

PUBLIC CHAPTER NO. 663**HOUSE BILL NO. 2581****By Representatives Odom, Hardaway**

Substituted for: Senate Bill No. 2561

By Senators Henry, Southerland, Black, Marrero

AN ACT to amend Tennessee Code Annotated, Title 53, Chapter 11, relative to controlled substances.

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

SECTION 1. Tennessee Code Annotated, Section 53-11-309, is amended by deleting the section in its entirety and substituting the following:

(a) 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") who has actual knowledge that a person has knowingly, willfully and with intent to deceive, obtained or attempted to obtain controlled substances in the manner prohibited by § 53-11-402(a)(6) shall cause a report to be submitted regarding such activity within five (5) business days of obtaining such knowledge. The report should be submitted to the local law enforcement agency where the health care provider is located or, where one exists, to a judicial district or multi-judicial district drug task force. The controlled substance database advisory committee established by § 53-10-303 shall develop a form by no later than August 1, 2010 that health care providers may choose to use to make reports. The department of health shall make the form available on its website.

(b) Any physician or advanced practice nurse with a certificate of fitness issued under title 63, chapter 7, or physician assistant who has actual knowledge that a person has knowingly, willfully and with the intent to deceive, obtained or attempted to obtain controlled substances in the manner prohibited by § 53-11-402(a)(6) and who is providing treatment to a person with a mental illness as defined in § 33-1-101 may, but is not required to, report as provided for under § 53-11-309(a).

(c) If the health care provider's actual knowledge of conduct prohibited by § 53-11-402(a)(6) is a result of the health care provider accessing the information available in the controlled substance database established in § 53-10-304, then notwithstanding the confidentiality provisions in § 53-10-306, the local law enforcement agency or, where one exists, to a judicial district or multi-judicial district drug task force may receive from the health care provider only the pertinent information from the database for the thirty (30) days prior to the date of treatment leading to the alleged offense which ostensibly demonstrates non-compliance with § 53-11-402(a)(6). A report with information from the database

not exceeding thirty (30) days prior to the date of treatment made under this provision to local law enforcement or, where one exists, to a judicial district or multi-judicial district drug task force is sufficient grounds for the production of complete or more detailed controlled substance database information for purposes of a criminal investigation or pending prosecution pursuant to the procedures established by § 53-10-306(b).

(d) A health care provider, or any person under the direction of the health care provider or any entity that assumes the responsibility of reporting for the provider who furnishes any information in good faith is immune from liability if a complaint, report, information, or record is furnished to a law enforcement agency.

(e) This section shall not apply in the case of a person who, on the date of treatment by the health care provider, is enrolled in or covered by TennCare.

SECTION 2. Tennessee Code Annotated, Section 53-11-401(a) (3), is amended by deleting the semi-colon at the end of the clause and substituting the following:

, except sanctions against a health care provider for the provider's failure to make a report required by § 53-11-309 (a) shall be limited only to cases involving a pattern of willful failure to make such reports and, in those instances, the health care provider shall only be subject to a civil penalty assessed by the provider's licensing board.

SECTION 3. Tennessee Code Annotated, Section 53-11-401(b)(1), is amended by adding the following at the end of the sentence:

Provided, however, a healthcare provider who fails to make a report required by § 53-11-309 shall not be guilty of a felony and shall be punishable only by the sanctions set forth in § 53-11-401(a)(3).

SECTION 4. This act shall be effective immediately upon passage, the public welfare requiring it.

PASSED: March 15, 2010


KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 30th day of March 2010



PHIL BREDESEN, GOVERNOR