

HOUSE BILL 315

By Hawk

AN ACT to amend Tennessee Code Annotated, Section 10-7-504; Title 63, Chapter 1, Part 1 and Title 68, Chapter 11, Part 2, relative to healthcare licensure.

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

SECTION 1. Tennessee Code Annotated, Section 10-7-504, is amended by adding the following language as a new, appropriately designated subsection:

() Notwithstanding any law the contrary, examination questions, answer sheets, scoring keys, and other examination data used for the purpose of licensure, certification, or registration of health professionals under title 63 or title 68 shall be treated as confidential and shall not be open for inspection by members of the public; provided, however, that:

(1) A person who has taken such an examination has the right to review the person's own completed examination; and

(2) Final examination scores of persons licensed, certified, or registered as health professionals under title 63 or title 68 shall be open for inspection by members of the public, upon request.

SECTION 2. Tennessee Code Annotated, Section 63-1-104, is amended by adding the following language as new, appropriately designated subsections:

(d) Any board, committee, council, or agency created pursuant to this title or title 68 that regulates health professionals shall have the authority to do the following at its discretion:

(1) Issue a limited license of temporary duration to applicants who have been out of clinical practice or inactive in their practice for an extended period of

time, or who have been or are at the time of their application engaged exclusively in administrative practice, provided that the applicant meets all other requirements for licensure;

(2) Restrict the scope of practice under such limited license as deemed appropriate;

(3) Restrict the duration of such limited license as deemed appropriate;

(4) Condition the granting of a full license upon an applicant's completion of any educational measures or supervised practice requirements deemed necessary and appropriate to ensure the applicant's competency to practice the profession for which a license is sought.

(e) At the conclusion of the duration of a limited license granted pursuant to subsection (d), an applicant may be eligible for full licensure if the applicant has completed the educational measures or supervised practice requirements the board, committee, council, or agency deemed necessary and appropriate to ensure the applicant's competency to practice. The board, committee, council, or agency may grant a full license before the conclusion of a limited license's duration if an applicant has completed the specified educational measures or practice requirements prior to the expiration of the limited license.

(f) A board, committee, council, or agency may promulgate rules establishing other conditions or requirements with respect to the issuance of limited licenses pursuant to this section in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(g) The recipient of a limited license pursuant to this section may engage in the full scope of practice of the applicable profession subject to any limitations or restrictions imposed by the board, committee, council, or agency.

SECTION 3. Tennessee Code Annotated, Section 63-1-117(f), is amended by deleting the subsection in its entirety and substituting instead the following language:

(f) The following materials, documents, and other matters related to, or compiled or created pursuant to, an investigation conducted by or on behalf of the department shall be confidential and shall not be a public record or subject to subpoena before formal disciplinary charges are filed against the provider:

- (1) Allegations against the health care provider;
- (2) Complainant's identifying information;
- (3) Identifying information of a witness who requests anonymity;
- (4) Patient's identifying information;
- (5) Patient's medical record; and
- (6) Any report or documents prepared by or on behalf of the department

as a part of an investigation.

SECTION 4. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

For purposes of any action before any board, committee, council, or other agency created pursuant to this title or title 68, in which the standard of care is at issue, members of such a board, committee, council, or agency are entitled to rely upon their own expertise in making determinations concerning the standard of care and are not subject to voir dire concerning such expertise. The standard of care for such actions is a statewide standard of minimal competency and practice; provided, however, that to sustain actions based upon a violation of this standard of care, the board, committee, council, or other agency must, absent admissions or other testimony to the effect that the standard of care was violated, articulate the standard of care in its deliberations. The provisions of title 29, chapter 26, and specifically § 29-26-115(a), concerning the locality rule, do not apply to actions taken pursuant to this title or title 68.

SECTION 5. Tennessee Code Annotated, Section 68-11-218, is amended by deleting the section in its entirety and substituting instead the following language:

(a)

(1) The chief administrative official of each hospital or other health care facility shall report to the respective licensing board, committee, council, or agency any disciplinary action taken concerning any person licensed under title 63 or title 68, when such action is related to professional ethics, professional incompetence or negligence, moral turpitude, or drug or alcohol abuse.

(2) "Disciplinary action" shall include termination, suspension, reduction, or resignation of hospital privileges for any of the reasons listed in subdivision (a)(1).

(3) The report shall be in writing and made within sixty (60) days of the date of the action.

(b) The hospital or health care facility shall make available to the respective licensing board, committee, council, or agency, for examination, all records pertaining to the disciplinary action taken, notwithstanding § 63-1-150, § 63-6-228, or any other provision to the contrary.

(c) Any individual who, as a member of any committee, employee, or contractor of any hospital or health care facility, files a report pursuant to this section, shall be immune from liability to the extent provided in § 63-1-150.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.