# Board of Optometry
# Legislative Update - 2018

## Public Chapter 611

This law requires an agency holding a public hearing as part of its rulemaking process, to make copies of the rule available in "redline form" to people attending the hearing.

This takes effect July 1, 2018.

## Public Chapter 638

This chapter prohibits healthcare prescribers and their employees, agents, or independent contractors from in-person solicitation, telemarketing, or telephonic solicitation of victims within 30 days of an accident or disaster for the purpose of marketing services of the healing arts related to the accident or disaster. There are specific exceptions laid out in the chapter.

This act takes effect July 1, 2018.

## Public Chapter 675

This act requires the department of health to accept allegations of opioid abuse or diversion and for the department to publicize a means of reporting allegations.

Any entity that prescribes, dispenses, OR handles opioids is required to provide information to employees about reporting suspected opioid abuse/diversion. That notice is to either be provided individually to the employee in writing and documented by the employer OR by posting a sign in a conspicuous, non-public area of minimum height and width stating: "NOTICE: PLEASE REPORT ANY

SUSPECTED ABUSE OR DIVERSION OF OPIOIDS, OR ANY OTHER IMPROPER BEHAVIOR WITH RESPECT TO OPIOIDS, TO THE DEPARTMENT OF HEALTH'S COMPLAINT INTAKE LINE: 800-852-2187."

Whistleblower protections are also established. An individual who makes a report in good faith may not be terminated or suffer adverse licensure action solely based on the report. The individual also is immune from any civil liability related to a good faith report.

This act takes effect January 1, 2019.

## Public Chapter 744

This statute allows a licensing entity the discretion to not suspend/deny/revoke a license in cases where the licensee has defaulted or become delinquent on student loans IF a medical hardship significantly contributed to the default or delinquency.

This act took effect January 1, 2019.

## Public Chapter 745 and Public Chapter 793

These public chapters work together to create and implement the "Fresh Start Act." Licensing authorities are prohibited from denying an application or renewal for a license/certificate/registration due to a prior criminal conviction that does not directly relate to the applicable occupation. Lays out the requirements on the licensing authorities as well as the exceptions to the law (ex: rebuttable presumption regarding A and B level felonies).

These acts take effect July 1, 2018.

## Public Chapter 754

This chapter prevents any board, commission, committee, etc. created by statute from promulgating rules, issuing statements, or issuing intra-agency memoranda that infringe on an entity member's freedom of speech.

Freedom of speech includes, but is not limited to, a member's freedom to express an opinion concerning any matter relating to that governmental entity, excluding matters deemed to be confidential under TCA 10-7-504.

Violations as determined by a joint evaluation committee may result in recommendations to the general assembly concerning the entity's sunset status, rulemaking authority and funding.

This act took effect April 18, 2018.

## Public Chapter 883

This act lays the framework for e-prescribing practices in the state and the exceptions from electronic prescriptions. Requires that all Schedule II prescriptions be e-prescribed by January 1, 2020 except under certain circumstances. Any health-related board under TCA 68-1-101(a)(8) that is affected by this act shall report to the general assembly by January 1, 2019 on issues related to the implementation of this section. The commissioner of health is authorized to promulgate rules to effectuate the purposes of this act.

This act took effect May 3, 2018 for rule purposes.

The act takes effect January 1, 2019 for all other purposes.

## Public Chapter 893

This chapter allows for pharmaceutical manufacturers or their representatives to engage in truthful promotion of off-label uses. The act also prohibits action against pharmaceutical manufacturer's, pharmaceutical representative's, healthcare institution's or physician's license solely for such activity.

This act takes effect July 1, 2018

## Public Chapter 901

This act requires that prior to prescribing more than a three day supply of an opioid or an opioid dosage that exceeds at total of 180 MME to a woman of childbearing age (15-44yo), a prescriber must do the following:

1. Advise of risks associated with opioid use during pregnancy;
2. Counsel patient on effective forms of birth control; and
3. Offer information on availability of free or reduced cost birth control

Doesn't apply if previously informed by prescriber in previous three months or prescriber reasonably believes patient is incapable of becoming pregnant. Requirements may be met with a patient under 18 years of age by informing parent of the patient.

The department of health is to publish guidance to assist prescribers in complying with this act.

This act takes effect July 1, 2018.

## Public Chapter 929

This act redefines policy and rule and requires each agency to submit a list of all policies, with certain exceptions, that have been adopted or changed in the

previous year to the chairs of the government operations committees on July 1 of each year. The submission shall include a summary of the policy and the justification for adopting a policy instead of a rule.

This act also prohibits any policy or rule by any agency that infringes upon an agency member's freedom of speech.

Finally, this act establishes that an agency's appointing authority shall have the sole power to remove a member from a board, committee, etc.

This act takes effect July 1, 2018 and applies to policies adopted on or after that date.

## Public Chapter 954

This legislation requires the initial licensure fee for low-income persons to be waived. Low income individuals per the statute are defined as persons who are enrolled in a state or federal public assistance program including but not limited to TANF, Medicaid, and SNAP. All licensing authorities are required to promulgate rules to effectuate the purposes of this act.

This act takes effect January 1, 2019.

## Public Chapter 964

This legislation requires the department of children's services (DCS) to develop instructional guidelines for child safety training programs by January 1, 2019 for members of professions that frequently deal with children at risk of abuse. DCS is required to work with each licensing board to ensure any child safety programs created by a licensing board fully and accurately reflect the best practices for identifying and reporting abuse as appropriate for each profession.

This act took effect May 15, 2018.

# Public Chapter 978

This act makes a number of revisions to opioid treatment regulations. The definition of "nonresidential office-based opiate treatment facility" (OBOT) has been changed to encompass more facilities.

The commissioner of mental health is required to revise the rules of OBOTs to be consistent with state and federal law for such facilities to establish certain new protocols.

Rules regarding OBOTs are to be reviewed each even-numbered year and the department of mental health and substance abuse services shall submit the rules for OBOTs to each health related board that licenses any practitioner authorized by the state to prescribe products for treatment of an opioid use disorder. Each board is required to enforce the rules. Each board is required to post the rules on the board's website. Violation of a rule is grounds for disciplinary action by the board.

The act also makes revisions to the licensing fees of OBOTs.

The act requires revision of the buprenorphine treatment guidelines.

The legislation also requires (subject to 42 CFR part 2) that dispensing of buprenorphine be subject to the Controlled Substance Monitoring Database (CSMD) requirements.

The act prohibits dispensing of buprenorphine except by certain individuals/facilities and requires pharmacies/distributors to report to the department of health (TDH) the quantities of buprenorphine that are delivered to OBOTs in the state.

The act also makes revisions to the high-volume prescriber list compiled by TDH.

The act requires the comptroller to complete a study of statistically abnormal prescribing patterns. After the study, TDH shall identify prescribers and shall inquire with the boards of action taken against the prescribers and the board is

required to respond within 30 days. Each board is required to report the total number of prescribers disciplined each year, as well as other information. TDH shall report a summary of the data and of the disciplinary actions to the chairs of the health committees.

The act also comprises a task force to create minimum disciplinary actions for prescribing practices that are a significant deviation from sound medical judgment. The board of medical examiners, osteopathic examination, dentistry, podiatric medical examiners, optometry, nursing and medical examiner's committee on physician assistants shall select one member each for the task force before September 1, 2018.

This act took effect for rulemaking on May 21, 2018 and takes effect July 1, 2018 for all other purposes.

## Public Chapter 1007

This act allows for a prescription for a controlled substance to be partial filled if requested by the patient or the practitioner who wrote the prescription AND the total quantity dispensed through partial fills does not exceed the total quantity prescribed for the original prescription. The act lays out the requirements on the pharmacists and gives details regarding payments.

This act takes effect January 1, 2019.

## Public Chapter 1021

This act allows for appeals of contested case hearings to be in the chancery court nearest the residence of the person contesting the agency action or at that person's discretion, in the chancery court nearest the place the action arose, or in the chancery court of Davidson County. Petitions seeking review must be filed within 60 days after entry of the agency's final order.

This act takes effect July 1, 2018.

## Public Chapter 1037

This act clarifies that a physician may accept goods or services as payment in a direct exchange of barter for healthcare services provided by the physician if the patient to whom the healthcare services are provided is not covered by health insurance coverage. This does not apply to healthcare services provided at pain management clinics.

This act takes effect July 1, 2018.

## Public Chapter 1039

This legislation places limits and requirements on the amount of opioids prescribed and dispensed. It limits opioid prescriptions to up to a three day supply with a total of 180 MME (morphine milligram equivalents) for those three days. This limitation is subject to a number of exceptions under certain circumstances. These exceptions include up to a ten day supply with a total of 500 MME, up to a twenty day supply with a total of 850 MME for a procedure that is more than minimally invasive, and up to a thirty day supply with a total of 1200 MME when other reasonable and appropriate non-opioid treatments have been attempted and failed and the risk of adverse effects from the pain exceeds the risk of the patient developing an addiction or overdose. Prescribing under these exceptions requires the prescriber to check the controlled substance monitoring database, personally conduct a physical exam of the patient, consider non-opioid alternatives, obtain informed consent including counseling about neonatal abstinence syndrome and contraception for women of childbearing age, and document the ICD-10 code for the patient's primary disease (as well as the term "medical necessity" on thirty day prescriptions). These ten, twenty, and thirty day opioid prescriptions will only be filled by dispensers in an amount that

is half of the full prescription at a time, requiring patients and pharmacists to consider whether the patient requires the full amount prescribed. There are still further exceptions for those patients undergoing active or palliative cancer treatment, receiving hospice care, diagnosed with sickle cell disease, administered to in a hospital, being treated by a pain management specialist or collaborating provider in a pain management clinic, who have received ninety days or more in the year prior to April 2018 or subsequently do so under one of the exceptions, receiving treatment for medication-assisted treatment, or suffering severe burns or major physical trauma.

This act took effect for rule purposes on May 21, 2018, and for all other purposes shall take effect July 1, 2018.

## Public Chapter 1040

This act revises various provisions of the law regarding controlled substances and their analogues and derivatives, including updating identifications of drugs categorized in Schedules I - V. The act also creates an offense for the sale or offer to sell Kratom, unless it is labeled and in its natural form. It is also an offense to distribute, sell, or offer for sale, kratom to a person under 21 years of age. It is also an offense to purchase or possess kratom if under 21 years of age.

This act takes effect July 1, 2018.