



SENATE BILL 2431

By Jackson

AN ACT to amend Tennessee Code Annotated, Title 33;
Title 63 and Title 68, relative to health facility
regulation.

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

SECTION 1. Tennessee Code Annotated, Section 68-11-204(a), is amended by adding the following as a new subdivision:

(4) Magnetic resonance imaging and positron emission tomography that are not used for diagnostic purposes do not require a license under this part.

SECTION 2. Tennessee Code Annotated, Section 68-11-204(a)(1), is amended by deleting subdivisions (R) and (S) and substituting:

(R) Except as provided in subdivision (a)(4), magnetic resonance imaging; or

(S) Except as provided in subdivision (a)(4), positron emission tomography.

SECTION 3. This act takes effect July 1, 2026, the public welfare requiring it.

Amendment No. 1 to SB2431

Crowe
Signature of Sponsor

AMEND Senate Bill No. 2431

House Bill No. 2110*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 68-1-108(a), is amended by deleting the last sentence of the subsection and substituting:

The commissioner shall prescribe conditions under which the processed and verified data are available to the public, and shall establish policies for the release of HIPAA-compliant limited use data sets, including, but not limited to, providing data for certificate of need applicants to the health facilities commission no later than seven (7) days after a request is made by the commission.

SECTION 2. Tennessee Code Annotated, Section 68-1-119(a), is amended by deleting the last sentence of the subsection and substituting:

The commissioner of health shall prescribe conditions under which the processed and verified data are available to the public, and shall establish policies for the release of HIPAA-compliant limited use data sets, including, but not limited to, providing data for certificate of need applicants to the health facilities commission no later than seven (7) days after a request is made by the commission.

SECTION 3. Tennessee Code Annotated, Section 68-11-201, is amended by adding the following as new subdivisions:

() "Burn unit" means a specialized hospital department providing intensive, comprehensive care for severe burn injuries from heat, chemicals, or electricity;

() "Magnetic resonance imaging" means a non-invasive diagnostic technique that produces computerized images of internal body tissues and is based on nuclear magnetic resonance of atoms within the body induced by the application of radio waves;

() "Neonatal intensive care unit" means a specialized hospital department providing intensive, comprehensive care for neonates at Level II, Level III, or Level IV institutions, as defined and licensed by the commission;

() "Positron emission tomography" means a nuclear medicine imaging scan that shows how organs and tissues are functioning by detecting metabolic activity;

SECTION 4. Tennessee Code Annotated, Section 68-11-202, is amended by adding the following as a new subsection:

(k)

(1) The commission may determine eligibility for a licensed hospital for designation as a critical access hospital under the medicare rural hospital flexibility program to the fullest extent permitted by the medicare rural hospital flexibility program.

(2) The entity proposing to establish a critical access hospital shall publish notice of its intent to do so in a newspaper of general circulation in the county where the hospital will be located and in contiguous counties. The notice must be published at least twice within a fifteen-day period.

(3) A hospital licensed under this part that is located within the same county or a contiguous county may file a written objection to the proposal with the commission within thirty (30) days of the last publication date.

(4) The executive director shall issue a written determination of:

(A) Eligibility or non-eligibility; and

(B) Proof of publication as required by subdivision (k)(2).

(5)

(A) The executive director shall notify the commission of the determination of eligibility or non-eligibility pursuant to subdivision (k)(4)(A) at the next regularly scheduled commission meeting; and

(B) An eligibility determination by the executive director pursuant to subdivision (k)(4)(A) is subject to commission review in the same manner as described in § 68-11-277(g) and (h).

SECTION 5. Tennessee Code Annotated, Section 68-11-202(a)(1), is amended by deleting the subdivision and substituting:

(1) The commission may license and regulate hospitals, recuperation centers, nursing homes, homes for the aged, residential HIV supportive living facilities, assisted-care living facilities, home care organizations, residential hospices, birthing centers, prescribed child care centers, renal dialysis clinics, ambulatory surgical treatment centers, outpatient diagnostic centers, adult care homes, traumatic brain injury residential homes, burn units, neonatal intensive care units, magnetic resonance imaging services, and positron emission tomography services.

SECTION 6. Tennessee Code Annotated, Section 68-11-203(e)(7)(B), is amended by deleting the subdivision and substituting:

(B)

(i) Except as provided in subdivision (e)(7)(B)(ii), a member or employee of the commission, upon determining that a matter scheduled for consideration by the commission results in a conflict with a direct interest, shall immediately notify the executive director and is recused from any deliberation of the matter, making any recommendation, testifying concerning the matter, or voting on the matter. The member or employee shall join the public during the proceedings.

(ii) Notwithstanding subdivision (e)(7)(B)(i), a member or employee of the commission may participate in the commission's action on a matter if the member or employee of the commission publicly acknowledges such interest, when the

member or employee of the commission, or a relative of the commission member or employee:

(a) Is employed by or owns or controls an interest of less than five percent (5%) in the persons involved in a matter before the commission;

(b) Did not participate in the matter for persons involved in a matter before the commission; and

(c) Is not as an officer, director, trustee, partner, or similar position of the persons involved in a matter before the commission.

(iii) A member or employee of the commission with an indirect interest shall publicly acknowledge such interest, unless the member is recused from deliberation on, making a recommendation regarding, testifying concerning, or voting on the matter.

SECTION 7. Tennessee Code Annotated, Section 68-11-204(a), is amended by adding the following as a new subdivision:

(4) Magnetic resonance imaging and positron emission tomography that are not used for diagnostic purposes do not require a license under this part.

SECTION 8. Tennessee Code Annotated, Section 68-11-204(a)(1), is amended by deleting subdivisions (R) and (S) and substituting:

(R) Except as provided in subdivision (a)(4), magnetic resonance imaging; or

(S) Except as provided in subdivision (a)(4), positron emission tomography.

SECTION 9. Tennessee Code Annotated, Section 68-11-206(a), is amended by adding the following as a new subdivision:

(9)

(A) If the commission conducts a site visit required for initial licensure or licensure renewal, then the commission may require an applicant or licensee to pay the actual and reasonable costs of the site visit, which include, but are not limited to, the following:

(i) All costs absorbed by the commission in connection with the site visit, including all site reviewer time, travel, and lodging incurred during the site review; and

(ii) All costs absorbed by the commission for the use of facilities and personnel to complete the site review;

(B) Prior to the expiration of sixty (60) days from completion of the site visit, the commission shall send to the applicant or licensee, by certified mail, return receipt requested, and by regular United States mail, a final costs assessment for all site review costs; and

(C) All costs paid to the commission under this part remain with the commission.

SECTION 10. Tennessee Code Annotated, Section 68-11-207(a), is amended by adding the following as a new subdivision:

(4) Failure to obtain accreditation within the time prescribed by an applicable certificate of need exemption in § 68-11-1607.

SECTION 11. Tennessee Code Annotated, Section 68-11-208(a), is amended by deleting the subsection and substituting:

(a)

(1) The commission and each board, committee, or council established in this title that does not already have authority to utilize screening panels may utilize one (1) or more screening panels in its investigative and disciplinary process to assure that complaints filed and investigations conducted are meritorious and appropriate.

(2) The activities of a screening panel and any mediation or arbitration sessions are not an open meeting of an agency for purposes of title 8, chapter 44, and remain confidential. The members of a screening panel, mediators, and arbitrators have a deliberative privilege and the same immunity as provided by

law for the boards and are not subject to deposition or subpoena to testify regarding any matter or issue raised in any contested case, criminal prosecution, or civil lawsuit that may result from or that is incident to cases processed before the panel.

(3) A screening panel has the authority to administer an oath to a witness. Any documents or records produced at the screening panel are exempt from disclosure as a public record pursuant to title 10, chapter 7, until there is a filing of a notice of charges.

(4) Members of a screening panel may be drawn from among the membership of the relevant board, and members may be appointed by the relevant board. Non-board members must meet the requirements of membership for the relevant board and may include a consumer member. A board member serving on a panel shall not participate in a contested case involving any matter heard by the panel.

(5) Each screening panel must be instructed as to the statutes, rules, and philosophies of the relevant board as it pertains to disciplinary action and procedures that must be followed by the panel. Each screening panel must be provided with a copy of Tennessee Supreme Court Rule 31 for review by members of the screening panel for general guidance as to the principles of mediation and alternative dispute resolution.

(6) A board shall not compel any party to participate in a screening panel, and no prejudice is incurred if a party chooses not to participate in a screening panel or to accept the offer of a screening panel.

SECTION 12. Tennessee Code Annotated, Section 68-11-210(g), is amended by deleting the subsection and substituting:

(g) No later than December 31, 2028, the commission shall ensure the date of the most recent inspection for each nursing home licensed under this part is no more than fifteen (15) months prior to December 30, 2028.

SECTION 13. Tennessee Code Annotated, Section 68-11-213, is amended by adding the following as new subsections:

(m)

(1) If the commission imposes sanctions on a licensee following a disciplinary proceeding, then the commission may require the licensee to pay the actual and reasonable costs of the investigation and prosecution of the disciplinary proceeding, which include, but are not limited to, the following:

(A) All costs absorbed by the commission in connection with the investigation and prosecution of the matter, including all investigator time, travel, and lodging incurred during the prosecution;

(B) All costs absorbed by the commission for the use of facilities and personnel for prosecution of the matter;

(C) All costs assessed against the commission for the appearance fees, transcripts, time, travel, and lodging of administrative law judges, court reporters, and witnesses required in the prosecution of the matter; and

(D) All costs attributed to and assessed against the commission in connection with the prosecution of the matter, including all attorney and paralegal time, travel, and lodging incurred during the prosecution of the matter.

(2) The commission shall include in any order in which the payment of costs has been assessed an amount that is the maximum amount owed by the licensee at the time the order is entered. Prior to the expiration of sixty (60) days from the effective date of the order, the commission shall send to the licensee, by

certified mail, return receipt requested, and by regular United States mail, a final costs assessment that does not exceed the maximum amount in the order.

(3) All fines, costs, and fees paid to the commission under this part remain with the commission.

(n) The commission may use forms of non-public discipline, as established by rules promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 14. Tennessee Code Annotated, Section 68-11-816(b), is amended by deleting "five (5) working days" and substituting "ten (10) working days".

SECTION 15. Tennessee Code Annotated, Section 68-11-1602, is amended by deleting subdivisions (3), (5), and (12).

SECTION 16. Tennessee Code Annotated, Section 68-11-1607(a)(4), is amended by deleting the subdivision and substituting:

(4)

(A) Except as provided in subdivision (a)(4)(D), a change in the location of existing or certified facilities providing healthcare services and healthcare institutions. However, the executive director may issue an exemption for the relocation of existing healthcare institutions and approved services if the executive director determines that:

(i) At least ninety-five percent (95%) of patients to be served are reasonably expected to reside in the same zip codes as the existing patient population;

(ii) The relocation will not reduce access to consumers, particularly those in underserved communities; those who are uninsured or underinsured; women and racial and ethnic minorities; TennCare or medicaid recipients; and low-income groups; and

(iii) The payor mix will not include an increase in commercial insurance.

(B) The executive director shall notify the commission of an exemption granted pursuant to subdivision (a)(4)(A) at the next regularly scheduled commission meeting;

(C) An exemption granted or denied by the executive director pursuant to subdivision (a)(4)(A) is subject to commission review in the same manner as described in § 68-11-277(g) and (h);

(D) The relocation of the principal office of a home health agency or hospice within its licensed service area does not require a certificate of need; and

(E) An exemption under this subdivision (a)(4) must not be issued for an approved but unimplemented certificate of need unless the new location is within a one-mile radius of the location specified in the certificate of need; and

SECTION 17. Tennessee Code Annotated, Section 68-11-1607(o), is amended by deleting the subsection and substituting:

(o)

(1) Within two (2) years after the date of receiving a certificate of need, an outpatient diagnostic center must become accredited by a nationally recognized and CMS-approved accrediting organization for each machine and each diagnostic type, in the modalities provided by that facility as a condition of receiving the certificate of need.

(2) An outpatient diagnostic center that fails to comply with the accreditation requirement of subdivision (o)(1) is subject to licensure sanction under § 68-11-207 as a violation of part 2 of this chapter or of the rules, regulations, or minimum standards issued pursuant to part 2 of this chapter.

SECTION 18. Tennessee Code Annotated, Section 68-11-1607(q)(2)(A), is amended by deleting "accredited by The Joint Commission or the American College of Radiology" and

substituting "accredited by a nationally recognized and CMS-approved accrediting organization".

SECTION 19. Tennessee Code Annotated, Section 68-11-1607(u), is amended by deleting the subsection and substituting:

(u)

(1) A provider of positron emission tomography established without a certificate of need must become accredited by a nationally recognized and CMS-approved accrediting organization in the modalities provided by that person and submit proof of the accreditation to the commission within two (2) years of the date of licensure.

(2) A provider of positron emission tomography established without a certificate of need that fails to comply with the accreditation requirement of subdivision (u)(1) is subject to licensure sanction under § 68-11-207 as a violation of part 2 of this chapter or of the rules or minimum standards issued pursuant to part 2 of this chapter.

SECTION 20. The health facilities commission shall promulgate emergency rules to effectuate this act. The emergency rules must be promulgated as soon as practicable following the date this act becomes a law. The emergency rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 21. For the purpose of rule promulgation, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2026, the public welfare requiring it.