



# *State of Tennessee*

## **PUBLIC CHAPTER NO. 1119**

### **SENATE BILL NO. 2466**

**By Reeves, Gardenhire, Walley, Watson**

Substituted for: House Bill No. 2500

By Boyd

AN ACT to amend Tennessee Code Annotated, Title 4; Title 33; Title 63; Title 68 and Title 71, relative to healthcare facilities.

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

SECTION 1. Tennessee Code Annotated, Section 4-3-1016(d)(73), is amended by deleting "Health services and development agency fund" and substituting "Health facilities commission fund".

SECTION 2. Tennessee Code Annotated, Section 4-29-245(a)(16), is amended by deleting "Health services and development agency" and substituting "Health facilities commission".

SECTION 3. Tennessee Code Annotated, Title 68, Chapter 11, Part 16, is amended by adding the following as a new section:

All administrative rules in effect on the effective date of this act that were promulgated by the board for licensing healthcare facilities while attached to the department of health are transferred to the health facilities commission on the effective date of this act.

SECTION 4. Tennessee Code Annotated, Section 33-2-403(b)(8), is amended by deleting "department of health" wherever it appears and substituting "health facilities commission".

SECTION 5. Tennessee Code Annotated, Section 63-6-221(a), is amended by deleting "department of health" wherever it appears and substituting "health facilities commission".

SECTION 6. Tennessee Code Annotated, Section 63-6-221(h), is amended by deleting "department of health" and substituting "health facilities commission"; and deleting "department" wherever it appears and substituting "commission".

SECTION 7. Tennessee Code Annotated, Section 63-6-221(i), is amended by deleting "department" and substituting "health facilities commission"; and deleting "department's" wherever it appears and substituting "commission's".

SECTION 8. Tennessee Code Annotated, Section 63-6-221(j), is amended by deleting "department staff" and substituting "health facilities commission staff".

SECTION 9. Tennessee Code Annotated, Section 63-6-221(k), is amended by deleting "department" and substituting "health facilities commission".

SECTION 10. Tennessee Code Annotated, Section 63-6-221(l), is amended by deleting "department of health" wherever it appears and substituting "health facilities commission"; by deleting "commissioner of health" and substituting "executive director of the health facilities commission"; and by deleting "commissioner" wherever it appears and substituting "executive director".

SECTION 11. Tennessee Code Annotated, Section 63-9-112(f), is amended by deleting "department of health's division of health care facilities" and substituting "health facilities commission".

SECTION 12. Tennessee Code Annotated, Section 63-9-117(a), is amended by deleting "department of health" wherever it appears and substituting "health facilities commission".

SECTION 13. Tennessee Code Annotated, Section 63-9-117(h), is amended by deleting "department of health" and substituting "health facilities commission"; and deleting "department" wherever it appears and substituting "commission".

SECTION 14. Tennessee Code Annotated, Section 63-9-117(i), is amended by deleting "department" and substituting "health facilities commission"; and deleting "department's" wherever it appears and substituting "commission's".

SECTION 15. Tennessee Code Annotated, Section 63-9-117(j), is amended by deleting "department staff" and substituting "health facilities commission staff".

SECTION 16. Tennessee Code Annotated, Section 63-9-117(k), is amended by deleting "department" and substituting "health facilities commission".

SECTION 17. Tennessee Code Annotated, Section 63-9-117(l), is amended by deleting "department of health" wherever it appears and substituting "health facilities commission"; by deleting "commissioner of health" and substituting "executive director of the health facilities commission"; and by deleting "commissioner" wherever it appears and substituting "executive director".

SECTION 18. Tennessee Code Annotated, Section 68-1-119, is amended by deleting "commissioner of health" and substituting "executive director of the health facilities commission"; by deleting "department of health" wherever it appears and substituting "health facilities commission"; and by deleting "commissioner" wherever it appears and substituting "executive director".

SECTION 19. Tennessee Code Annotated, Section 68-11-201, is amended by adding the following as new subdivisions:

( ) "Executive director" means the executive director of the health facilities commission;

( ) "Health facilities commission" or "commission" means the health facilities commission created by § 68-11-1604;

SECTION 20. Tennessee Code Annotated, Section 68-11-201(5)(A), is amended by deleting "department" and substituting "commission".

SECTION 21. Tennessee Code Annotated, Section 68-11-201(17)(D), is amended by deleting "provided, that the department adopts" and substituting "provided, that the commission adopts"; by deleting "the department shall rely" and substituting "the commission shall rely"; and by deleting "the survey by the department" and substituting "the survey by the commission".

SECTION 22. Tennessee Code Annotated, Section 68-11-201(31)(A), is amended by deleting "commissioner of health" and substituting "executive director of the health facilities commission"; and by deleting "commissioner" and substituting "executive director".

SECTION 23. Tennessee Code Annotated, Section 68-11-201(31)(B), is amended by deleting "reported to the department of health" and substituting "reported to the commission".

SECTION 24. Tennessee Code Annotated, Section 68-11-202, is amended by deleting the section and substituting:

(a)(1) The commission is empowered to 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, and traumatic brain injury residential homes.

(2) The commission shall accomplish licensing and regulation through the board for licensing healthcare facilities to be created in the manner provided in this part and other employees as are provided for in this part.

(b)(1)(A) The commission has the authority to conduct reviews of all facilities licensed under this part in order to determine compliance with fire and life safety code rules as promulgated by the board.

(B) Chapter 102 of this title does not apply to facilities subject to review and licensure under this part.

(C) The board has the power to adopt fire and life safety code rules to be applied to facilities licensed under this part.

(D) In adopting the rules, the board may in its discretion adopt, in whole or in part, by reference, recognized national or regional building and fire safety codes.

(E) Adult care homes and traumatic brain injury residential homes shall meet all state and local building, sanitation, utility, and fire code requirements applicable to single family dwellings. The board may adopt in rules more stringent standards as the board deems necessary in order to ensure the health and safety, including adequate evacuation, of residents consistent with this part. As used in this section, "adequate evacuation" means the ability of the adult care home provider, traumatic brain injury residential home provider, resident manager, or substitute caregiver, including additional minimum staff as may be required by the board by rule in accordance with this part, to evacuate all residents from the dwelling within five (5) minutes. Adult care home providers and traumatic brain injury residential home providers shall install smoke detectors in all resident bedrooms, hallways, or access areas that adjoin bedrooms, and common areas where residents congregate, including living or family rooms and kitchens. In addition, in multi-level homes, smoke alarms must be installed at the top of stairways. At least one (1) fire extinguisher with a minimum classification as specified by the board must be in a visible and readily accessible location in each room, including basements, and be checked at least once a year by a qualified entity. Adult care home providers and traumatic brain injury residential home providers shall not place residents who are unable to walk without assistance or who are incapable of independent evacuation in a basement, split-level, second story, or other area that does not have an exit at ground level. There must be a second safe means of exit from all sleeping rooms. Providers whose sleeping rooms are above the first floor shall demonstrate an evacuation drill from that room, using the secondary exit, at the time of licensure, renewal, or inspection.

(2) The board, in its evaluation of prospective rules, shall consider recommendations and professional assessments from the Tennessee society of architects and the Tennessee society of professional engineers.

(3) If rules adopted by the board are not consistent with federal regulations for facilities participating in Titles XVIII of the federal Social Security Act (42 U.S.C. § 1395 et seq.), and XIX of the federal Social Security Act (42 U.S.C. § 1396 et seq.), then the commission shall request appropriate waivers from the federal government for facilities previously deemed in compliance.

(4) Until the board adopts building and fire safety rules pursuant to this section, the codes and rules in effect on July 1, 1981, apply to those facilities licensed under this part. A facility that complies with the required applicable building and fire safety regulations at the time the board adopts new codes or rules is, as long as compliance is maintained, either with or without waivers of specific provisions, considered to be in compliance with the new codes or rules.

(5)(A) The commissioner of commerce and insurance or executive director of the health facilities commission shall review subsequently adopted codes and may recommend to the board for adoption provisions of such codes that the commissioner or executive director deems material to the life and fire safety of residents and patients.

(B) Subdivision (b)(5)(A) applies to all appropriate facilities in the respective provider categories, including, but not limited to, nursing homes, hospitals, homes for the aged, residential HIV supportive living facilities, adult care homes, and traumatic brain injury residential homes.

(6) This section does not affect the authority of the state fire marshal regarding the prevention and investigation of fires pursuant to chapter 102 of this title.

(7) The building and life safety rules adopted by the board are the exclusive rules applicable for those purposes. To the extent that regulations adopted by local governments conflict with the rules adopted by the board, the board's rules control.

(c)(1) If construction is planned by a facility required to be licensed by the commission, except home care organizations as defined in § 68-11-201, for a building, additions to an existing building, or substantial alterations to an existing building, then two (2) sets of plans and specifications must be submitted to the commission to be approved. However, only one (1) set of schematics must be submitted to the commission for approval of plans and specifications converting an existing single-family dwelling into a:

(A) Licensed residential healthcare facility with six (6) or fewer beds;

(B) Licensed adult care home with five (5) or fewer residents; or

(C) Traumatic brain injury residential home with eight (8) or fewer residents.

(2) Before construction begins, approval of the plans and specifications must be obtained from the commission with respect to compliance with the minimum standards or rules, or both, of the board.

(3) The board may determine by rule specific types of site activity that may be initiated prior to approval.

(4) The plans must be accurate and detailed, containing the information, and drafted and submitted in a manner, that the board may require by rule.

(5) The commission shall expeditiously process its review of plans that have been submitted in the full and final form required by rule.

(6) At the request of the owner of the proposed project or the design professional, the commission shall make plan review staff available for advice and consultation regarding programmatic concepts and preliminary plans early in the planning process.

(7) The commission shall assign adequate numbers of qualified staff to the plan review section to ensure that a thirty-day review cycle is provided on a submittal.

(8) If, upon final inspection or reinspection of the completed project, the commission's representative finds that only minor items remain to be completed or corrected that do not significantly affect the health or safety of the occupants, then the commission's representative shall permit occupancy pending completion or correction of those items.

(d) Standards adopted by the board regarding accessibility by the handicapped must be no less strict than those in chapter 120 of this title.

(e)(1) This subsection (e):

(A) Establishes the criteria for the creation of branch offices by a home care organization operating pursuant to its certificate of need authority or pursuant to its license as of May 11, 1998; and

(B) Does not permit a home care organization to expand its authority beyond the limitations of its certificate of need or its license as of May 11, 1998.

(2) Notwithstanding this section to the contrary, the offices of a home care organization providing home health services must be classified as either a parent office of the home care organization or as a branch office of the home care organization. In determining whether the office of a home care organization providing home health services is either a parent home care organization or a branch office, the board shall apply the following criteria:

(A) A parent office shall develop and maintain administrative controls of the branch office and house the administrative functions of the home care organization. The parent office is ultimately responsible for human resource activities and all financial and contractual agreements for the home care organization, including both parent and branch offices;

(B) The administrator and director of nursing for the home care organization shall be primarily located in the parent office. The home care

organization administrator and director of nursing shall make on-site supervisory visits to each branch office at least quarterly;

(C) A branch office is an office that provides services within the geographical area for which the home care organization is licensed. A branch office must be sufficiently close to share administrative services with the parent office. A branch office is deemed to be sufficiently close if it is within one hundred (100) miles of the parent office; provided, that the remaining criteria set forth in this subsection (e) also apply. A branch office that is greater than one hundred (100) miles from a parent office may be considered a branch office by the board, if it otherwise meets the criteria set forth in this subsection (e);

(D) The parent office of a home care organization shall have a clearly defined process to ensure that effective interchange occurs between the parent and branch regarding various functions, including branch staffing requirements, branch office patient census, total visits provided by the branch, complaints, incident reports, and referrals;

(E) The branch office of a home care organization shall maintain the same name and standards of practice as the parent office of the home care organization, including forms, policies, procedures, and service delivery standards. The parent office of a home care organization shall maintain documentation of integration between the parent office and its branch offices;

(F) The parent office of a home care organization shall maintain regular administrative contact with its branch offices at least weekly. The parent office shall maintain documentation of this contact. The parent office must receive weekly written staffing reports from its branch offices, including information regarding staffing needs, staffing patterns, and staff productivity; and

(G) A branch office of a home care organization existing as of May 11, 1998, that is more than one hundred (100) miles from the parent office of the home care organization and that has been previously approved as a branch office by the board may continue to be classified as a branch office if it otherwise meets the criteria set forth in this subsection (e).

(f)(1) In a gastrointestinal endoscopy clinic that is regulated as an ambulatory surgical treatment center that performs endoscopic procedures, the use of an endoscopy technician, without other technicians, to assist a physician performing an endoscopic procedure in the clinic is deemed to be sufficient staffing for the procedure.

(2) For the purposes of this subsection (f), an endoscopy technician is a person who is trained to function in an assistive role in a gastroenterology setting. An endoscopy technician's scope of practice includes:

(A) Assisting in data collection to identify the patient's needs, problems, concerns, or human responses;

(B) Assisting, under the direction of the gastroenterology registered nurse and physician, in the implementation of the established plan of care;

(C) Assisting the gastroenterology registered nurse and physician before, during, and after diagnostic and therapeutic procedures;

(D) Providing and maintaining a safe environment for the patient and staff by complying with regulatory agency requirements and standards set forth by professional organizations and employers;

(E) Taking responsibility for personal continuing education;

(F) Having knowledge of practice issues related to the field of gastroenterology;

(G) Compliance with ethical, professional, and legal standards inherent to in-patient care and professional conduct;

(H) Participating in quality management activities as directed; and

(l) Collaborating within the gastroenterology team and with other healthcare professionals to ensure quality and continuity of care.

(g)(1) An ambulatory surgical treatment center shall provide radiological staff services commensurate with the needs of the center within the facility or by means of other appropriate arrangement.

(2) If radiologic services are utilized by an ambulatory surgical treatment center, then the governing body of the center shall appoint an individual who is responsible for assuring that all radiologic services are provided in accordance with applicable laws and rules. The individual must be qualified in accordance with state law and the policies of the center.

(h) Notwithstanding a law to the contrary, the board has the authority to amend the board's rules for licensure of a board-regulated facility or entity as needed to be consistent with the federal home-based and community-based settings final rule, published in the Federal Register at 79 FR 2947 (January 16, 2014), including the authority to differentiate licensure requirements for a board-regulated facility or entity contracted to provide medicaid-reimbursed home- and community-based services pursuant to title 71, chapter 5, part 14, in order to allow the facility or entity to comply with the federal rule and continue to receive medicaid reimbursement for home- and community-based services. Rules adopted by the board under this subsection (h) must be developed with input from stakeholders and promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; except that the board shall not promulgate emergency rules under this subsection (h) as defined in § 4-5-208. Licensure survey and enforcement must be conducted in a manner consistent with a rule issued under this subsection (h).

SECTION 25. Tennessee Code Annotated, Section 68-11-203(b)(1), is amended by deleting "commissioner" and substituting "executive director".

SECTION 26. Tennessee Code Annotated, Section 68-11-204(c), is amended by deleting "licensed by the department" and substituting "licensed by the commission".

SECTION 27. Tennessee Code Annotated, Section 68-11-206(a), is amended by deleting "license from the department" and substituting "license from the commission".

SECTION 28. Tennessee Code Annotated, Section 68-11-206(a)(1), is amended by deleting "prepared by the department" and substituting "prepared by the commission".

SECTION 29. Tennessee Code Annotated, Section 68-11-206(a)(1)(G), is amended by deleting "department" and substituting "commission".

SECTION 30. Tennessee Code Annotated, Section 68-11-206(a)(7), is amended by deleting "issued by the department" and substituting "issued by the commission".

SECTION 31. Tennessee Code Annotated, Section 68-11-207(a)(1), is amended by deleting "department" and substituting "commission".

SECTION 32. Tennessee Code Annotated, Section 68-11-207(f)(3)(C), is amended by deleting "department" and substituting "commission".

SECTION 33. Tennessee Code Annotated, Section 68-11-207(i), is amended by deleting "department" and substituting "commission".

SECTION 34. Tennessee Code Annotated, Section 68-11-208(a), is amended by deleting "department or board" and substituting "commission or board".

SECTION 35. Tennessee Code Annotated, Section 68-11-210(a), is amended by deleting "department" wherever it appears and substituting "commission".

SECTION 36. Tennessee Code Annotated, Section 68-11-210(b), is amended by deleting "department" wherever it appears and substituting "commission".

SECTION 37. Tennessee Code Annotated, Section 68-11-210(c)(1), is amended by deleting "department of health" and substituting "health facilities commission".

SECTION 38. Tennessee Code Annotated, Section 68-11-210(c)(3)(D), is amended by deleting "department" and substituting "commission".

SECTION 39. Tennessee Code Annotated, Section 68-11-210(c)(3)(E), is amended by deleting "department" and substituting "commission".

SECTION 40. Tennessee Code Annotated, Section 68-11-210(c)(4), is amended by deleting "department" and substituting "commission".

SECTION 41. Tennessee Code Annotated, Section 68-11-210(c)(5), is amended by deleting "department" wherever it appears and substituting "commission".

SECTION 42. Tennessee Code Annotated, Section 68-11-210(d), is amended by deleting "The department shall" and substituting "The commission shall".

SECTION 43. Tennessee Code Annotated, Section 68-11-210(e), is amended by deleting "department of health" and substituting "health facilities commission"; by deleting "the commissioner of health" and substituting "the executive director of the health facilities commission"; and by deleting "The commissioner shall" and substituting "The executive director shall".

SECTION 44. Tennessee Code Annotated, Section 68-11-210(f)(1), is amended by deleting "the department shall" and substituting "the commission shall".

SECTION 45. Tennessee Code Annotated, Section 68-11-211, is amended by deleting subdivisions (a)(3) and (a)(4).

SECTION 46. Tennessee Code Annotated, Section 68-11-211(b), is amended by deleting "department" and substituting "commission".

SECTION 47. Tennessee Code Annotated, Section 68-11-211(c), is amended by deleting "department" wherever it appears and substituting "commission".

SECTION 48. Tennessee Code Annotated, Section 68-11-211(f), is amended by deleting "department" wherever it appears and substituting "commission".

SECTION 49. Tennessee Code Annotated, Section 68-11-211(g), is amended by deleting "department" wherever it appears and substituting "commission".

SECTION 50. Tennessee Code Annotated, Section 68-11-213, is amended by deleting "department" wherever it appears and substituting "commission".

SECTION 51. Tennessee Code Annotated, Section 68-11-214, is amended by deleting "department" wherever it appears and substituting "commission"; and by deleting "commissioner" wherever it appears and substituting "executive director".

SECTION 52. Tennessee Code Annotated, Section 68-11-215(a), is amended by deleting the subsection and substituting:

(a) The department of human resources shall fix the salaries of all employees upon the advice of the executive director.

SECTION 53. Tennessee Code Annotated, Section 68-11-215(d), is amended by deleting "budget of the department" and substituting "budget of the commission".

SECTION 54. Tennessee Code Annotated, Section 68-11-216(a)(2), is amended by deleting "department" and substituting "commission".

SECTION 55. Tennessee Code Annotated, Section 68-11-216(a)(5), is amended by deleting "department of health" and substituting "health facilities commission".

SECTION 56. Tennessee Code Annotated, Section 68-11-216(b), is amended by deleting "department" wherever it appears and substituting "commission"; and by deleting "commissioner" and substituting "executive director".

SECTION 57. Tennessee Code Annotated, Section 68-11-219(g), is amended by deleting "commissioner" and substituting "executive director".

SECTION 58. Tennessee Code Annotated, Section 68-11-221, is amended by deleting "department" wherever it appears and substituting "commission"; and by deleting "commissioner" wherever it appears and substituting "executive director".

SECTION 59. Tennessee Code Annotated, Section 68-11-222(b), is amended by deleting "department of health" and substituting "department of health and the health facilities commission".

SECTION 60. Tennessee Code Annotated, Section 68-11-223, is amended by deleting "department" wherever it appears and substituting "commission"; and by deleting "departmental regulations" and substituting "the commission's rules".

SECTION 61. Tennessee Code Annotated, Section 68-11-225(c)(1), is amended by deleting "department" wherever it appears and substituting "commission".

SECTION 62. Tennessee Code Annotated, Section 68-11-235(i), is amended by deleting "health services and development agency" and substituting "health facilities commission".

SECTION 63. Tennessee Code Annotated, Section 68-11-235(j), is amended by deleting "the department of health shall not issue a license" and substituting "the health facilities commission shall not issue a license".

SECTION 64. Tennessee Code Annotated, Section 68-11-236(h), is amended by deleting "the department of health shall not issue a license" and substituting "the health facilities commission shall not issue a license".

SECTION 65. Tennessee Code Annotated, Section 68-11-237(h), is amended by deleting "the department of health shall not issue a license" and substituting "the health facilities commission shall not issue a license".

SECTION 66. Tennessee Code Annotated, Section 68-11-237(l), is amended by deleting "department of health" and substituting "health facilities commission"; and by deleting "department may" and substituting "commission may".

SECTION 67. Tennessee Code Annotated, Section 68-11-239(g), is amended by deleting "department of health" and substituting "health facilities commission".

SECTION 68. Tennessee Code Annotated, Section 68-11-251(d), is amended by deleting "department" and substituting "health facilities commission".

SECTION 69. Tennessee Code Annotated, Section 68-11-252, is amended by deleting "commissioner" wherever it appears and substituting "executive director"; by deleting "commissioner's" wherever it appears and substituting "executive director's"; by deleting "department" wherever it appears and substituting "commission"; and by deleting "department's" wherever it appears and substituting "commission's".

SECTION 70. Tennessee Code Annotated, Section 68-11-310(a)(1), is amended by deleting "licensed by the department of health" and substituting "licensed by the health facilities commission".

SECTION 71. Tennessee Code Annotated, Section 68-11-702(a), is amended by deleting "department of health" and substituting "health facilities commission".

SECTION 72. Tennessee Code Annotated, Section 68-11-801, is amended by deleting "commissioner of health" and substituting "executive director of the health facilities commission"; and by deleting "commissioner" wherever it appears and substituting "executive director".

SECTION 73. Tennessee Code Annotated, Section 68-11-802(a), is amended by deleting "the commissioner finds" and substituting "the executive director of the health facilities commission finds"; and by deleting "the commissioner has" and substituting "the executive director has".

SECTION 74. Tennessee Code Annotated, Section 68-11-803, is amended by deleting "department" wherever it appears and substituting "health facilities commission".

SECTION 75. Tennessee Code Annotated, Section 68-11-804, is amended by deleting "department" wherever it appears and substituting "health facilities commission"; by deleting "Department" wherever it appears and substituting "Health facilities commission"; and by deleting "commissioner" and substituting "executive director of the health facilities commission".

SECTION 76. Tennessee Code Annotated, Section 68-11-806, is amended by deleting "department" wherever it appears and substituting "health facilities commission".

SECTION 77. Tennessee Code Annotated, Section 68-11-812, is amended by deleting "department" wherever it appears and substituting "health facilities commission"; and by deleting "commissioner" and substituting "executive director of the health facilities commission".

SECTION 78. Tennessee Code Annotated, Section 68-11-813(a), is amended by deleting "commissioner in the commissioner's" and substituting "executive director of the health facilities commission in the executive director's".



SECTION 79. Tennessee Code Annotated, Section 68-11-813(b), is amended by deleting "commissioner" and substituting "executive director"; by deleting "commissioner's" wherever it appears and substituting "executive director's"; and by deleting "department" and substituting "health facilities commission".

SECTION 80. Tennessee Code Annotated, Section 68-11-814, is amended by deleting "department" wherever it appears and substituting "health facilities commission".

SECTION 81. Tennessee Code Annotated, Section 68-11-815(b)(1), is amended by deleting "the department elect" and substituting "the health facilities commission elect"; and by deleting "the department shall" and substituting "the commission shall".

SECTION 82. Tennessee Code Annotated, Section 68-11-815(c)(3), is amended by deleting "department or require the department" and substituting "the health facilities commission or require the commission".

SECTION 83. Tennessee Code Annotated, Section 68-11-816(a), is amended by deleting "department's" and substituting "health facilities commission's"; by deleting "commissioner's" and substituting "health facilities commission executive director's"; and by deleting "department" and substituting "health facilities commission".

SECTION 84. Tennessee Code Annotated, Section 68-11-816(b), is amended by deleting "department's" and substituting "health facilities commission's".

SECTION 85. Tennessee Code Annotated, Section 68-11-820(c), is amended by deleting "department" and substituting "health facilities commission"; and by deleting "commissioner's" and substituting "health facilities commission executive director's".

SECTION 86. Tennessee Code Annotated, Section 68-11-826(c), is amended by deleting "commissioner" and substituting "executive director of the health facilities commission"; and by deleting "department of health" and substituting "health facilities commission".

SECTION 87. Tennessee Code Annotated, Section 68-11-827, is amended by deleting "commissioner" and substituting "executive director of the health facilities commission"; and by deleting "department" and substituting "health facilities commission".

SECTION 88. Tennessee Code Annotated, Section 68-11-829(a), is amended by deleting "commissioner" and substituting "executive director of the health facilities commission".

SECTION 89. Tennessee Code Annotated, Section 68-11-830, is amended by deleting "commissioner of health" wherever it appears and substituting "executive director of the health facilities commission".

SECTION 90. Tennessee Code Annotated, Section 68-11-830(d)(3), is amended by deleting "the commissioner is" and substituting "the executive director is".

SECTION 91. Tennessee Code Annotated, Section 68-11-830(6)(C), is amended by deleting "the board or commissioner" and substituting "the board or executive director"; and by deleting "hearing before the commissioner or the commissioner's designee" and substituting "hearing before the executive director or the executive director's designee".

SECTION 92. Tennessee Code Annotated, Section 68-11-831, is amended by deleting "department" wherever it appears and substituting "health facilities commission".

SECTION 93. Tennessee Code Annotated, Section 68-11-832, is amended by deleting "commissioner" wherever it appears and substituting "executive director of the health facilities commission"; and by deleting "department" and substituting "health facilities commission".

SECTION 94. Tennessee Code Annotated, Section 68-11-902(b)(5), is amended by deleting "department" and substituting "health facilities commission".

SECTION 95. Tennessee Code Annotated, Section 68-11-904(a), is amended by deleting "department" and substituting "health facilities commission".

SECTION 96. Tennessee Code Annotated, Section 68-11-908(b)(1), is amended by deleting "department" and substituting "health facilities commission".

SECTION 97. Tennessee Code Annotated, Section 68-11-909, is amended by deleting "commissioner" and substituting "executive director of the health facilities commission"; and by deleting "department" and substituting "health facilities commission".

SECTION 98. Tennessee Code Annotated, Section 68-11-910(a)(5), is amended by deleting "department of health" and substituting "health facilities commission".

SECTION 99. Tennessee Code Annotated, Section 68-11-1001(a), is amended by deleting "department of health" and substituting "health facilities commission".

SECTION 100. Tennessee Code Annotated, Section 68-11-1001(c), is amended by deleting "department" and substituting "health facilities commission".

SECTION 101. Tennessee Code Annotated, Section 68-11-1003, is amended by deleting "department of health" wherever it appears and substituting "health facilities commission"; by deleting "department" wherever it appears and substituting "commission"; by deleting "commissioner" wherever it appears and substituting "executive director of the health facilities commission"; and by deleting "commissioner's" wherever it appears and substituting "executive director's".

SECTION 102. Tennessee Code Annotated, Section 68-11-1005(a), is amended by deleting "department" and substituting "health facilities commission".

SECTION 103. Tennessee Code Annotated, Section 68-11-1006, is amended by deleting "commissioner of health" and substituting "executive director of the health facilities commission".

SECTION 104. Tennessee Code Annotated, Section 68-11-1602(2), is amended by deleting "health services and development agency" and substituting "health facilities commission".

SECTION 105. Tennessee Code Annotated, Section 68-11-1602(3), is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 106. Tennessee Code Annotated, Section 68-11-1602(5), is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 107. Tennessee Code Annotated, Section 68-11-1602(10), is amended by deleting "by the department" and substituting "by the commission".

SECTION 108. Tennessee Code Annotated, Section 68-11-1602(11), is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 109. Tennessee Code Annotated, Section 68-11-1602(12), is amended by deleting "agency" and substituting "commission".

SECTION 110. Tennessee Code Annotated, Section 68-11-1602(13), is amended by deleting "agency" and substituting "commission".

SECTION 111. Tennessee Code Annotated, Section 68-11-1602(1), is amended by deleting the subdivision and redesignating the remaining subdivisions accordingly.

SECTION 112. Tennessee Code Annotated, Section 68-11-1602, is amended by adding the following as new subdivisions:

( ) "Board" means the board for licensing healthcare facilities;

( ) "Health facilities commission" and "commission" mean the commission created by this part to develop the criteria and standards to guide the commission when issuing certificates of need; to conduct studies related to health care, including needs assessments; to administer the certificate of need program and related activities; and to 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, and traumatic brain injury residential homes;

SECTION 113. Tennessee Code Annotated, Section 68-11-1604(a), is amended by deleting the subsection and substituting:

(a) There is created a health facilities commission that has jurisdiction and powers relating to the certificate of need program; the development of the criteria and standards to guide the commission when issuing certificates of need; conducting of studies related to health care, which must include a needs assessment; related reporting of healthcare institutions subject to this chapter; management and oversight of the staff of the board for

licensing healthcare facilities; and the licensing and regulation of healthcare facilities through the board for licensing healthcare facilities, as described in § 68-11-202.

SECTION 114. Tennessee Code Annotated, Section 68-11-1604(b), is amended by deleting "health services and development agency" and substituting "health facilities commission"; and by deleting "agency" wherever it appears and substituting "commission".

SECTION 115. Tennessee Code Annotated, Section 68-11-1604(c), is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 116. Tennessee Code Annotated, Section 68-11-1604(d), is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 117. Tennessee Code Annotated, Section 68-11-1604(e), is amended by deleting "the agency" wherever it appears and substituting "the commission".

SECTION 118. Tennessee Code Annotated, Section 68-11-1604(e)(4), is amended by deleting "of agency members" and substituting "of commission members".

SECTION 119. Tennessee Code Annotated, Section 68-11-1604(e)(6), is amended by deleting "The agency shall" and substituting "The commission shall".

SECTION 120. Tennessee Code Annotated, Section 68-11-1604(e)(7), is amended by deleting "All agency members" and substituting "All commission members".

SECTION 121. Tennessee Code Annotated, Section 68-11-1605, is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 122. Tennessee Code Annotated, Section 68-11-1606, is amended by deleting "An agency" wherever it appears and substituting "A commission".

SECTION 123. Tennessee Code Annotated, Section 68-11-1606(b), is amended by deleting the subsection and substituting:

(b) The executive director is the chief administrative officer of the commission, exercising general supervision over all persons employed by the commission. The commission's staff is subject to personnel rules and policies that are applicable to state employees in general, including leave, compensation, classification, and travel rules and policies. The commission shall fix the salary of the executive director. The commission has the sole authority to appoint, terminate, and control the work of the executive director. The executive director has the exclusive authority to appoint, terminate, and control staff employees. The commission's employees are executive service and serve at the pleasure of the executive director.

SECTION 124. Tennessee Code Annotated, Section 68-11-1606(c)(9), is amended by deleting "agency's" and substituting "commission's".

SECTION 125. Tennessee Code Annotated, Section 68-11-1606(c), is amended by adding the following as a new subdivision:

( ) Management and oversight of the staff of the board for licensing healthcare facilities and of the licensing and regulation activities of the board, as described in § 68-11-202;

SECTION 126. Tennessee Code Annotated, Section 68-11-1606(h)(2), is amended by deleting "Agency" and substituting "Commission".

SECTION 127. Tennessee Code Annotated, Section 68-11-1606(h)(3), is amended by deleting "an agency" and substituting "a commission".

SECTION 128. Tennessee Code Annotated, Section 68-11-1606, is amended by deleting "agency" wherever it appears and substituting the word "commission".

SECTION 129. Tennessee Code Annotated, Section 68-11-1607, is amended by deleting the section and substituting:

(a) A person shall not perform the following actions in this state, except after applying for and receiving a certificate of need for the action:

(1) The construction, development, or other establishment of a type of healthcare institution as described in this part;

(2) In the case of a healthcare institution, a change in the bed complement, regardless of cost, that:

(A) Increases by one (1) or more the number of nursing home beds;

(B) Redistributes beds from any category to acute, rehabilitation, or long-term care, if at the time of redistribution, the healthcare institution does not have beds licensed for the category to which the beds will be redistributed; or

(C) Relocates beds to another facility or site;

(3) Initiation of the following healthcare services:

(A) Burn unit;

(B) Neonatal intensive care unit;

(C) Open heart surgery;

(D) Organ transplantation;

(E) Cardiac catheterization;

(F) Linear accelerator;

(G) Home health;

(H) Hospice; or

(I) Opiate addiction treatment provided through a nonresidential substitution-based treatment center for opiate addiction;

(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 must 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 § 68-11-1606(g) and (h); and

(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;

(5) Except as otherwise provided in subdivision (m)(2) and subsection (u), the following actions in a county with a population of one hundred seventy-five thousand (175,000) or less, according to the 2010 federal census or a subsequent federal census:

(A) Initiation of magnetic resonance imaging services; or

(B) Increasing the number of magnetic resonance imaging machines, except for replacing or decommissioning an existing machine;

(6) The establishment of a satellite emergency department facility or a satellite inpatient facility by a hospital at a location other than the hospital's main campus; and

(7) Except as otherwise provided in subsection (u), the initiation of positron emission tomography in a county with a population of one hundred seventy-five thousand (175,000) or less, according to the 2010 federal census or a subsequent federal census.

(b) An agency of this state, or of a county or municipal government, shall not approve a grant of funds for, or issue a license to, a healthcare institution for a portion or activity of the healthcare institution that is established, modified, relocated, changed, or resumed, or that constitutes a covered healthcare service, in violation of this part. If an agency of this state, or of a county or municipal government, approves a grant of funds for, or issues a license to, a person or institution for which a certificate of need was required but was not granted, then the license is void and the person or institution shall refund the funds to the state within ninety (90) days. The health facilities commission has the authority to impose civil penalties and petition a circuit or chancery court having jurisdiction to enjoin a person who is in violation of this part.

(c)(1) For each application, a letter of intent must be filed between the first day of the month and the fifteenth day of the month prior to the application's submission. At the time of filing, the applicant shall cause the letter of intent to be published in a newspaper of general circulation in the proposed service area of the project. The published letter of intent must contain a statement that any:

(A) Healthcare institution wishing to oppose the application must file written notice with the commission no later than fifteen (15) days before the commission meeting at which the application is originally scheduled; and

(B) Other person wishing to oppose the application may file a written objection with the commission at or prior to the consideration of the application by the commission, or may appear in person to express opposition.

(2) Persons desiring to file a certificate of need application seeking a simultaneous review regarding a similar project for which a letter of intent has been filed shall file with the commission a letter of intent between the sixteenth day of the month and the last day of the month of publication of the first filed letter of intent. A copy of a letter of intent filed after the first letter of intent must be mailed or delivered to the first filed applicant and must be published in a newspaper of general circulation in the proposed service area of the first filed applicant. The health facilities commission shall consider and decide the applications simultaneously. However, the commission may refuse to consider the applications simultaneously if it finds that the applications do not meet the requirements of "simultaneous review" under the rules of the commission.

(3) Applications for a certificate of need, including simultaneous review applications, must be filed by the first business day of the month following the date of publication of the letter of intent.

(4) If there are two (2) or more applications to be reviewed simultaneously in accordance with this part and the rules of the commission, and one (1) or more of those applications are not deemed complete by the deadline to be considered at the next commission meeting, then the other applications that are deemed complete by the deadline must be considered at the next commission meeting. The application or applications that are not deemed complete by the deadline to be considered at the next commission meeting will not be considered with the applications deemed complete by the deadline to be considered at the next commission meeting.

(5) Review cycles begin on the fifteenth day of each month. Review cycles are thirty (30) days. The first meeting at which an application can be considered by the commission is the meeting following the application's review cycle. If an application is not deemed complete within sixty (60) days after initial written notification is given to the applicant by commission staff that the application is deemed incomplete, then the application is void. If the applicant decides to resubmit the application, then the applicant shall comply with all procedures as set out by this part and pay a new filing

fee when submitting the application. Prior to deeming an application complete, the executive director shall ensure independent review and verification of information submitted to the commission in applications, presentations, or otherwise. The purpose of the independent review and verification is to ensure that the information is accurate, complete, comprehensive, timely, and relevant to the decision to be made by the commission. The independent review and verification must be applied, but not necessarily be limited, to applicant-provided information as to the number of available beds within a region, occupancy rates, the number of individuals on waiting lists, the demographics of a region, the number of procedures, and other critical information submitted or requested concerning an application; and staff examinations of data sources, data input, data processing, and data output, and verification of critical information.

(6) An application filed with the commission must be accompanied by a nonrefundable examination fee fixed by the rules of the commission.

(7) Information provided in the application or information submitted to the commission in support of an application must be true and correct. Substantive amendments to the application, as defined by rule of the commission, are not allowed.

(8) An applicant shall designate a representative as the contact person for the applicant and shall notify the commission, in writing, of the contact person's name, address, and telephone number. The applicant shall immediately notify the commission in writing of a change in the identity or contact information of the contact person. In addition to other methods of service permitted by law, the commission may serve by registered or certified mail a notice or other legal document upon the contact person at the person's last address of record in the files of the commission. Notwithstanding a law to the contrary, service in the manner specified in this subdivision (c)(8) constitutes actual service upon the applicant.

(9)(A) Within ten (10) days of the filing of an application for a nonresidential substitution-based treatment center for opiate addiction with the commission, the applicant shall send a notice to the county mayor of the county in which the facility is proposed to be located; the state representative and senator representing the house district and the senate district in which the facility is proposed to be located; and the mayor of the municipality, if the facility is proposed to be located within the corporate boundaries of a municipality, by certified mail, return receipt requested, informing those officials that an application for a nonresidential substitution-based treatment center for opiate addiction has been filed with the commission by the applicant.

(B) If an application involves a healthcare facility in which a county or municipality is the lessor of the facility or real property on which it sits, then, within ten (10) days of filing the application, the applicant shall notify the chief executive officer of the county or municipality of the filing, by certified mail, return receipt requested.

(C) An application subject to the notification requirements of this subdivision (c)(9) is not complete if the applicant has not provided proof of compliance with this subdivision (c)(9) to the commission.

(d) Communications with the members of the commission are not permitted once the letter of intent initiating the application process is filed with the commission. Communication between commission members and commission staff is not prohibited. Communication received by a commission member from a person unrelated to the applicant or party opposing the application must be reported to the executive director, and a written summary of the communication must be made part of the certificate of need file.

(e) For purposes of this part, commission action is the same as administrative action defined in § 3-6-301.

(f)(1) Notwithstanding this section to the contrary, Tennessee state veterans' homes under title 58, chapter 7, are not required to obtain a certificate of need pursuant to this section.

(2) Notwithstanding this section to the contrary, the beds located in a Tennessee state veterans' home pursuant to title 58, chapter 7, must not be considered by the health facilities commission when granting a certificate of need to a

healthcare institution due to a change in the number of licensed beds, redistribution of beds, or relocation of beds pursuant to this section.

(g) After a person holding a certificate of need has completed the actions for which the certificate of need was granted, the time to complete activities authorized by the certificate of need expires.

(h) The owners of the following types of equipment shall register the equipment with the health facilities commission: computerized axial tomographers, magnetic resonance imagers, linear accelerators, and positron emission tomography. The registration must be in a manner and on forms prescribed by the commission and must include ownership, location, and the expected useful life of the equipment. Registration must occur within ninety (90) days of acquisition of the equipment. All such equipment must be filed on an annual inventory survey developed by the commission. The survey must include, but not be limited to, the identification of the equipment and utilization data according to source of payment. The survey must be filed no later than thirty (30) days following the end of each state fiscal year. The commission may impose a penalty not to exceed fifty dollars (\$50.00) for each day the survey is late.

(i) Notwithstanding this section to the contrary, an entity, or its successor, that was formerly licensed as a hospital, and that has received from the executive director a written determination that it will be eligible for designation as a critical access hospital under the medicare rural hospital flexibility program, is not required to obtain a certificate of need to establish a hospital qualifying for that designation, if it meets the requirements of this subsection (i). In order to qualify for the exemption set forth in this subsection (i), 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. The written determination from the executive director and proof of publication required by this subsection (i) must be filed with the commission within ten (10) days after the last date of publication. If no healthcare institution within the same county or contiguous counties files a written objection to the proposal with the commission within thirty (30) days of the last publication date, then the exemption set forth in this subsection (i) applies. However, this exemption applies only to the establishment of a hospital that qualifies as a critical access hospital under the medicare rural flexibility program and not to another activity or service. If a written objection by a healthcare institution within the same county or contiguous counties is filed with the commission within thirty (30) days from the last date of publication, then the exemption set forth in this subsection (i) does not apply.

(j)(1) Notwithstanding subdivision (a)(2)(A) or (a)(4), a nursing home may increase its total number of licensed beds by the lesser of ten (10) beds or ten percent (10%) of its licensed capacity no more frequently than one (1) time every three (3) years without obtaining a certificate of need. The nursing home shall provide written notice of the increase in beds to the commission on forms provided by the commission prior to the request for licensing by the board for licensing healthcare facilities.

(2) For new nursing homes, the ten-bed or ten-percent increase cannot be requested until one (1) year after the date all of the new beds were initially licensed.

(3) When determining projected county nursing home bed need for certificate of need applications, all notices filed with the commission pursuant to subdivision (j)(1) must be considered with the total of licensed nursing home beds, plus the number of beds from approved certificates of need, but yet unlicensed.

(k) This part does not require a certificate of need for a home care organization that is authorized to provide only professional support services as defined in § 68-11-201.

(l) Except as provided in subsection (v), a home care organization may only initiate hospice services after applying for and receiving a certificate of need for providing hospice services.

(m)(1) A person who provides magnetic resonance imaging services shall file with the commission an annual report no later than thirty (30) days following the end of each state fiscal year that details the mix of payers by percentage of cases for the prior calendar year for its patients, including private pay, private insurance, uncompensated care, charity care, medicare, and medicaid.

(2) In a county with a population in excess of one hundred seventy-five thousand (175,000), according to the 2010 federal census or a subsequent federal

census, a person who initiates magnetic resonance imaging services shall notify the commission in writing that imaging services are being initiated and shall indicate whether magnetic resonance imaging services will be provided to a patient who is fourteen (14) years of age or younger on more than five (5) occasions per year.

(n)(1) An application for a certificate of need for organ transplantation must separately:

(A) Identify each organ to be transplanted under the application; and

(B) State, by organ, whether the organ transplantation recipients will be adult patients or pediatric patients.

(2) After an initial application for transplantation has been granted, the addition of a new organ to be transplanted or the addition of a new recipient category requires a separate certificate of need. The application must:

(A) Identify the organ to be transplanted under the application; and

(B) State whether the organ transplantation recipients will be adult patients or pediatric patients.

(3)(A) For the purposes of certificate of need approval for organ transplantation programs under this part, a program submitted to the United Network for Organ Sharing (UNOS) by January 1, 2017, is not required to obtain a certificate of need.

(B) If the organ transplantation program ceases to be a UNOS-approved program, then a certificate of need is required.

(o)(1) Within two (2) years after the date of receiving a certificate of need, an outpatient diagnostic center must become accredited by the American College of Radiology 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.

(p)(1) Notwithstanding this title to the contrary, a certificate of need is not required for a hospital to operate a nonresidential substitution-based treatment center for opiate addiction if the treatment center is located on the same campus as the operating hospital and the hospital is licensed under title 33 or this title.

(2) For purposes of this subsection (p), "campus" has the same meaning as defined in 42 CFR § 413.65.

(q)(1) This part does not require a certificate of need for actions in a county that:

(A) Is designated as an economically distressed eligible county by the department of economic and community development pursuant to § 67-6-104, as updated annually; and

(B) Has no hospital that is actively licensed under this title located within the county.

(2)(A) A person that provides positron emission tomography services or magnetic resonance imaging services pursuant to this subsection (q) must be accredited by The Joint Commission or the American College of Radiology in the modalities provided by that person and submit proof of the accreditation to the commission within two (2) years of the initiation of service.

(B) A person that provides positron emission tomography services or magnetic resonance imaging services pursuant to this subsection (q) and that fails to comply with the accreditation requirement of subdivision (q)(2)(A) 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.



(3) A person that provides a service other than those described in subdivision (q)(2), or establishes a healthcare institution shall submit proof of accreditation by an appropriate external peer-review organization for the service or facility to the commission within two (2) years of the date of initiation of service or licensure of the healthcare institution.

(r)(1) This part does not require a certificate of need to establish a home health agency limited to providing home health services under the federal Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) (42 U.S.C. § 7384, et seq.), or a subsequent amendment, revision, or modification to the EEOICPA. A license issued by the commission pursuant to this subsection (r) for services under the EEOICPA must be limited to the provision of only those services. A home health agency providing home health services without a certificate of need pursuant to this subsection (r) must be accredited by The Joint Commission, the Community Health Accreditation Partner, or the Accreditation Commission for Health Care and submit proof of such accreditation to the commission within two (2) years of the initiation of service.

(2) A home health agency that provides home health services without a certificate of need pursuant to this subsection (r) and that fails to comply with the accreditation requirement of subdivision (r)(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.

(s)(1) This part does not require a certificate of need to establish a home health agency limited to providing home health services to patients less than eighteen (18) years of age. A license issued by the commission pursuant to this subsection (s) for the provision of home health services to patients under eighteen (18) years of age must be limited to the provision of only those services.

(2) The commission may permit a home health agency providing home health services to patients under eighteen (18) years of age to continue providing home health services to the patient until the patient reaches twenty-one (21) years of age if:

(A) The patient received home health services from the home health agency prior to the date the patient reached eighteen (18) years of age; and

(B) The home health services are provided under a TennCare program.

(3)(A) A home health agency that provides home health services without a certificate of need pursuant to this subsection (s) must, within two (2) years of the initiation of service, be accredited by and submit proof to the commission of the accreditation from:

(i) An accrediting organization with deeming authority from the federal centers for medicare and medicaid services;

(ii) The Joint Commission;

(iii) The Community Health Accreditation Partner; or

(iv) The Accreditation Commission for Health Care.

(B) A home health agency that provides home health services without a certificate of need pursuant to this subsection (s) and that fails to comply with the accreditation requirement of subdivision (s)(3)(A) 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.

(t) This part does not require a certificate of need in order for an existing hospital licensed by the department of mental health and substance abuse services to become licensed by the commission as a satellite of an affiliated general acute care hospital as provided by § 33-2-403(b)(8)(B).

(u)(1) This part does not require a certificate of need to establish or operate the following in a county with a population in excess of one hundred seventy-five thousand (175,000), according to the 2010 federal census or a subsequent federal census:

(A) Initiation of magnetic resonance imaging services, or increasing the number of magnetic resonance imaging machines used, as long as magnetic resonance imaging services are not provided to a patient who is fourteen (14) years of age or younger on more than five (5) occasions per year; or

(B) Initiation of positron emission tomography.

(2)(A) A provider of positron emission tomography established without a certificate of need pursuant to this subsection (u) must become accredited by the American College of Radiology and provide to the commission proof of the accreditation within two (2) years of the date of licensure.

(B) A provider of positron emission tomography established without a certificate of need pursuant to this subsection (u) and that fails to comply with the accreditation requirement of subdivision (u)(2)(A) 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.

(v)(1) This part does not require a certificate of need to establish a home care organization or residential hospice limited to providing hospice services, as defined in § 68-11-201, to patients under the care of a healthcare research institution, as defined in § 68-11-1901.

(2) A license issued by the commission pursuant to the exception created by subdivision (v)(1) must be limited to the provision of services only to the patients of the healthcare research institution, as defined in § 68-11-1901, or the patients of a hospital or clinic that has its principal place of business located in this state and that is affiliated with the healthcare research institution.

(3) A home care organization or residential hospice that provides hospice services without a certificate of need pursuant to subdivision (v)(1) must, within twelve (12) months of the date the home care organization is granted a license by the commission, be accredited by The Joint Commission, the Community Health Accreditation Partner (CHAP), DNV GL Healthcare, or the Accreditation Commission for Health Care (ACHC), in order to continue to qualify for the exception created by subdivision (v)(1).

(w) No later than July 1, 2023, the commission shall implement and make available for use by applicants an electronic certificate of need application system.

SECTION 130. Tennessee Code Annotated, Section 68-11-1608, is amended by deleting the section and substituting:

(a) The executive director may place applications to be considered on a consent or emergency calendar established in accordance with commission rule.

(b) The rule must provide that, in order to qualify for the consent calendar, an application must not be opposed by a person with legal standing to oppose and the application must appear to be necessary to provide needed health care in the area to be served, provide health care that meets appropriate quality standards, and demonstrate that the effects attributed to competition or duplication would be positive for consumers. If opposition is stated in writing prior to the application being formally considered by the commission, then the application must be taken off the consent calendar and placed on the next regular agenda, unless waived by the parties.

(c)(1) If an unforeseen event necessitates action of a type requiring a certificate of need, and the public health, safety, or welfare would be unavoidably jeopardized by compliance with the standard procedures for the application for and granting of a certificate of need, then the commission may issue an emergency certificate of need.

(2) An emergency certificate of need may be issued upon request of the applicant if the executive director and officers of the commission concur, after consultation with the appropriate licensing agency. Prior to an emergency certificate of need being granted, the applicant must publish notice of the application in a newspaper of general circulation, and commission members must be notified by commission staff of the request.

(3) A decision regarding whether to issue an emergency certificate of need must be considered at the next regularly scheduled commission meeting unless the

applicant's request is necessitated by an event that has rendered its facility, equipment, or service inoperable. In that case, the commission's chair and vice chair may act immediately, on behalf of the commission, to consider the application for an emergency certificate of need.

(4) An emergency certificate of need is valid for a period not to exceed one hundred twenty (120) days. However, if the applicant has applied for a certificate of need under standard commission procedures, then an extension of the emergency certificate of need may be granted.

SECTION 131. Tennessee Code Annotated, Section 68-11-1609, is amended by deleting "agency" wherever it appears and substituting "commission"; and by deleting "agency's" wherever it appears and substituting "commission's".

SECTION 132. Tennessee Code Annotated, Section 68-11-1609(a)(1)(A), is amended by deleting "license issued by the department of health" and substituting "license issued by the commission".

SECTION 133. Tennessee Code Annotated, Section 68-11-1609(d), is amended by deleting "issued by the department of health" and substituting "issued by the commission".

SECTION 134. Tennessee Code Annotated, Section 68-11-1609(i)(1), is amended by deleting "The department of health" and substituting "The commission".

SECTION 135. Tennessee Code Annotated, Section 68-11-1610, is amended by deleting "agency" wherever it appears and substituting "commission"; and by deleting "agency's" wherever it appears and substituting "commission's".

SECTION 136. Tennessee Code Annotated, Section 68-11-1611, is amended by deleting "agency" wherever it appears and substituting "commission"; and by deleting "agency's" and substituting "commission's".

SECTION 137. Tennessee Code Annotated, Section 68-11-1612(a), is amended by deleting "agency" and substituting "commission".

SECTION 138. Tennessee Code Annotated, Section 68-11-1613, is amended by deleting "agency" and substituting "commission".

SECTION 139. Tennessee Code Annotated, Section 68-11-1614, is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 140. Tennessee Code Annotated, Section 68-11-1616, is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 141. Tennessee Code Annotated, Section 68-11-1617, is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 142. Tennessee Code Annotated, Section 68-11-1617(5), is amended by deleting "licensure by the department of health" and substituting "licensure by the commission".

SECTION 143. Tennessee Code Annotated, Section 68-11-1618, is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 144. Tennessee Code Annotated, Section 68-11-1619, is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 145. Tennessee Code Annotated, Section 68-11-1620(a), is amended by deleting the subsection and substituting:

(a) Fees and civil penalties authorized by the certificate of need program established by this part must be paid by the health facilities commission or the collecting agency to the state treasurer and deposited in the state general fund and credited to a separate account for the commission's expenses incurred administering the implementation and enforcement of the certificate of need laws. Fees include, but are not limited to, fees for the application of certificates of need, subscriptions, project cost overruns, copying, and contested cases. Disbursements from that account may only be made for the purpose of defraying expenses incurred in the implementation and enforcement of the certificate of need program established by this part by the commission. Funds remaining in the account at the end of a fiscal year do not revert to the general fund but remain available for expenditure in accordance with law.

SECTION 146. Tennessee Code Annotated, Section 68-11-1620(b), is amended by deleting the subsection and substituting:

(b) The commission shall prescribe fees by rule as authorized by the certificate of need program established by this part. The fees must be in an amount that, in addition to the fees prescribed in subsection (c), provides for the cost of administering the implementation and enforcement of the certificate of need program established by this part by the commission. The commission shall adjust the prescribed fees as necessary to provide that the account is fiscally self-sufficient and that revenues from fees do not exceed necessary and required expenditures.

SECTION 147. Tennessee Code Annotated, Section 68-11-1620(c), is amended by deleting "agency" and substituting "commission"; and by deleting "agency's" and substituting "commission's".

SECTION 148. Tennessee Code Annotated, Section 68-11-1621, is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 149. Tennessee Code Annotated, Section 68-11-1623, is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 150. Tennessee Code Annotated, Section 68-11-1623(b), is amended by deleting "by the department".

SECTION 151. Tennessee Code Annotated, Section 68-11-1623(c), is amended by deleting "by the department".

SECTION 152. Tennessee Code Annotated, Section 68-11-1624, is amended by deleting "delegate to the department" and substituting "delegate to the commission".

SECTION 153. Tennessee Code Annotated, Section 68-11-1625, is amended by deleting "agency" wherever it appears and substituting "commission".

SECTION 154. Tennessee Code Annotated, Section 68-11-1626, is amended by deleting the section and substituting:

(a) Notwithstanding this part, a certificate of need is not required for the establishment of a hospital licensed under this title if:

(1) The hospital was previously licensed under this title or another hospital was previously licensed under this title at the proposed location;

(2) The hospital is located in a county:

(A) Designated by the department of economic and community development as a tier 2, tier 3, or tier 4 enhancement county pursuant to § 67-4-2109; or

(B) With a population less than forty-nine thousand (49,000), according to the 2010 federal census or a subsequent census;

(3) The last date of operations at the hospital, the hospital site service area, or proposed hospital site service area was no more than fifteen (15) years prior to the date on which the party seeking to establish the hospital submits information to the commission pursuant to subsection (b); and

(4) The party seeking to establish the hospital applies for a certificate of need from the commission within twelve (12) months of the date on which the party submits information to the commission pursuant to subsection (b).

(b)(1) Notwithstanding this part, the commission may renew a license for a hospital meeting the criteria in subdivisions (a)(1)-(3) upon application by the party seeking to establish the hospital and finding that the hospital will operate in a manner that is substantially similar to the manner authorized under the previous hospital's license at the time of the previous hospital's closure.

(2) The commission shall review and make a determination on an application submitted pursuant to subdivision (b)(1) and notify the applicant in writing of the determination within sixty (60) days of the date the applicant submits a completed application to the commission. If the commission determination is to deny the

application, then the commission must also provide to the applicant a written explanation detailing the reasons for the denial.

SECTION 155. Tennessee Code Annotated, Section 68-59-102, is amended by deleting subdivisions (2) and (5).

SECTION 156. Tennessee Code Annotated, Section 68-59-102, is amended by adding the following as new subdivisions:

( ) "Executive director" means the executive director of the health facilities commission;

( ) "Health facilities commission" or "commission" means the health facilities commission created by § 68-11-1604;

SECTION 157. Tennessee Code Annotated, Section 68-59-102, is amended by deleting "licensed by the department" wherever it appears and substituting "licensed by the commission".

SECTION 158. Tennessee Code Annotated, Section 68-59-104, is amended by deleting "commissioner of health" and substituting "executive director".

SECTION 159. Tennessee Code Annotated, Section 68-59-105, is amended by deleting "department of health" and substituting "health facilities commission".

SECTION 160. Tennessee Code Annotated, Section 68-140-321(a), is amended by deleting "health care facilities division" and substituting "health facilities commission".

SECTION 161. Tennessee Code Annotated, Section 68-140-321(d), is amended by deleting "department" and substituting "health facilities commission".

SECTION 162. Tennessee Code Annotated, Section 71-5-1003(c)(7), is amended by deleting "licensed by the department of health" and substituting "licensed by the health facilities commission".

SECTION 163. Tennessee Code Annotated, Section 71-5-2002(2)(C), is amended by deleting "health services and development agency" and substituting "health facilities commission".

SECTION 164. Tennessee Code Annotated, Section 68-11-1604(b), is amended by adding the following as a new subdivision:

(5) The governor shall designate one (1) individual as an alternate commission member for each appointment made pursuant to subdivisions (b)(1)(F)(i)-(vi) to serve when the alternate member's respective regularly appointed member is unable to participate in a matter before the commission due to the member's absence or because of the member's recusal due to a conflict of interest. Each alternate commission member is subject to the same qualifications that apply to the appointment of the alternate member's respective regularly appointed member, as described in subdivisions (b)(1)(F)(i)-(vi).

SECTION 165. Tennessee Code Annotated, Section 68-11-1604(e)(1), is amended by deleting "A member shall not serve two (2) consecutive terms as vice chair" and substituting "A member shall not serve more than two (2) consecutive terms as vice chair".

SECTION 166. Tennessee Code Annotated, Section 68-11-1606(f), is amended by deleting the subsection and substituting:

(f) The executive director shall notify the commission of an action taken pursuant to a delegation of authority under subsection (d) at the commission's next regularly scheduled meeting.

SECTION 167. Tennessee Code Annotated, Section 68-11-1609(g)(1), is amended by deleting the first sentence and substituting:

A healthcare institution wishing to oppose a certificate of need application must be located within a thirty-five-mile radius of the location of the action proposed, and must have served patients within that radius within the three hundred sixty-five (365) days immediately preceding the date of filing the certificate of need application.

SECTION 168. Tennessee Code Annotated, Section 68-11-1609(h), is amended by deleting "requiring annual reports concerning" and substituting "requiring annual reports for the first three (3) years of the implementation of the certificate of need concerning".

SECTION 169. Tennessee Code Annotated, Section 68-11-1609(i)(1), is amended by deleting the subdivision and substituting:

(1)(i) Notwithstanding a law to the contrary, and except as provided in subdivision (i)(2), a certificate of need and activity the certificate authorizes become void if the actions the certificate authorizes have not been performed for a continuous period of two (2) years after the date the certificate of need is implemented. A revocation proceeding is not required. The department of health and the department of mental health and substance abuse services shall not issue or renew a license for an activity for which certificate of need authorization has become void.

(ii) With respect to a home care organization, this subsection (i) applies to whether the home care organization provides home health services anywhere within its service area, and not on the basis of each county for which the home care organization is licensed.

SECTION 170. Tennessee Code Annotated, Section 68-11-1610(h), is amended by deleting the subsection and substituting:

(h) Costs of the contested case proceeding and appeals, including the administrative law judge's costs, deposition costs, expert witness fees, and reasonable attorney's fees, must be assessed against the losing party in the contested case. If there is more than one (1) losing party, then the costs must be divided equally among the losing parties. Costs must not be assessed against the commission. Costs must not be assessed against a party if the commission's decision to approve that party's certificate of need application is being appealed in the contested case.

SECTION 171. Tennessee Code Annotated, Title 68, Chapter 11, Part 2, is amended by adding the following as a new section:

Notwithstanding another law, the department of health shall make available to the executive director of the health facilities commission all internal audits that pertain to the board for licensing healthcare facilities, the office of health care facilities, or the support staff of those entities, including, but not limited to, complaint investigations, surveying, human resources, or the office of general counsel.

SECTION 172. This act takes effect July 1, 2022, the public welfare requiring it.

SENATE BILL NO. 2466

PASSED: April 27, 2022

  
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RANDY McNALLY  
SPEAKER OF THE SENATE

  
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CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 1<sup>st</sup> day of June 2022

  
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BILL LEE, GOVERNOR