement between a collaborating physician and APRN shall be deemed to be that of the APRN. Every prescription issued by an APRN pursuant to this section shall be entered in the medical records kept on the patient. The APRN shall sign each prescription so written and indicate that the prescription is written by an APRN by designating "APRN" after the APRN's signature on the prescription.

(B) Any handwritten prescription order for a drug prepared by an APRN who is authorized to prescribe a drug must be legible so that it is comprehensible by the pharmacist who fills the prescription. The handwritten prescription order shall contain the name of the prescribing APRN, the name and strength of the drug prescribed, and the quantity of the drug prescribed, all handwritten in letters or in numerals; and instructions for the proper use of the drug and the month and day that the prescription order was issued, to be recorded in letters or in numerals or a combination thereof. The prescribing APRN shall sign the handwritten prescription order on the day it is issued, unless the prescription order is:

(i) Issued as a standing order in a hospital, nursing home, or assisted-care living facility, as defined in § 68-11-201; or

(ii) Prescribed by an APRN in the department of health or a local health department, or dispensed by the department of health or a local health department, pursuant to § 63-10-205.

(C) Any typed or computer-generated prescription order for a drug issued by an APRN who is authorized to prescribe a drug shall be legible so that it is comprehensible by the pharmacist who fills the prescription order. The typed or computer-generated prescription order shall contain the name of the prescribing APRN, the name and strength of the drug prescribed, and the quantity of the drug prescribed, all recorded in letters or in numerals; instructions for the proper use of the drug; and the month and day that the typed or computer-generated prescription order was issued, all recorded in letters or in numerals or a combination thereof. The prescribing APRN shall sign the typed or computer-generated prescription order on the day it is issued, unless the prescription order is:

(i) Issued as a standing order in a hospital, nursing home, or assisted-care living facility, as defined in § 68-11-201; or

(ii) Prescribed by an APRN in the department of health or a local health department, or dispensed by the department of health or a local health department, pursuant to § 63-10-205.

(D) Nothing in this section shall be construed to prevent an APRN from issuing a verbal prescription order.

(E)

(i) All handwritten, typed, or computer-generated prescription orders must be issued on tamper-resistant prescription paper that meets the current centers for medicare and

medicaid service guidance to state medicaid directors regarding § 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (Pub. L. 110-28) and meets or exceeds specific TennCare requirements for tamper-resistant prescription paper.

(ii) Subdivision (e)(3)(E)(i) shall not apply to prescriptions written for inpatients of a hospital; outpatients of a hospital where the doctor or other person authorized to write prescriptions writes the order into the hospital medical record and then the order is given directly to the hospital pharmacy, and the patient never has the opportunity to handle the written order; a nursing home or an assisted-care living facility as defined in § 68-11-201; inpatients or residents of a mental health hospital or residential facility licensed under title 33; or individuals incarcerated in a local, state, or federal correctional facility.

(F) Any written, printed, or computer-generated prescription order for a Schedule II controlled substance prepared by an APRN who is authorized to prescribe a drug shall be printed or typed as a separate prescription order. The written, printed, or computer-generated prescription order shall contain all information otherwise required by law. The prescribing APRN shall sign the written, printed, or computer-generated prescription order on the day it is issued.

(G) Every prescription for an opioid or benzodiazepine issued by an APRN pursuant to this section shall be issued on a prescription bearing the name, address, and telephone number of the patient care team physician and of the APRN. Where a preprinted prescription pad

contains the names of more than one (1) physician, the APRN shall indicate on the prescription which of those physicians is the APRN's primary patient care team physician by placing a check mark beside, or a circle around, the name of that physician. Failure to identify the primary patient care team physician or indicate that the prescription is written by an APRN on the prescription shall void the prescription.

(4) Each APRN shall maintain a copy of the practice agreement the APRN is using at the APRN's practice location and shall make the practice agreement available upon request by the board of nursing, the board of medical examiners, the board of osteopathic examination, or authorized agents of any of the boards.

(5) It is a violation of this chapter for an APRN to prescribe controlled substances pursuant to this section, unless the prescription is authorized by the practice agreement or documented as specifically approved after consultation with the primary patient care team physician or a substitute patient care team physician before the initial issuance of the prescription or dispensing of the medication. The patient care team physician or a substitute patient care team physician shall review one hundred percent (100%) of all patient charts or electronic health records where a patient has been administered, dispensed, or prescribed an opioid or benzodiazepine.

(f)

(1) The board may issue a temporary certificate of fitness to a registered nurse who:

(A) Is licensed to practice in Tennessee;

(B) Has a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills that includes three (3) quarter hours of pharmacology instruction or its equivalent; and

(C) Has applied for examination or is awaiting examination results for national certification as a first-time examinee in an appropriate nursing specialty area.

(2) A temporary certificate shall remain valid until the examination results are obtained. The holder of a temporary certificate issued under this subsection (f) who has not received the results of the examination shall work only under the supervision and control of an APRN or physician.

(g) A physician shall not serve as the primary patient care team physician responsible for collaboration with an APRN on a patient care team if the services provided by that APRN are not services that the physician is authorized to provide and generally provides to the physician's patients in the normal course of the physician's clinical medical practice. An APRN shall ordinarily provide services only to the class of patients whom the patient care team physician routinely treats in the normal course of the physician's clinical medical practice. A certified registered nurse anesthetist, providing anesthesia services at a licensed facility, may use the physician providing the medical or surgical service as a surrogate for a patient care team physician.

SECTION 18. Tennessee Code Annotated, Section 63-7-126, is amended by deleting subsections (a)–(e), substituting instead the following, and redesignating the existing subsection (f) as subsection (d):

(a) "Advanced practice registered nurse" means a registered nurse with a master's degree or higher in a nursing specialty and national specialty certification as a nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist.

(b) Nurse practitioners, nurse anesthetists, nurse midwives, and clinical nurse specialists holding the education and practice credentials specified in subsection (a) shall apply to the board for a certificate to practice as an advanced practice registered nurse, including authorization to use the title “advanced practice registered nurse” or the abbreviation “APRN.” No other person shall assume that title or use that abbreviation or any other words, letters, or signs to indicate that the person using the same is an advanced practice registered nurse.

(c) An applicant for a certificate to practice as an advanced practice registered nurse shall pay an initial fee and a biennial renewal fee, as set by the board.

SECTION 19. Tennessee Code Annotated, Section 63-7-202, is amended by deleting the language “advanced practice nurse” from subdivisions (a)(1) and (f)(4) and substituting instead the language “advanced practice registered nurse”; and by deleting the language “advanced practice nurses” from subdivision (a)(1) and substituting instead the language “advanced practice registered nurses”.

SECTION 20. Tennessee Code Annotated, Section 63-7-207(14), is amended by deleting the subdivision and substituting instead the following:

(14) Establish and examine the qualifications, competencies, training, education, and experience required of a registered nurse applying for a certificate of fitness as an advanced practice registered nurse, as defined by the board, sufficient to prepare the person to write and sign prescriptions or issue drugs;

SECTION 21. Tennessee Code Annotated, Section 63-9-121(d), is amended by deleting the language “advanced practice nurse” and substituting instead the language “advanced practice registered nurse”.

SECTION 22. Tennessee Code Annotated, Section 63-10-217(d), is amended by deleting the language “advanced practice nurses” and substituting instead the language

“advanced practice registered nurses”; and by deleting the language “APN” wherever it appears and substituting instead the language “APRN”.

SECTION 23. Tennessee Code Annotated, Section 63-10-505(h)(1)(C), is amended by deleting the language “advanced practice nurse” and substituting instead the language “advanced practice registered nurse,”.

SECTION 24. Tennessee Code Annotated, Section 63-10-506, is amended by deleting the language “advanced practice nurse” and substituting instead the language “advanced practice registered nurse”.

SECTION 25. Tennessee Code Annotated, Section 63-51-102(b), is amended by deleting the language “certified nurse practitioner” and substituting instead the language “advanced practice registered nurse”.

SECTION 26. Tennessee Code Annotated, Sections 68-1-128(a)(2) and (b)(1)(A), are amended by deleting the language “advanced practice nurse” and substituting instead the language “advanced practice registered nurse”.

SECTION 27. Tennessee Code Annotated, Section 68-1-128(b)(1)(A), is further amended by deleting the language “advanced practice nurses” and substituting instead the language “advanced practice registered nurses”.

SECTION 28. Tennessee Code Annotated, Sections 68-11-224(a)(1) and (a)(5), are amended by deleting the language “advanced practice nurse” and substituting instead the language “advanced practice registered nurse”.

SECTION 29. Tennessee Code Annotated, Section 71-5-1414(d)(5)(C), is amended by deleting the language “advanced practice nurse” and substituting instead the language “advanced practice registered nurse,”.

SECTION 30. Any certification as an advanced practice registered nurse issued under § 63-7-126 that is valid and effective on January 1, 2016, shall remain valid and effective until the certification is renewed, retired, or revoked, or the certification expires without being renewed.

SECTION 31. The board of nursing, the board of medical examiners, and the board of osteopathic examination are authorized to promulgate rules, including emergency rules, to effectuate the purposes of this act. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 32. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. Sections 6(b), 7(b), and 8(b) shall take effect at 12:01 a.m., July 1, 2016, the public welfare requiring it. All other provisions of this act shall take effect January 1, 2016, the public welfare requiring it.