

Tennessee Board of Medical Examiners



Newsletter



2011

A regulatory agency of the State of Tennessee

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Bureau of Health Licensure and Regulation • Health Related Boards • 227 French Landing, Suite 300, Heritage Place MetroCenter, Nashville, TN 37243
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ATTENTION PHYSICIANS WHO PROVIDE PAIN MANAGEMENT SERVICES

DEPARTMENT OF HEALTH TO REGISTER ALL PAIN MANAGEMENT CLINICS

Effective January 1, 2012, all pain management clinics in Tennessee must be registered with the State.

Tennessee state law defines a pain management clinic as a privately-owned facility in which a medical doctor, an osteopathic physician, an advanced practice nurse or a physician assistant provides pain management services to patients, a majority of whom are issued a prescription for, or are dispensed, opioids, benzodiazepine, barbiturates, or carisoprodol, but not including suboxone, for more than 90 days within a 12-month period.

If you are a medical doctor, osteopathic physician, advanced practice nurse or a physician assistant, and your practice meets this definition, you must apply to register your pain management clinic.

For more information, including access to Public Chapter 340, the applicable Emergency Rules and Application information, click here:

<http://health.state.tn.us/Boards/PainClinicRegistry.shtml>

The Department of Health will hold a rulemaking hearing to consider permanent rules relative to the registration of Pain Management Clinics. The hearing will be held December 1, 2011 at 10:00 a.m. at 227 French Landing, Ground Floor Iris Room

CURRENT COMPOSITION OF THE BOARD

The Board bids farewell to two of its consumer members whose terms expired in 2011: Ms. Irene Wells of Bluff City and Ms. Monica Franklin of Nashville. The Board welcomes

two new consumer members: Ms. Pat Eller of Chattanooga and Ms. Nina Yeiser of Counce. Ms. Yeiser previously served on the Board and is a past Vice-President. As of July 1, 2011, the Board is composed of the following members: Mitchell Mutter, M.D., President; Charles White, Sr., M.D., Vice-President; Subhi Ali, M.D., Secretary; Michael Baron., M.D.; Dennis Higdon, M.D.; Neal S. Beckford, M.D.; Keith Lovelady, M.D.; Michael Zanolli, M.D.; Barrett Rosen, M.D.; Regine Webster, Public Member; Pat Eller, Public Member; and Nina Yeiser, Public Member.

BOARD MEETING DATES

November 15-16, 2011

2012

January 24-25, 2012

March 27-28, 2012

May 22-23, 2012

July 24-25, 2012

September 10-11, 2012

November 27-28, 2012

All Board meetings begin at 8:30 a.m., Central Time. Board meetings are held at the Board's office and are open to the public. Dates are subject to change, but are listed on the Board's Website. [In the event of an electronic meeting, a conference room is made available to the public and is the location from which the electronic meeting is conducted.]

MISSION OF THE BOARD

The Tennessee Board of Medical Examiners is committed to carrying out its mission to safeguard the health, safety, and welfare of Tennesseans by requiring those who practice medicine and surgery within this state be qualified. The Board

awards licenses to qualified candidates who have graduated from approved medical schools and who have completed appropriate postgraduate work. The Board interprets the laws, rules, and regulations to determine the appropriate standards of practice in an effort to ensure the highest degree of professional conduct. The Board is responsible for the investigation of alleged violations of the Practice Act and rules and is responsible for the discipline of licensees who are found guilty of such violations.

LICENSED ISSUED BY THE BOARD IN JANUARY 1-DECEMBER 31, 2010

Through the licensing process, the Board ensures that the professionals we regulate meet the standards of education, training and professional conduct necessary to serve Tennessee patients effectively and safely. In 2010, the Board issued the following licenses:

License Type	Number Issued
Full Licensure	1,069
Locum Tenens Licensure	19
Single Purpose Licensure	23
Special Training Licensure	0
Telemedicine License	50
Distinguished Faculty Licensure	0
Inactive Volunteer Licensure	0
St. Jude Children's Research Hospital License	0

The Board is also vested with the responsibility of ratifying all licenses or certificates for physicians' assistants, x-ray operators in medical doctor's offices, clinical perfusionists, acupunctuists, genetic counselors and polysomnography practitioners. The number of licenses issued in 2010 for healthcare professionals under the Board umbrella are:

Physician Assistants:

1. Full licenses - 119
2. Temporary Permits - 31

MD X-ray Operators:

1. Full Licenses - 282
2. Upgrades - 148
2. Limited - 117

Clinical Perfusionists:

1. Full Licenses - 6
2. Temporary Permits - 2

Acupuncture:

1. Full Licenses - 11
2. ADS - 11

Genetic Counselors:

1. Full licenses - 8

2. Temporary - 0

Polysomnography:

1. Technologists - 498
2. Technicians - 156
3. Trainee - 50

TOTAL LICENSES ISSUED BY BME: The Board issued a total of **2,600** licenses in the year 2010. The breakdown totals are as follows:

MD Full	1,069
MD Locum	19
MD Single Purpose	23
MD Telemedicine	50
PA Full	119
PA Temporary	31
MD X-Ray Full	282
MD X-ray Upgrades	148
MD X-ray Limited	117
Clinical Perfusion Full	6
Clinical Perfusion Temporary	2
Acupuncture Full	11
Acupuncture ADS	11
Genetic Counselors Full	8
Polysom Technologists	498
Polysom Technicians	156
Polysom Trainees	50
Total	2,600

OFFICE BASED SURGERY

The Board has the duty and responsibility to regulate the practice of office-based surgery. A physician office surgical suite is required to be certified by the Board in order to perform office-based surgery. The Board has certified **eleven** office based surgery suites and one application for certification was pending at the end of 2010.

Knoxville	2
Nashville	2
Chattanooga	4
Clarksville	1
Paris	1
Kingsport	1

LEVEL II OFFICE BASED SURGERY

Tenn. Code Ann. Sect. 63-6-221(o) requires applicants for an initial license, reinstatement license or holders of a previously issued license to indicate to the Board if they do or intend to do Level II Office Based Surgery. The Board is required to work with health care providers to collect meaningful health care data, so as to minimize the frequency and severity of certain unexpected events and improve the delivery of health

care services. To that end, each physician who performs any Level II office-based surgery or Level III office-based surgery that results in any of the following unanticipated events shall notify the board in writing within fifteen (15) calendar days following the physician's discovery of the event:

- (1) The death of a patient during any Level II office-based surgery or Level III office-based surgery or within seventy-two (72) hours thereafter;
- (2) The transport of a patient to a hospital emergency department except those related to a natural course of the patient's illness or underlying condition;
- (3) The unplanned admission of a patient to a hospital within seventy-two (72) hours of discharge, only if the admission is related to the Level II office-based surgery or Level III office-based surgery, except those related to a natural course of the patient's illness or underlying condition;
- (4) The discovery of a foreign object erroneously remaining in a patient from a Level II office-based surgery or Level III office-based surgery at that office; or
- (5) The performance of the wrong surgical procedure, surgery on the wrong site or surgery on the wrong patient.

At year end 2010, there were **275 physicians** who have indicated that they do or intend to do Level II Office Based Surgical procedures. In 2010, there were **five** reports of unexpected occurrences in offices where Level II procedures are performed.

Unplanned admission to hospital – sect. (3) above	4
Death of patient – sect. (1) above	1

PHYSICIANS CURRENTLY UNDER MONITORING

At year end 2010, the Board's disciplinary coordinator was "monitoring" **305** physicians:

Suspended	27
Probation	86
Board order and restricted	94
Surrender/revoked	98

ASSISTANCE TO IMPAIRED PRACTITIONERS

The Board is authorized by TENN. CODE ANN. SECT. 63-1-136 to enter into agreements or provide grants to statewide non-profit organizations for the purpose of assisting impaired professionals. In 2010, the Board provided a grant of

\$200,000 to the Tennessee Medical Associations' Physicians Health Program. In 2010, the Board referred **14** physicians to the TMF. As of December 31, 2010, the TMF is monitoring **73** physicians referred by the Board.

TENNESSEE JOINS NEIGHBORING STATES TO FIGHT PRESCRIPTION DRUG ABUSE

In an effort to fight prescription drug abuse and misuse in Tennessee, representatives from the Governor's Office, Department of Safety and Homeland Security, the Department of Health and the Department of Mental Health have joined with Kentucky, Ohio and West Virginia to form the Interstate Prescription Drug Task Force, a multi-state alliance to fight prescription drug abuse on several fronts.

Law enforcement officials consider prescription drug abuse an increasing problem in Tennessee, which consistently ranks as one of the top states in the country for the use of prescribed medications. According to the Tennessee Drug Diversion Task Force, in 2009 Tennessee ranked **second** in the nation with 17.3 retail prescriptions written per person compared with a national average of 12.0. Since 2008 the top three controlled substances prescribed in Tennessee have been the pain medications Hydrocodone, Alprazolam, and Oxycodone.

The Interstate Prescription Drug Task Force will work cooperatively on prescription drug monitoring, treatment for addiction, educational strategies, and accurate data collection. The Task Force will develop multi-state goals and initiatives to curb the influx of illegal prescription drugs as well as ways to better share information and resources between the states.

TRAMADOL AND CARISOPRODOL

Effective April 7, 2011, Tramadol, Carisoprodol and products containing Tramadol or Carisoprodol will be classified as Schedule IV controlled substances in the State of Tennessee pursuant to Tenn. Comp. R. & Regs. Rule 0940-06-01.04, (http://state.tn.us/sos/rules_filings/01-08-11.pdf) as authorized under Tenn. Code Ann. § 39-17-403.

As of April 7, 2011, Tramadol, Carisoprodol and products containing Tramadol or Carisoprodol will become part of the CSMD submissions. Pharmacists should work with their pharmacy prescription dispensing software vendors or information technology experts to update the information they are required to submit to the Controlled Substance Monitoring Database to include prescriptions for tramadol-containing products and carisoprodol-containing products dispensed on or after April 7, 2011.

The Tennessee Board of Pharmacy advises that all pharmacists and prescribers read and follow the DEA requirements **as they pertain to controlled substances before** accepting or prescribing Tramadol, Carisoprodol or any other product containing Tramadol or Carisoprodol.

The Tennessee Board of Pharmacy also advises that all pharmacies and prescribers take inventory of their current

stock of Tramadol , Carisoprodol and other products which contain Tramadol or Carisoprodol on April 7, 2011.

TENNESSEE VOLUNTEER MOBILIZER

The Tennessee Department of Health is recruiting and registering licensed or trained medical professionals and others for volunteer service in the event of state public health or medical emergencies. The Tennessee Volunteer Mobilizer (TNVM) is a Web-based system designed to serve as a single, centralized database of volunteers. **Volunteers with all types of credentials and/or skills will be needed.** For more information on the program or to register please go to: http://health.state.tn.us/volunteer/than_volunteer.htm

REMINDER REGARDING CONTINUING EDUCATION

The Board's administrative office randomly audits renewal applications to determine compliance with continuing medical education requirements. Each licensee, as a condition of renewal, must obtain 40 hours of category 1 CME during the two calendar years immediately preceding renewal. **Remember:** At least one hour must address prescribing practices.

CHANGE OF ADDRESS

Must be reported (in writing or by e-mail) to the Board's Office within 30 days! Please include the following:

- Your name and license number;
- Your profession;
- Your old address and phone number;
- Your new address and phone number, e-mail address, and/or your fax number;
- Your SIGNATURE!

Keeping the Board's administrative staff up to date on your location facilitates the timely notification to you of important information such as your application for licensure renewal and important statutory and rule changes. You may fax your change to the Board's administrative office at (615) 253-4484 or by mail at: 227 French Landing, Heritage Place MetroCenter, Suite 300, Nashville, TN 37243. You also can e-mail the Board at: TN.Health@state.tn.us.

Board's Fax Number: (615) 253-4484

Board's Website: www.state.tn.us/health

REMINDER ABOUT PRACTITIONER PROFILES

The Health Care Consumer Right-to-Know Act of 1998, T.C.A. § 63-51-101 et seq., requires designated licensed health professionals to furnish certain information to the Tennessee Department of Health. The information for public dissemination includes: (1) A description of any criminal

convictions for felonies within the most recent ten (10) years. (2) A description of any final disciplinary actions of licensing boards in other states within the most recent ten (10) years. (3) A description of any final disciplinary actions of licensing boards in other states within the most recent ten (10) years. (4) A description of revocation or involuntary restriction of hospital privileges for reasons related to competence or character that has been take by the hospital's governing body or any other official action of the hospital after procedural due process has been afforded, or the resignation from or nonrenewal of medical staff membership or the restriction of privileges at a hospital taken in lieu of or in settlement of a pending disciplinary case related to competence or character in that hospital. Only cases which have occurred within the most recent ten (10) years shall be disclosed by the department to the public. (5) All medical malpractice court judgments, all medical malpractice arbitration awards in which a payment is awarded to a complaining party and all settlements of medical malpractice claims in which a payment is made to a complaining party beginning with reports for 1998 and each subsequent year; provided, such reports shall not be disseminated beyond the most recent ten-year period, but shall include the most recent ten-year period for which reports have been filed. From the information submitted, the Department will compile a practitioner profile which is required to be made available to the public via the World Wide Web and toll-free telephone line after May 1, 1999. **Each practitioner who has submitted information must update that information in writing by notifying the Department of Health, Healthcare Provider Information Unit, within 30 days after the occurrence of an event or an attainment of a status that is required to be reported by the law.** A copy of your initial or updated profile will be furnished to you for your review prior to publication. That opportunity will allow you to make corrections, additions and helpful explanatory comments. **Failure to comply with the requirement to submit and update profiling information constitutes a ground for disciplinary action against your license.**

A blank copy of the profile may be obtained at:

<http://health.state.tn.us/Downloads/g6019027.pdf>

STATUTORY CHANGES OF INTEREST TO TENNESSEE PHYSICIANS



The 2011 Legislative Session has ended, and the Administrative Staff has monitored several bills that are of interest to physicians in the state of Tennessee. These public chapters are available on line at:

<http://www.tennessee.gov/sos/acts/index.htm>.

PUBLIC CHAPTER NO. 258

This Public Chapter amends Tennessee Code Annotated, Title 68, Chapter 11, Part 3, relative to authentication of verbal orders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE: SECTION 1. Tennessee Code Annotated Title 68, Chapter 11, Part 3, is amended by adding a new section as follows:

68-11-313.

(a)(1) A hospital licensed pursuant to this chapter shall require that all verbal orders be authenticated by a physician or authorized individual who has the authority to issue verbal orders in accordance with hospital policies or medical staff bylaws.

(2) The policies or bylaws shall require that: authentication of a verbal order occurs within forty-eight (48) hours after the time the order is made unless a read-back and verify process pursuant to subdivision (a)(3) is used. The individual receiving a verbal order shall record the date and time of the verbal order, and sign the verbal order in accordance with hospital policies or medical staff bylaws.

(3) A hospital policy may provide for a read-back and verify process for verbal orders. A read-back and verify process shall require that the individual receiving the order immediately read back the order to the physician or authorized individual, who shall immediately verify that the read-back order is correct. The individual receiving the verbal order shall record that the order was read back and verified. If the read-back and verify process is followed, the verbal order shall be authenticated no later than fourteen (14) days after the date of the verbal order.

(b) Nothing in this subsection shall be interpreted to encourage the more frequent use of verbal orders by the medical staff of a hospital.

(c) Hospital policies or medical staff bylaws may establish a variety of modalities for communicating verbal orders and a read-back and verify process including, but not limited to, oral or electronic means so long as the provisions of subdivisions (a)(2) and (3) are met.

(d) For the purposes of this section, telephone orders are considered verbal orders.

SECTION 2. This act shall take effect on July 1, 2011, the public welfare requiring it.

PUBLIC CHAPTER NO. 230

This Public Chapter amends Tennessee Code Annotated, Title 4, Chapter 3, Part 13; Title 62 and Title 68, relative to boards and commissions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE: SECTION 1. Tennessee Code Annotated, Section 68-1-101, is amended by designating the existing language as subsection (a) and by adding the following language to be designated as subsection (b):

(b)

(1) Notwithstanding any other law to the contrary, each health related board shall establish a procedure to expedite the issuance of a license, certification or permit to perform professional services regulated by each such board to a person:

(A) Who is certified or licensed in another state to perform professional services in a state other than Tennessee;

(B) Whose spouse is a member of the armed forces of the United States;

(C) Whose spouse is the subject of a military transfer to Tennessee; and

(D) Who left employment to accompany the person's spouse to Tennessee.

(2) The procedure shall include:

(A) Issuing the person a license, certificate or permit, if, in the opinion of the board, the requirements for certification or licensure of such other state are substantially equivalent to that required in this state; or

(B) Developing a method to authorize the person to perform professional services regulated by the board in this state by issuing the person a temporary permit for a limited period of time in accordance with § 63-1-142.

SECTION 2. Tennessee Code Annotated, Section 4-3-1304, is amended by adding the following language as a new subsection (d):

(d)

(1) Notwithstanding any other law to the contrary, each board attached to the division of regulatory boards shall establish a procedure to expedite the issuance of a license, certification or permit to perform services regulated by each such board to a person who:

(A) Who is certified or licensed in another state to perform services in a state other than Tennessee;

(B) Whose spouse is a member of the armed forces of the United States;

(C) Whose spouse is the subject of a military transfer to Tennessee; and

(D) Who left employment to accompany the person's spouse to Tennessee.

(2) The procedure shall include:

(A) Issuing the person a license, certificate or permit if in the opinion of the board, the requirements for certification or licensure of such other state are substantially equivalent to that required in this state; or

(B) Developing a method to authorize the person to perform services regulated by the board in this state by issuing the person a temporary permit for a limited period of time to allow the person to perform services while completing any specific requirements that may be required in this state that were not required in the state in which the person was licensed or certified.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PUBLIC CHAPTER NO. 340

This Public Chapter amends Tennessee Code Annotated, Title 63, relative to the regulation of pain management clinics.

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

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, is amended by adding a new part, as follows:

63-1-301 . For purposes of this part, unless the context requires otherwise:

(1) "Advanced practice nurse" means any person licensed under Title 63, Chapter 7, who meets the requirements of § 63-7-126.

(2) "Department" means the Department of Health.

(3) "Medical doctor" means any person licensed under Title 63, Chapter 6.

(4) "Osteopathic physician" means any person licensed under Title 63, Chapter 9.

(5) "Pain management clinic" means a privately-owned facility in which a medical doctor, an osteopathic physician, an advanced practice nurse, and/or a physician assistant provides pain management services to patients, a majority of whom are issued a prescription for, or are dispensed, opioids, benzodiazepine, barbiturates, or carisoprodol, but not including suboxone, for more than ninety (90) days in a twelve-month period; and

(6) "Physician assistant" means any person licensed under Title 63, Chapter 19.

63-1-302. This part does not apply to:

(1) A medical or dental school, an osteopathic medical school, a nursing school, a physician assistant program or an outpatient clinic associated with any of the foregoing schools or programs.

(2) A hospital as defined in § 68-1-1-201, including any outpatient facility or clinic of a hospital;

(3) Hospice services as defined in § 68-1-1-201;

(4) A nursing home as defined in § 68-11-201;

(5) A facility maintained or operated by this state; or

(6) A hospital or clinic maintained or operated by the federal government.

63-1-303.

(a) Each licensed healthcare practitioner who provides services at a pain management clinic shall continue to be regulated only by the board which has issued a license to that practitioner.

(b) On or before October 1, 2011, the Commissioner of Health, in consultation with the board of medical examiners, the board of osteopathic examination, the board of nursing, and the committee on physician assistants, shall promulgate rules necessary to implement this part, in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(c) The rules adopted pursuant to subsection (b) may address the following topics, among others:

(1) The operation of the clinic;

(2) Personnel requirements for the clinic;

(3) Training requirements for clinic providers who are regulated by that board;

(4) Patient records;

(5) Standards to ensure quality of patient care;

(6) Infection control;

(7) Health and safety requirements;

(8) Certificate application and renewal procedures and requirements;

(9) Data collection and reporting requirements;

(10) Inspections and complaint investigations; and

(11) Patient billing procedures.

63-1-304. Each board shall have the authority to inspect a pain management clinic which utilizes the services of a practitioner licensed by that board. During such inspections, the authorized representatives of the board may inspect all necessary documents and medical records to ensure compliance with this part and all other applicable laws and rules.

63-1-305. Each board shall have the authority to investigate a complaint alleging a violation of this part, or a rule adopted under this part, by a pain management clinic utilizing the services of a healthcare practitioner licensed by that board. Each board shall also have the authority to investigate a complaint alleging that a facility utilizing the services of a healthcare practitioner licensed by that board is not properly certified by the department as required by this part.

63-1 -306. (a) A pain management clinic, as defined in this part, must have a medical director who is a physician that practices in this state under an unrestricted and unencumbered license issued pursuant to § 63-6-20'1 or § 63-9-104.

(b) In the event that the medical director, for whatever reason, no longer meets the requirements of this part, the pain management clinic must notify the department, within ten (10) business days, of the identity of another physician who meets the requirements of this part and will act as medical director. A change of majority ownership of a certified pain management clinic requires the submission of a new application for a certificate. Failure to notify the department within ten (10) business days may be the basis for a summary suspension of the clinic's certification.

(c) Every pain management clinic shall submit an application to the department, on a form prescribed by the department, for a certificate to operate the clinic.

(d) Each clinic location shall be certified separately regardless of whether the clinic is operated under the same business name, ownership or management as another clinic.

(e) The department shall issue a certificate if the department finds that the pain management clinic meets the requirements of this part and that the fee required by the department has been paid.

(f) If the department finds that a pain management clinic which was issued a certificate no longer meets any requirement of this part, including, but not limited to, any violation of any rule promulgated by the department pursuant to this part, the department may impose lawful disciplinary action against the pain management clinic, including, but not limited to, the revocation or suspension of its certificate, and the imposition of a civil penalty of up to one thousand dollars (\$1,000) per day for each day of continued violation. The pain management clinic shall be entitled to a hearing pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. Further, the department has the discretion to lift the suspension of a certificate when the clinic demonstrates compliance to the department.

(2) Any board which assesses any discipline or penalty against a provider that it licenses for a violation of rules promulgated under this part shall inform the department of any penalty or discipline imposed on such a provider for a violation of rules promulgated under this part within thirty (30) days of imposing the discipline or penalty, and the department may consider such discipline or penalty as a basis for disciplinary

action against the pain management clinic pursuant to this subsection (f).

(g) The clinic shall post the certificate in a conspicuous location so as to be clearly visible to patients.

(h) The department is authorized to charge a fee for the issuance of a certificate.

(i) The department and each board identified in § 63-1-303(b) shall post on its Web site an announcement of the requirement that a pain management clinic obtain a certificate from the department, and each board identified in §63-1-303(b) shall include information about such requirement in a routine communication sent by each board to its licensees.

(j) A pain management clinic operating on or before the effective date of this act may continue to operate as long as an application for certification is timely filed within thirty (30) days after the department has published the application form.

(k) The department shall have the authority to adopt rules, including emergency rules if deemed necessary, to implement the provisions of this part for which the department has responsibility.

63-1 -307.

(a) A certificate issued under this part expires on the second anniversary of the date it is issued.

(b) The department may grant to a pain management clinic a ninety-day grace period from the expiration date of its certificate to renew the certificate.

(c) No pain management clinic whose certificate has expired may continue to operate or provide pain management services following the expiration of the grace period.

63-1 -308.

(a) A pain management clinic may apply to renew its certificate by:

(1) Submitting a renewal application to the department on the form and in a time frame prescribed by the department; and

(2) Complying with any other requirements of the department.

(b) If a certificate is not renewed before the expiration of the grace period, the clinic must reapply for a new certificate to operate the clinic and is not authorized to operate while such new certificate application is pending.

63-1 -309.

(a)(1) In the application for a certificate or within ten (10) days of the occurrence of any of the events listed in (A) - (C) below, a pain management clinic shall disclose whether any person who owns, co-owns or operates, or otherwise provides services in the clinic, an employee of the clinic, or a person with whom the clinic contracts for services:

(A) Has ever been denied, by any jurisdiction, a license under which the person may prescribe, dispense, administer, supply or sell a controlled substance;

(B) Has ever held a license issued by any jurisdiction, under which the person may prescribe, dispense, administer, supply or sell a controlled substance that has been restricted; or

(C) Has ever been subject to disciplinary action by any licensing entity for conduct that was the result of inappropriately prescribing, dispensing, administering, supplying or selling a controlled substance.

(2) The department may deny a certificate or renewal of a certificate to a pain management clinic under any of the circumstances listed in subdivision (a1).

(b) A pain management clinic may not be owned wholly or partly by a person who has been convicted of, pled nolo contendere to, or received deferred adjudication for:

(1) An offense that constitutes a felony; or

(2) An offense that constitutes a misdemeanor, the facts of which relate to the distribution of illegal prescription drugs or a controlled substance as defined in §39-7-402.

(c) If any practitioner providing services at a pain management clinic dispenses or prescribes more than a seventy-two hour dose of controlled substances for the treatment of chronic nonmalignant pain, the practitioner must document in the patient's record the reason for prescribing or dispensing that quantity.

(d) A medical director shall be on-site at least twenty percent (20%) of the clinic's weekly total number of operating hours.

63-1-310.

(a) A pain management clinic may accept only a check, credit card or money order in payment for services provided at the clinic, except as provided in §63-1-310(b).

(b) A payment may be made in cash for a co-pay, coinsurance or deductible when the remainder of the charge for the services will be submitted to the patient's insurance plan for reimbursement.

63-1-311.

(a) A violation of this part, or a rule adopted under this part, is grounds for disciplinary action against a practitioner providing services at a pain management clinic certified under this part by the board which licensed that practitioner.

(b) A practitioner who provides pain management services at an uncertified pain management clinic is subject to an administrative penalty of one thousand dollars (\$1,000) per day, imposed by the board which licensed that practitioner, in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. Before such a penalty may be

assessed by the board, the board shall give at least thirty (30) days notice to the practitioner of the alleged violation of this part.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 3. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on January 1, 2012.

PUBLIC CHAPTER NO. 494

This Public Chapter amends Tennessee Code Annotated, Title 68, Chapter 11, relative to health facilities planning.

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

SECTION 1. Tennessee Code Annotated, Section 68-11-1602, is amended by inserting the following as a new subdivision:

() "Nonresidential substitution-based treatment center for opiate addiction" includes, but is not limited to, standalone clinics offering methadone, products containing buprenorphine such as Subutex and Suboxone, or products containing any other formulation designed to treat opiate addiction by preventing symptoms of withdrawal;"

SECTION 2. Tennessee Code Annotated, Section 68-11-1602(7)(A), is amended by deleting the language "or non-residential methadone treatment facility" and substituting instead the language "or nonresidential substitution-based treatment center for opiate addiction".

SECTION 3. Tennessee Code Annotated, Section 68-11-1607(a)(4), is amended by deleting the language "or methadone treatment provided through a facility licensed as a nonresidential methadone treatment facility" and substituting instead the language "or opiate addiction treatment provided through a nonresidential substitution-based treatment center for opiate addiction".

SECTION 4. Tennessee Code Annotated, Section 68-11-1607(c)(3), is amended by deleting the language "nonresidential methadone treatment facility" by substituting instead the language "nonresidential substitution-based treatment center for opiate addiction".

SECTION 5. Tennessee Code Annotated, Section 68-11-1624, is amended by deleting the language "for a nonresidential methadone treatment facility" and substituting instead the language "for a nonresidential substitution-based treatment center for opiate addiction".

SECTION 6. Tennessee Code Annotated, Section 68-11-1625(f)(10), is amended by deleting the language "Non-

residential methadone treatment facilities "and substituting instead the language "Nonresidential substitution-based treatment centers for opiate addiction".

SECTION 7. This act shall take effect July 1, 2011, the public welfare requiring it.

PUBLIC CHAPTER NO. 359

This Public Chapter extends the committee for clinical perfusionists, June 30, 2011. - Amends TCA Title 4, Chapter 29 and Section 63-28-112.

PUBLIC CHAPTER NO. 67

This Public Chapter amends Tennessee Code Annotated, Title 68, Chapter 11 and Title 63, Chapters 1 and 6, relative to patient safety and quality.

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

SECTION 1. Tennessee Code Annotated, Section 63-6-219, is amended by deleting the section in its entirety.

SECTION 2. This act shall be known and may be cited as the "Tennessee Patient Safety and Quality Improvement Act of 2011".

SECTION 3. Tennessee Code Annotated, Title 68, Chapter 11, Part 2, is amended by adding the following as a new section:

68-11-272.

(a) It is the policy of the State of Tennessee to encourage the improvement of patient safety, the quality of patient care and the evaluation of the quality, safety, cost, processes and necessity of healthcare services by hospitals, healthcare facilities and healthcare providers. Tennessee further recognizes that certain protections must be available to these entities to ensure that they are able to effectively pursue these measures.

(b) As used in this section:

(1) "Healthcare organization" means any:

(A) Healthcare facility licensed or regulated under Title 68 and any related system;

(B) Hospital licensed under Title 68 and any related hospital system;

(C) Hospital licensed under Title 33 and any related hospital system;

(D) Entity owning, owned by, affiliated with or providing ancillary or allied health services to, or on behalf of, a hospital, hospital system, or healthcare facility licensed or regulated under Title 68;

(E) Entity that contracts with a healthcare organization to perform any of the functions of a quality improvement committee;

(F) Entity that maintains a patient safety evaluation system in compliance with the Patient Safety and Quality Improvement Act of 2005, P.L. 109-41, as amended, for reporting to a patient safety organization listed as such by the federal secretary of health and human services pursuant to § 924 of the Patient Safety and Quality Improvement Act of 2005, P.L. 109-41, as amended;

(G) Professional assistance program providing, or attempting to provide, intervention, counseling, referral or other assistance to any healthcare provider or family of a healthcare provider directly related to and including the alcohol or drug impairment of a healthcare provider;

(H) Professional healthcare foundation;

(I) Health maintenance organization, preferred provider organization, hospital and medical service corporation, or accountable care organization as defined by § 3022 of the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended; or

(J) University medical school or health science center.

(2) "Healthcare provider" means any healthcare professional licensed, authorized, certified or regulated under Title 63 or Title 68, including but not limited to medical resident physicians, interns, and fellows participating in a training program of one of the accredited medical schools or of one of such medical school's affiliated teaching hospitals in Tennessee, or any other clinical staff of a healthcare organization;

(3) "Hospital system" means two (2) or more hospitals that are subject to the control and direction of one (1) common owner, or an entity under a management contract, responsible for the operational decisions of the entire system or that have integrated administrative functions and medical staff that report to one (1) governing body as the result of a formal legal or contractual obligation;

(4) "Quality Improvement Committee" or "QIC" means a committee formed or retained by a healthcare organization, an activity of a healthcare organization, or one (1) or more individuals employed by a healthcare organization performing the types of functions listed below, the purpose of which, or one (1) of the purposes of which is to evaluate the safety, quality, processes, costs, appropriateness or necessity of healthcare services by performing functions including, but not limited to:

(A) Evaluation and improvement of the quality of healthcare services rendered;

(B) Determination that health services rendered were professionally indicated or were performed in compliance with the applicable standards of care;

(C) Determination that the cost of health care rendered was reasonable;

(D) Evaluation of the qualifications, credentials, competence and performance of healthcare providers or actions upon matters relating to the discipline of any individual healthcare provider;

(E) Reduction of morbidity or mortality;

(F) Establishment and enforcement of guidelines designed to keep the cost of health care within reasonable bounds;

(G) Research;

(H) Evaluation of whether facilities are being properly utilized;

(I) Supervision, education, discipline, admission, and the determination of privileges of healthcare providers;

(J) Review of professional qualifications or activities of healthcare providers;

(K) Evaluation of the quantity, quality and timeliness of healthcare services rendered to patients;

(L) Evaluation, review or improvement of methods, procedures or treatments being utilized;

(M) Participation in utilization review activities, including participation in review activities within the facility or hospital system and activities in conjunction with an insurer or utilization review agent under Title 56, Chapter 6, Part 7;

(N) The evaluation of reports made pursuant to § 68-11-211 and any internal reports related thereto or in the course of a healthcare organization's patient safety and risk management activities;

(O) Activities to determine the healthcare organization's compliance with state or federal regulations;

(P) Participation in patient safety activities as defined at § 921 of the Patient Safety and Quality Improvement Act of 2005, P.L. 109-41, as amended;

(5) "Records" means records of interviews and all reports, incident reports, statements, minutes, memoranda, charts, statistics, evaluations, critiques, test results, corrective actions, disciplinary actions, and any and all other documentation generated by or in connection with activities of a QIC and any patient safety work product as defined at § 921 of the Patient Safety and Quality Improvement Act of 2005, P.L. 109-41, as amended.

(c)(1) Records of a QIC and testimony or statements by a healthcare organization's officers, directors, trustees, healthcare providers, administrative staff, employees or other committee members or attendees relating to activities of the QIC shall be confidential and privileged and shall be protected

from direct or indirect means of discovery, subpoena or admission into evidence in any judicial or administrative proceeding. Any person who supplies information, testifies or makes statements as part of a QIC may not be required to provide information as to the information, testimony or statements provided to or made before such a committee or opinions formed by such person as a result of committee participation.

(2) Any information, documents or records, which are not produced for use by a QIC or which are not produced by persons acting on behalf of a QIC, and are otherwise available from original sources, shall not be construed as immune from discovery or use in any judicial or administrative proceeding merely because such information, documents or records were presented during proceedings of such committee.

(d) No healthcare organization's officers, director, trustee, healthcare providers, administrative staff, employee or other committee members or attendees shall be held liable in any action for damages or other relief arising from the provision of information to a QIC or in any judicial or administrative proceeding, if such information is provided in good faith and without malice and on the basis of facts reasonably known or reasonably believed to exist.

(e) Nothing in this section shall conflict with any federal protection of records provided under the federal Health Care Quality Improvement Act or the federal Patient Safety Act.

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

63-1-150.

(a) This section shall not apply to §§ 63-10-402- 405; 63-9-114; 63-4-118; 63-11-220; 63-5-131; 63-12-138; and 68-11-272.

(b) It is the policy of the State of Tennessee to encourage the improvement of patient safety and quality and the evaluation of the quality, safety, cost, processes and necessity of healthcare services by healthcare providers and by other entities. Tennessee further recognizes that certain protections must be available to these providers and entities to ensure that they are able to effectively pursue these measures.

(c) As used in this section:

(1) "Healthcare organization" means any:

(A) State or local health professional association or society;

(B) Professional assistance program providing, or attempting to provide, intervention, counseling, referral or other assistance to any healthcare provider or family of a healthcare provider directly related to and including the alcohol or drug impairment of a healthcare provider;

(C) Healthcare provider malpractice support group; (D) Group practice that is engaged in the provision of

healthcare services;

(E) Entity engaged in the provision of healthcare provider services or healthcare provider staffing to licensed healthcare entities, including hospitals;

(F) Professional healthcare foundation;

(G) Individual practice association made up of practices the members of which are engaged in the provision of health care;

(H) Health maintenance organization, preferred provider organization, hospital and medical service corporation, or accountable care organization as defined by § 3022 of the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended;

(I) Entity that contracts with a healthcare organization to perform any of the functions of a quality improvement committee;

(J) Any patient safety organization listed as such by the federal secretary of health and human services pursuant to § 924 of the Patient Safety and Quality Improvement Act of 2005, P.L. 109-41, as amended; or

(K) University medical school or health science center.

(2) "Healthcare provider" means any healthcare professional licensed, authorized, certified or regulated under Title 63, including but not limited to medical resident physicians, interns, and fellows participating in a training program of one of the accredited medical schools or of one of such medical school's affiliated teaching hospitals in Tennessee, or any other clinical staff of a healthcare organization;

(3) "Quality Improvement Committee" or "QIC" means a committee formed or retained by a healthcare organization, an activity of a healthcare organization, or one (1) or more individuals employed by a healthcare organization performing the types of functions listed below, the purpose of which, or one (1) of the purposes of which is to evaluate the safety, quality, processes, costs, appropriateness, or necessity of healthcare services by performing functions including, but not limited to:

(A) Evaluation and improvement of the quality of healthcare services rendered;

(B) Determination that health services rendered were professionally indicated or were performed in compliance with applicable standards of care;

(C) Determination that the cost of health care rendered was considered reasonable;

(D) Evaluation of the qualifications, credentials, competence and performance of healthcare providers or action upon matters relating to the discipline of any individual healthcare provider;

(E) Reduction of morbidity or mortality;

(F) Establishment and enforcement of guidelines designed to keep the cost of health care within reasonable bounds;

(G) Research;

(H) Evaluation of whether facilities are being properly utilized;

(I) Supervision, education, discipline, admission, and the determination of privileges of healthcare providers;

(J) Review of professional qualifications or activities of healthcare providers;

(K) Evaluation of the quantity, quality and timeliness of healthcare services rendered to patients;

(L) Evaluation, review or improvement of methods, procedures or treatments being utilized;

(M) Intervention, support or rehabilitative referrals or services to healthcare providers;

(N) Evaluation as to whether to report an unusual incident pursuant to § 63-6-221 or § 63-9-117 or to evaluate and improve the quality of health care rendered by healthcare providers related to the submission of an unusual incident report;

(O) Activities to determine the healthcare organization's compliance with state or federal regulations; or

(P) Participation in utilization review activities, including participation in review activities within the healthcare organization and activities in conjunction with an insurer or utilization review agent under Title 56, Chapter 6, Part 7; and

(4) "Records" means records of interviews and all reports, incident reports, statements, minutes, memoranda, charts, statistics, evaluations, critiques, test results, corrective actions, disciplinary actions and any and all other documentation generated in connection with the activities of a QIC.

(d)(1) Records of a QIC and testimony or statements by a healthcare organization's officers or directors, trustees, healthcare providers, administrative staff, employees or other committee members or attendees relating to activities of the QIC shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena or admission into evidence in any judicial or administrative proceeding. Any person who supplies information, testifies or makes statements as part of a QIC may not be required to provide information as to the information, testimony or statements provided to or made before such a committee or opinions formed by such person as a result of committee participation.

(2) Any information, documents or records, which are not produced for use by a QIC or which are not produced by persons acting on behalf of a QIC, and are otherwise available from original sources, shall not be construed as immune from discovery or use in any judicial or administrative proceedings merely because such information, documents or records were presented during proceedings of such committee.

(e) No health care organization's officers, trustees, directors, healthcare providers, administrative staff, employees or other committee members or attendees shall be held liable in any action for damages or other relief arising from the provision of information to a QIC or in any judicial or administrative proceeding, if such information is provided in good faith and without malice and on the basis of facts reasonably known or reasonably believed to exist.

(f) A professional assistance program also advocates for healthcare professionals before other QICs, healthcare entities, private and governmental insurance carriers, national or local certification and accreditation bodies, and the state health-related boards of this or any other state. The disclosure of confidential, privileged QIC information to such entities during advocacy or as a report to the health-related boards, or to the affected healthcare provider under review, does not constitute either a waiver of confidentiality or privilege.

SECTION 5. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to that end the provisions of this section are declared to be severable

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

PUBLIC CHAPTER NO. 75

This Public Chapter amends Tennessee Code Annotated, Title 63, Chapter 1, relative to title transparency.

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

SECTION 1. Tennessee Code Annotated, Section 63-1-109, is amended by deleting the section in its entirety and by substituting instead the following:

63-1-109.

(a) Every person licensed or registered to practice one of the healing arts, or any branch thereof, as delineated in this section shall keep an original or copy of the person's license or certificate of registration displayed in the office or place in which the person practices, in a conspicuous place, and shall place and keep placed in a conspicuous place at the entrance of the person's office, a sign in intelligible lettering and not less than one inch (1 ") in height, containing the name of such person immediately followed by the recognized abbreviation indicating the professional degree, if any, held by such person,

and containing immediately below the person's name, in equal size lettering, the word or words:

(1) "Chiropractor", "chiropractic physician" or "doctor of chiropractic" for practitioners of chiropractic;

(2) "Dentist", "doctor of dental surgery" or "doctor of dental medicine" for practitioners of dentistry;

(3) "Medical doctor", "physician", "medical doctor and surgeon", "medicine" or "surgeon", as applicable, for practitioners of medicine and surgery;

(4) "Optometrist", "doctor of optometry", "optometric physician" for practitioners of optometry;

(5) "Osteopathic physician", "osteopathic physician and surgeon", "doctor of osteopathic medicine", or "doctor of osteopathy" for practitioners of osteopathy;

(6) "Podiatrist", "podiatric physician", "doctor of podiatry", "doctor of podiatric medicine" or "doctor of podiatric medicine and surgery" for practitioners of podiatry;

(7) "Advanced practice nurse", "nurse practitioner", "nurse anesthetist", "nurse midwife" or "clinical nurse specialist", as applicable, for those practicing advanced practice nursing;

(8) "Physician assistant" or "orthopedic physician assistant", as applicable, for those licensed as a physician assistant;

(9) "Psychologist" or "doctor of psychology" for practitioners of psychology;

(10) "Acupuncturist" for practitioners of acupuncture; and

(11) "Certified professional midwife" for those practitioners of midwifery.

(b) Any recognized specialist in any branch of the healing arts, which special field is recognized or approved by the appropriate board licensing that profession, may substitute the specialist designation for the words indicated in subsection (a).

(c) A healthcare practitioner listed in subsection (a) shall also affirmatively communicate the practitioner's specific licensure, as defined in this section by one (1) of the following methods:

(1) The healthcare practitioner shall wear a photo identification name tag during all patient encounters that shall include a recent photograph of the licensee, the licensee's full name, and the type of license. The name tag shall be of sufficient size and be worn in a conspicuous manner so as to be visible and apparent; or

(2) After January 1, 2012, the healthcare practitioner shall communicate to a patient the practitioner's full name and type of license in writing at the patient's initial office visit.

(d) For purposes of subsection (c), the type of license shall enunciate one (1) or more of the words listed in subsection (a).

(e) A health care practitioner who practices in more than one (1) office shall be required to comply with the requirements in each practice setting.

(f) A healthcare practitioner who does not have an office setting can satisfy the requirements of this section by meeting the conditions set forth in subsection (c).

(g) Healthcare practitioners working in facilities licensed pursuant to Title 68, Chapter 11, or working in facilities licensed pursuant to Title 33, Chapter 2, are not subject to the requirements of this section.

(h) Healthcare practitioners working in no-patient care settings and who have no direct patient care interactions are not subject to the requirements of this section.

(i) Any healthcare practitioner who violates this section is guilty of unprofessional conduct and shall be subject to disciplinary action in accordance with the appropriate licensure provisions governing the respective healthcare practitioner. A violation of this section shall not create a private right of action by a patient.

(j) Notwithstanding the imposition of any other penalty, the board which has licensed a particular healthcare practitioner may seek injunctive or other relief as appropriate against that practitioner or any entity for a violation of this section.

(k) A healthcare practitioner, who provides information regarding healthcare services on an Internet Web site that is directly controlled or administered by the healthcare practitioner or the practitioner's agent, shall prominently display on the Internet Web site the practitioner's full name and type of license using one (1) or more of the words listed in subsection (a).

SECTION 2. This act shall be effective January 1, 2012, the public welfare requiring it.

PUBLIC CHAPTER 218

This Public Chapter amends Tennessee Code Annotated, Title 63, to provide uniform terms and conditions for restrictive covenants for all healthcare providers.

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

SECTION 1. Tennessee Code Annotated, Section 63-1-148, is amended by deleting subdivision (a)(2) and by renumbering the remaining subdivisions accordingly.

SECTION 2. Tennessee Code Annotated, Section 63-1-148(c), is amended by adding the language", 9" between the language "8" and the language "and 11".

SECTION 3. This act shall take effect January 1, 2012, the public welfare requiring it.

[This act removes the six-year limitation on the duration of non-compete agreements between a healthcare provider and an employing or contracting entity; applies the present law limitations on non-compete agreements for physicians to such agreements for osteopathic physicians.]

PUBLIC CHAPTER 310

This Public Chapter amends Tennessee Code Annotated, Title 53, Chapter 10, Part 3, relative to controlled substance database.

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

SECTION 1. Tennessee Code Annotated, Section 53-10-302, is amended by adding a new appropriately designated subdivision. thereto:

() "Law enforcement personnel" means agents of the Tennessee bureau of investigation, agents of a judicial district drug task force, and certified law enforcement officers certified pursuant to § 38-8-107;

SECTION 2. Tennessee Code Annotated, Section 53-10-304, is amended by deleting subsection (c) in its entirety and substituting instead the following:

(c) The purpose of the database is to assist in research, statistical analysis, criminal investigations, enforcement of state or federal laws involving controlled substances, and the education of health care practitioners concerning patients who, by virtue of their conduct in acquiring controlled substances, may require counseling or intervention for substance abuse, by collecting and maintaining data as described in this part regarding all controlled substances in Schedules II, III and IV dispensed in this state, and Schedule V controlled substances identified by the controlled substance database advisory committee as demonstrating a potential for abuse.

SECTION 3. Tennessee Code Annotated, Section 53-10-306, is amended by deleting the section in its entirety and substituting instead the following:

(a) Information sent to, contained in, and reported from the database in any format is confidential and not subject to title 10, chapter 7, regarding public records, and not subject to subpoena from any court and shall be made available only as provided for in § 53-10-308 and to the following persons, and in accordance with the limitations stated and rules promulgated pursuant to this part:

(1) Personnel of the committee specifically assigned to conduct analysis or research;

(2) Authorized committee, board, or department of health personnel engaged in analysis of controlled substances prescription information as a part of the assigned duties and responsibilities of their employment;

(3) A licensed health care practitioner having authority to prescribe or dispense controlled substances, to the extent the information relates specifically to a current or bona fide prospective patient of the practitioner, to whom the practitioner has prescribed or dispensed or is prescribing or dispensing or considering prescribing or dispensing any controlled substance;

(4) A licensed pharmacist having authority to dispense controlled substances to the extent the information relates specifically to a current patient to whom that pharmacist has dispensed, is dispensing or considering dispensing any controlled substance;

(5) Personnel of the following entities actively engaged in analysis of controlled substances prescription information as a part of their assigned duties and responsibilities related directly to TennCare:

(A) The office of inspector general;

(B) The medical fraud control unit, and

(C) The bureau of TennCare's chief medical officer, associate chief medical directors, director of quality oversight, and associate director of pharmacy; or

(6) Law enforcement personnel; provided, that such personnel are engaged in the official investigation and enforcement of state or federal laws involving controlled substances; and that any law enforcement personnel receiving information from the database pursuant to this section shall comply with the requirements of this subsection:

(A)

(i) Any law enforcement agency or judicial district drug task force that wants one (i) or more of its officers or agents to have the authorization to request information from the database shall first pre-approve each such officer. Pre-approval shall be by the applicant's supervisor, who shall be either the chief of police, county sheriff or the judicial district drug task force director. The list of pre-approved applicants shall be sent to the district attorney general in the judicial district in which the agency or task force has jurisdiction.

(ii) By December 1 of each year, each district attorney general shall send to the board of pharmacy a list of applicants authorized to request information from the database from that general's judicial district for the next calendar year.

(B)

(i) If the Tennessee bureau of investigation wants one (1) or more of its agents to have the authorization to request information from the database each such agent shall first be pre-approved by the agent's immediate supervisor and division head.

Approved applicants shall be sent to the board by the director.

(ii) By December 1 of each year, the TBI director shall send to the board of pharmacy a list of applicants authorized to request information from the database from the bureau for the next calendar year.

(C) An application submitted by a law enforcement agency, a judicial drug task force or the TBI shall include, but not be limited to the:

(i) Applicant's name; title; agency; agency address; agency contact number; agency supervisor; and badge number, identification number or commission number, and the business email address of each applicant officer or agent, the appropriate district attorney general and, if a TBI agent, the TBI director and their business email addresses; and

(ii) Signatures of the applicant, the applicants approving supervisor and the district attorney general of the judicial district in which the applicant has jurisdiction or the approving division head and the TBI director.

(D) It shall be a duty of the board, as part of its duties to maintain the database pursuant to § 53-1-0-305(c), to receive and verify the lists of authorized applications sent to it by the district attorneys general and the director of the TBI pursuant to this subsection.

(b) When requesting information from the database, the board shall require law enforcement personnel to provide a case number as part of the process for requesting information from the database. The case number entered shall correspond with an official investigation involving controlled substances and information requested should directly relate to the investigation.

(c) The board of pharmacy shall by rule; establish a fee for providing information to a law enforcement agency, judicial district drug task force or Tennessee bureau of investigation pursuant to this section. In determining the fee and type of fee to be charged, the board shall consider options such as an annual fee or a per use, incremental cost basis, fee.

(d)

(1) Law enforcement personnel and judicial district drug task force agents who are authorized to request information from the database shall resubmit their identifying application information that was submitted pursuant to subdivision (a)(6)(C) to the appropriate district attorney by November 20 of each year. Such resubmitted applications shall be sent by the appropriate district attorney general to the board by December 1 of each year. If during the calendar year a name is added to the list, removed from the list or information about a person on the list changes, the appropriate district attorney shall immediately notify the board of any changes to the list submitted or in the information submitted for each officer or agent on the list application.

(2) Tennessee bureau of investigation agents who are authorized to request information from the database shall resubmit their identifying application information that was

submitted pursuant to subdivision (a)(6)(C) to the TBI director by November 20 of each year. Such resubmitted applications shall be sent by the TBI director to the board by December 1 of each year. If during the calendar year a name is added to the list, removed from the list or information about a person on the list changes, the TBI director shall immediately notify the board of any changes to the list submitted or in the information submitted for each officer or agent on the list application.

(e)

(1) Information obtained from the database may be shared with other law enforcement personnel or prosecutorial officials, only upon the direction of the officer or agent who originally requested the information and may only be shared with law enforcement personnel from other law enforcement agencies who are directly participating in an official joint investigation.

(2) Any information obtained from the data base that is sent to a law enforcement official or a judicial district drug task force agent shall also be sent to the district attorney general of the judicial district in which such officer or agent has jurisdiction. Likewise, any database information sent to a Tennessee bureau of investigation agent shall also be sent to the TBI director.

(f) To ensure the privacy and confidentiality of patient records, information obtained from the database by law enforcement personnel shall be retained by the law enforcement personnel's respective department or agency. The information obtained from the database shall not be made a public record, notwithstanding the use of the information in court for prosecution purposes. Information obtained from the database shall be maintained as evidence in accordance with each law enforcement agency's respective procedures relating to the maintenance of evidence.

(g) Any information disseminated pursuant to subdivisions (a)(1)-(5) shall be released to the individual or entity requesting the information by the database manager or by password protected internet access.

(h) Any licensed practitioner or pharmacist receiving patient-specific information pursuant to subdivision (a)(1), (a)(2), (a)(3) or (a)(4) shall not disclose the information to any person other than:

(1) The patient to whom the information relates and then only for the purpose of adjusting the patients treatment plans or counseling the patient to seek substance abuse treatment;

(2) Other dispensers identified by the information and then only for the purposes of verifying the accuracy of the information; and

(3) Any law enforcement agency or judicial district drug task force to whom reporting of controlled substances being obtained in a manner prohibited by § 53-11-402(a)(6) is required by § 53-11-309.

(i) If a law enforcement officer, judicial district drug task force agent or Tennessee bureau of investigation agent has probable cause to believe, based upon information received from a database request, that a prescriber or pharmacist may be acting or may have acted in violation of the law, the officer or agent shall consult with the board of pharmacy inspector's office if a pharmacist and the health related boards' investigations unit is a prescriber.

(U)

(1) At least every six (6) months, the board shall send a list to each district attorney general containing all requests made for database information during the previous six (6) months. The list shall include the name of the requesting officer or agent, the officer or agent's agency, the date of the request, and the nature of the request, including the case number, for each officer or agent making a request in such district attorney's judicial district. Likewise, a list shall be sent to the director of the Tennessee bureau of investigation for all TBI agents making requests during the previous six (6) months.

(2) Each district attorney general and the Tennessee Bureau of Investigation director shall use the list to perform an audit to determine if the database information requests made during the preceding six (6) month period correspond to specific cases under investigation in the applicable judicial district or by the bureau and if the information requested is relevant and pertinent to an investigation.

(3) Each district attorney general and the TBI director shall verify all database information requests contained on the list received and send it back to the board within sixty (60) days of receipt. If a database information request does not correspond to an investigation in the applicable jurisdiction or if the information requested was not relevant or pertinent to the information requested, the district attorney general or director shall so note on the verified list and shall investigate the discrepancy and make a report back to the board within a reasonable period of time.

(4) The results of the audit conducted pursuant to subdivision U)(2) shall be discoverable by a prescriber or pharmacist charged with violating any state or federal law involving controlled substances or under a notice of charges proffered by a licensing board for a violation of any law involving controlled substances, but only the results pertaining to that prescriber or pharmacist is discoverable. However, if there is an active criminal investigation involving a prescriber or the prescriber is under investigation by the health related boards' investigation unit, the results of the audit conducted pursuant to subdivision U)(2) shall not be discoverable by the prescriber during either such period.

(k)

(1) Any person who obtains or attempts to obtain information from the database by misrepresentation or fraud is guilty of a Class A misdemeanor.

(2) Any person who knowingly uses, releases, publishes, or otherwise makes available to any other person or entity any information submitted to, contained in, or obtained from the

database for any purpose other than those specified in this part is guilty of a Class A misdemeanor.

(3) Intentional unauthorized use or disclosure of database information by law enforcement personnel judicial district drug task force members or TBI agents shall be punishable as a Class A misdemeanor,

(4) Any law enforcement personnel, judicial district drug task force member or TBI agent charged with a violation of this section shall have such person's authorization to request information from the database suspended pending final disposition of any criminal prosecution. Any law enforcement personnel, judicial district drug task force member or TBI agent found guilty of a violation of this subsection (i) shall have such person's authorization to request information from the database permanently revoked.

(I)

(A) The following personnel of the department of mental health actively engaged in analysis of controlled substances prescription information as a part of their assigned duties and responsibilities shall have access to the database for controlled substances prescription information for specific patients:

(i) The chief pharmacist;

(ii) The state opioid treatment authority (SOT A) or SOT A designee; and

(iii) The medical director.

(B) Aggregate controlled substances prescribing information from the database may be provided upon request by the following personnel of the department of mental health, who are actively engaged in analysis of controlled substances prescription information as provided in this subsection, and may be shared with other personnel of the department of mental health as needed to fulfill assigned duties and responsibilities:

(i) The chief pharmacist

;

(ii) The SOT A; or

(iii) The medical director.

SECTION 4. Tennessee Code Annotated, Section 53-10-303, is amended by adding the following as a new subsection:

()

(1) The committee shall have the duty to examine database information to identify unusual patterns of prescribing and dispensing controlled substances that appear to be higher than normal, taking into account the particular specialty, circumstances, patient-type or location of the prescriber or dispenser.

(2)

(A) If the committee determines that a pharmacist or pharmacy has an unusually high pattern of dispensing controlled substances that is not explained by other factors, it shall refer the pharmacist or pharmacy to the chief board of pharmacy investigator.

(8) When the pharmacy investigator completes the investigation of any pharmacy or pharmacist referred to it by the committee pursuant to this subsection, the investigator shall report the results of the investigation back to the committee as follows:

(i) The investigator shall report that the investigation was dismissed if the results of the investigation indicate that the pharmacist or pharmacy had an unusually high dispensing pattern for explainable, legitimate and lawful reasons; or (ii) The investigator shall report that the investigation was referred to the pharmacy board if the results indicate that a prescriber has an unusually high pattern of prescribing or dispensing controlled substances that are not explained by other factors.

(C) If the action taken by the board indicate that the pharmacist or pharmacy had an unusually high dispensing pattern for explainable, legitimate and lawful reasons, the committee shall take that finding into consideration before it again refers the same pharmacist or pharmacy to the investigator based upon similar conduct.

(3)

(A) If the committee determines that a prescriber has an unusually high pattern of prescribing or dispensing controlled substances that are not explained by other factors, it shall refer the prescriber to the health related boards' investigation unit.

(8) When the boards' investigator completes the investigation of any prescriber referred to it by the committee pursuant to this subsection, the investigator shall report the results of the investigation back to the committee as follows:

(i) The investigator shall report that the investigation was dismissed if the results of the investigation indicate that the prescriber had an unusually high dispensing pattern for explainable, legitimate and lawful reasons; or

(ii) The investigator shall! report that the investigation was referred to the health related boards if the results indicate that a prescriber has an unusually high pattern of prescribing or dispensing controlled substances that are not explained by other factors.

(C) If the action taken by the board indicates that the prescriber had an unusually high dispensing or prescribing pattern for explainable, legitimate and lawful reasons, the committee shall take that finding into consideration before it again refers the same prescriber to the health related boards' investigation unit based upon similar conduct.

(4) If a pharmacy investigator or a member of the health related boards' investigation unit has reason to believe during any part of an investigation that a prescriber or dispenser is in

violation of a criminal law, the investigator is authorized to report the conduct to the appropriate district attorney general.

SECTION 5. Tennessee Code Annotated, Section 53-10-309, is amended by adding the following language to the end of the section:

In addition to the annual report submitted to the general assembly by the committee, authorized committee, board, or department of health personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment shall release information from the database requested by a member of the general assembly that is related to research, statistical analysis, or education of health care practitioners relative to controlled substances. However, no report released pursuant to this section shall contain the name or other identifying information of a specific prescriber or pharmacist contained in the report. All information released from the database for such a report shall be in the aggregate.

SECTION 6. This act shall take effect July 1, 2011, the public welfare requiring it.

PUBLIC CHAPTER NO. 271

This Public Chapter amends Tennessee Code Annotated, Section 63-6-204, relative to the practice of medicine.

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

SECTION 1. Tennessee Code Annotated, Section 63-6-204(f)(2)(B), is amended by deleting the subdivision in its entirety and by substituting the following:

(B) For physicians employed independently of a bona fide practice purchase, employing entities shall not restrict the employed physician's right to practice medicine upon the termination or conclusion of the employment relationship, except as allowed by § 63-1-148 or any successor section.

SECTION 2. Tennessee Code Annotated, Section 63-6-204(f)(2)(C), is amended by deleting the subdivision in its entirety.

SECTION 3. This act shall take effect upon becoming law, the public welfare requiring it.

PUBLIC CHAPTER NO. 435

This Public Chapter amends Tennessee Code Annotated, Title 39, Chapter 13, Part 3, to enact the "National Human Trafficking Resource Center Hotline Act."

WHEREAS, the trafficking of human beings for sexual servitude and forced labor is considered second only to transfer of arms as the largest and fastest growing illegal activity in the world; and

WHEREAS, children are victims of human sex trafficking, they are commercially sexually exploited by traffickers who

enslave them and sell them for the purpose of sexually pleasuring customers who rape, molest and sexually abuse these children; and

WHEREAS, children in the child welfare and juvenile justice systems are especially preyed upon by human traffickers because of vulnerabilities they exhibit subsequent to extreme trauma, maltreatment, pervasive neglect, and behavioral health problems experienced by these children in their lives; and

WHEREAS, study and reporting by the Select Committee on Children and Youth and the Tennessee Bureau of Investigation as well as reporting from a network of local grassroots antihuman trafficking coalitions and non-government agencies all across the state have verified that activities of human trafficking and the commercial sexual exploitation of children is occurring in our state; and

WHEREAS, statistics drawn from law enforcement agencies and social services agencies within Tennessee show that seventy-eight of the state's ninety-five counties report having worked at least one case of human sex trafficking of adults or children within the past twenty-four months and the total number of cases worked statewide in the same time period could be as high as four thousand; and

WHEREAS, the victims of human trafficking and children who are commercially sexually exploited are deserving of attention and action of the law enforcement, courts, and social services agencies of the State of Tennessee to rescue them from enslavement and restore safety for them; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 13, Part 3, is amended by adding the following as a new section:

39-13--312.

(a) This section shall be known and may be cited as the "Tennessee Human Trafficking Resource Center Hotline Act."

(b) There is created the Tennessee Human Trafficking Resource Center Hotline to be established and maintained by the Tennessee bureau of investigation in a manner consistent with this section.

(c) Any governmental entity or private business or establishment that provides or offers a place of assembly or entertainment, transportation, lodging, dining, educational, **medical** or leisure activities or services, or any business or establishment that is licensed by the state or any political subdivision thereof, or that is engaged in commerce in this state is **strongly encouraged** to post a sign indicating certain information regarding the Tennessee human trafficking resource center hotline in a location within the governmental entity or establishment where it is visible to employees and the general public. The sign shall be no smaller than eight and one-half inches by eleven inches (8 " x 11 "). Unless stated otherwise in this section, it may be posted near the entrance of

the establishment or prominently where notices are usually posted. The sign shall state the following:

Tennessee Human Trafficking Resource Center Hotline at (appropriate toll-free number once established).

If you or someone you know is being forced to engage in any activity and cannot leave -whether it is commercial sex, housework, farm work or any other activity -call the Tennessee Human Trafficking Hotline to access help and services. Victims of human trafficking are protected under United States and Tennessee law. The hotline is:

Anonymous and confidential

Available 24/7

Toll free

Available to Non-English speaking callers through assistance of Interpreters

(d) All calls made to the Human Trafficking Resource Center Hotline, the content of any conversation thereon and the telephone number from which the call was made is confidential, is not an open record and not available for public inspection except by order of a court of competent jurisdiction when necessary in a pending criminal investigation.

(e)

(1) Any entity or establishment posting a sign pursuant to this section may post the sign in English, Spanish and any other language mandated by the Voting Rights Act of 1965 (Public Law 89-110, 42 U.S.C. § 1973 et seq.) in the county where the sign will be posted.

{2} The title of the sign, the Tennessee human trafficking resource center hotline at (----) shall be boldfaced, underlined and no smaller than an twenty-eight (28) point font size.

{3} The department of labor and workforce development shall provide the sign authorized by this section on its Internet web site for entities or establishments to print as needed.

{4} The department of labor and workforce development shall periodically send an electronic notification to any business or establishment that is licensed by the state or any political subdivision thereof that encourages posting pursuant to this section.

SECTION 2. This act shall take effect on October 1, 2011, the public welfare requiring

PUBLIC CHAPTER NO. 434

This Public Chapter amends Tennessee Code Annotated, Title 63, relative to healthcare professions.

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

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 6, Part 2, is amended by adding the following as a new section to be appropriately designated:

63-6-241. Notwithstanding § 63-6-209(b) or any other provision of this chapter, no physician licensed under this chapter or Chapter 9 of this title shall perform or attempt to perform any abortion, including a medically induced abortion, or shall prescribe any drug or device intended to cause a medical abortion, except in the physical presence of the pregnant woman. No drug or device intended to cause a medical abortion shall be administered or dispensed to a pregnant woman except in the physical presence of her physician.

SECTION 2. This act shall take effect January 1, 2013, the public welfare requiring it.

PUBLIC CHAPTER NO. 201

This Public Chapter amends Tennessee Code Annotated, Title 63, relative to the prescriptions for certain drugs issued by healthcare providers.

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

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 10, Part 2, is amended by adding a new section to be appropriately designated:

63-10-215.

(a) Pharmacists, pharmacy interns and pharmacy technicians are authorized to comply with federal and state prescription requirements, including the requirement of a separate prescription for a Schedule II controlled substance found in §§ 63-3-128, 63-5-122(g), 63-6-239, 63-8-134, 63-9-118, 63-7-123(b)(3)(B) and (F), and 63-19-107(2)(E)(ii) and (2)(G), by transferring from a prescription containing a Schedule II controlled substance any drug that is a non-scheduled prescription drug or any prescribed supply to another prescription form.

(b) The transfer authorized in the preceding subsection may be accomplished by scanning, photocopying or transcribing, by hand or other means, and shall include all information regarding each drug or supply being transferred.

(c) The prescription generated in a pharmacy by the transfer process shall not be required to be on tamper-resistant prescription paper.

(d) The prescription generated in a pharmacy utilizing the transfer process shall be recognized as a valid, legal prescription order and shall serve as the original prescription for recordkeeping and other purposes.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming law, the public welfare requiring it.

PUBLIC CHAPTER 9

This Public Chapter amends Tennessee Code Annotated, Title 56, relative to health care.

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

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 10, is amended by adding the following as a new section:

56-7-1016.

(a) This section shall be known and may be cited as the "Tennessee Health Freedom Act."

(b) As used in this section:

(1) "Healthcare services" means any service, treatment, or provision of product for the care of physical or mental disease, illness, injury, defect or condition, or to otherwise maintain or improve physical or mental health, subject to all laws and rules regulating health service providers and products within this state;

(2) "Mode of securing" means to purchase directly or on credit or by trade, or to contract for third-party payment by insurance or other legal means authorized by the State of Tennessee, or to apply for or accept employer or government-sponsored healthcare benefits under such conditions as may legally be required as a condition of such benefits, or any combination of the same;

(3) "Penalty" means any civil or criminal fine, tax, salary or wage withholding, surcharge, fee or any other imposed consequence established by law or rule of a government or its subdivision or agency that is used to punish or discourage the exercise of rights protected under this chapter.

(c)(1) The power to require or regulate a person's choice in the mode of securing healthcare services, or to impose a penalty related thereto, is not found in the Constitution of the United States of America, and is therefore a power reserved to the people pursuant to the Ninth Amendment, and to the several states pursuant to the Tenth Amendment. This state hereby exercises its sovereign power to declare the public policy of this state regarding the right of all persons residing in this state in choosing the mode of securing healthcare services.

(2) It is declared that the public policy of this state, consistent with our constitutionally-recognized and inalienable right of liberty, is that every person within this state is and shall be free to choose or to decline to choose any mode of securing healthcare services without penalty or threat of penalty; provided, however, the provisions of Titles 36 and 56 concerning requirements for healthcare coverage of children in child support cases shall not be altered in any manner by the provisions of this section.

(3) It is declared that the public policy of this state, consistent with our constitutionally-recognized and inalienable right of liberty, is that every person within this state has the right to purchase health insurance or to refuse to purchase health insurance, unless purchase of health insurance is otherwise a condition of employment. The government may not interfere with a citizen's right to purchase health insurance or with a citizen's right to refuse to purchase health insurance. The government may not enact a law that would restrict these rights or that would impose a form of punishment for exercising either of these rights. Any law to the contrary shall be void ab initio.

(4) The policy stated in this section shall not be applied to impair any right of contract related to the provision of healthcare services to any person or group.

(d) No public official, employee, or agent of this state or any of its political subdivisions shall act to impose, collect, enforce, or effectuate any penalty in this state that violates the public policy set forth in this section.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

Public Chapter 166

PUBLIC CHAPTER 166

This Public Chapter amends Tennessee Code Annotated, Title 53, Chapter 10 and Title 63, Chapter 10, relative to prescription labels.

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

SECTION 1. Tennessee Code Annotated, Section 53-10-110(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a) Any person dispensing a legend drug for a patient shall include on the label of the container in which the legend drug is dispensed the indication or indications for which the drug is being prescribed if requested by the prescriber, patient, or patient's caregiver and the prescriber, patient, or patient's caregiver provides the indication or indications to the person dispensing the legend drug.

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it.

PUBLIC CHAPTER 364

This Public Chapter amends Tennessee Code Annotated, Title 68, Chapter 59, relative to the Tennessee Trauma Center Funding Law of 2007.

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

SECTION 1. Tennessee Code Annotated, Section 68-59-102(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

(1) "Advisory council" means the Tennessee trauma care advisory council, formerly known as the trauma task force;

SECTION 2. Tennessee Code Annotated, Section 68-59-102(6), is amended by deleting the subdivision in its entirety and substituting instead the following:

(6) "Trauma center" means any Level I, Level II, Level III, or Level IV institution licensed by the department pursuant to chapter 11, part 2 of this title;

SECTION 3. Tennessee Code Annotated, Section 68-59-102(9), is amended by deleting the subdivision in its entirety and substituting instead the following:

(9) "Trauma system" means:

(A) All designated Level I, II, III, IV trauma centers;

(B) All designated comprehensive regional pediatric centers; and

(C) All other acute care hospitals that provide levels of treatment for trauma patients that are at least as great as the lowest level provided by a designated trauma center; and

SECTION 4. Tennessee Code Annotated, Section 68-59-103, is amended by designating the existing language as subsection (a) and by adding the following as subsection

(b):

(b) The advisory council shall evaluate and recommend criteria concerning the development of the state trauma system and trauma centers.

SECTION 5. Tennessee Code Annotated, Section 68-59-105, is amended by deleting the language "funding to the trauma centers" and by substituting the language "funding to eligible hospitals within the trauma center system".

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

PUBLIC CHAPTER 56

This Public Chapter amends Tennessee Code Annotated, Title 68, Chapter 5, Part 1, relative to certain immunizations.

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

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 5, Part 1, is amended by adding the following language as a new, appropriately designated section:

68-5-110. In accordance with the latest recommendations of the advisory committee on immunization practices of the Centers for Disease Control and Prevention, during the

postpartum period and prior to discharge, each hospital shall provide parents of newborns educational information on Pertussis disease and the availability of a vaccine to protect against Pertussis. This educational information shall include, but is not limited to, information on the Center for Disease Control and Prevention's recommendation that parents and caregivers receive Tdap during the postpartum period to protect their newborns from the transmission of Pertussis. Nothing in this section shall require any hospital to provide or pay for any vaccination against Pertussis. This section also shall not constitute a requirement to be assessed during any inspection under Chapter 11, Part 2, of this title.

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it.

PUBLIC CHAPTER 137

This Public Chapter amends Tennessee Code Annotated, Title 55, Chapter 9, Part 4, relative to equipment on motor vehicles transporting organs for human transplantation.

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

SECTION 1. Tennessee Code Annotated, Section 55-9-402(d), is amended by adding the following language to precede the present language in subdivision (1):

No vehicle operated in this state shall be equipped with any flashing white or amber lights or any combination of white and amber lights that display to the front of the vehicle except a passenger motor vehicle operated by an organ procurement organization or a person under an agreement with an organ procurement organization when transporting an organ for human transplantation.

SECTION 2. Tennessee Code Annotated, Section 55-9-402(d), is further amended in subdivision (3) by deleting the language "Any vehicle" in its entirety and by substituting instead the following language:

Any vehicle other than a passenger motor vehicle operated by an organ procurement organization or a person under an agreement with an organ procurement organization when transporting an organ for human transplantation, authorized by this section to display flashing white or amber lights or white and amber lights, or any vehicle.

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it.

PUBLIC CHAPTER 331

This Public Chapter amends Tennessee Code Annotated, Title 68 and Title 71, relative to the care of premature infants.

WHEREAS, according to the Institute for Medicine, although there has been significant attention focused on neonatal intensive care for extremely preterm infants, little attention has been given to the majority of late-preterm infants born at thirty-four (34) through thirty-six (36) weeks gestational age.

Even though these late-preterm infants may appear larger in size, they are still more vulnerable to complications and disabilities than full-term infants. All babies born premature, including late-preterm infants, are at risk for a host of health and developmental issues that can last into and sometimes beyond childhood; and

WHEREAS, there are no standardized procedures for hospital discharge and follow-up care of premature infants. As a result, babies born premature may leave the hospital after birth without adequate discharge and follow-up care plans in place to ensure they receive appropriate care to address their special health needs once they are home in their community; and

WHEREAS, although there is growing evidence that late-preterm infants are at increased risk for morbidity and mortality compared to full-term infants, late-preterm infants may not be identified or managed any differently than full-term infants; and

WHEREAS, without organized discharge care plans, premature babies are more likely to experience gaps in health care. These infants require diligent evaluation, monitoring, referral, and early return appointments for both post-neonatal evaluation and also continued long-term follow-up care; and

WHEREAS, it is important to focus on the care and management of premature infants because the number of babies born premature at less than thirty-seven (37) weeks gestational age continues to grow in the United States with an increase of twenty percent (20%) since 1990 and nine percent (9%) since only 2000; and

WHEREAS, in 2005, twelve and seven tenths percent (12.7%) of all births were premature at less than thirty-seven (37) weeks gestational age, or more than five hundred twenty-five thousand (525,000) infants; and

WHEREAS, the increase in premature birth rates in recent years is primarily associated with a rise in late-preterm births (34-36 weeks gestational age), which has increased twenty-five percent (25%) since 1990 and accounts for seventy percent (70%) of all preterm births. Although multiple births have contributed to this rise, substantial increases in preterm birth rates, and especially late preterm rates, have occurred because of singleton birth rates since 1990; and

WHEREAS, several studies have found that late-preterm infants have greater morbidity and mortality than full-term infants; and

WHEREAS, late-preterm infants have a mortality rate that is three (3) times greater than full term infants, with the highest risk occurring during the neonatal period; and

WHEREAS, late-preterm babies have significant differences in clinical outcomes than full term infants during the birth hospitalization, including greater risk for temperature instability, hypoglycemia, respiratory distress, and jaundice; and

WHEREAS, late-preterm infants have higher rates of re-hospitalization during their first full year of life compared to full-term infants; and

WHEREAS, the costs of premature births are significant. For the initial hospitalization after birth, the average length of stay for full-term infants was two and two tenths (2.2) days and the average cost was two thousand eighty-seven dollars (\$2,087); and

WHEREAS, late-preterm infants had a substantially longer average stay of eight and eight tenths (8.8) days and cost of twenty-six thousand fifty-four dollars (\$26,054). The average cost for late-preterm infants in their first year of life was thirty-eight thousand three hundred one dollars (\$38,301) versus six thousand one hundred fifty-six dollars (\$6, 156) for full-term infants. Late preterm infants had higher costs across every type of medical service category compared to full term infants, including inpatient hospitalizations, well baby physician office visits, outpatient hospital services, home healthcare services, and prescription drug use; and

WHEREAS, the most frequent causes of re-hospitalization for late-preterm infants are RSV bronchiolitis, bronchiolitis (cause unspecified), pneumonia (cause unspecified), esophageal reflux, and vascular implant complications; and

WHEREAS, because all premature infants, and especially late-preterm infants born at thirty-four (34) through thirty-six (36) weeks gestational age, have higher risks for medical complications and re-hospitalizations compared to full-term infants, stakeholders should examine and improve the discharge process, follow-up care, and management of these infants to foster better health outcomes and lower risks for re-hospitalizations and complications; now, therefore,

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

SECTION 1. The Perinatal Advisory Committee within the Department of Health is directed to study issues and policy options relating to hospital discharge and follow-up care procedures for premature infants born less than thirty-seven (37) weeks gestational age to ensure standardized and coordinated processes are followed as premature infants leave the hospital from either a Level 1 (well baby nursery), Level 2 (step down or transitional nursery) or Level 3 (neonatal intensive care unit) unit and transition to follow-up care by a healthcare provider in the community. The committee is directed to report to the House Health and Human Resources Committee and the Senate General Welfare, Health and Human Resources Committee concerning its findings and recommendations for legislation, if any, on or before January 31, 2012.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PUBLIC CHAPTER 37

This Public Chapter amends Tennessee Code Annotated, Section 68-1-108(a), relative to the reporting of hospital claims data by designated entities.

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

SECTION 1. Tennessee Code Annotated, Section 68-1-108(a), is amended by inserting the language ", or the hospital's designated entity" between the language "hospital" and the language "shall" in the first sentence of the subsection.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PUBLIC CHAPTER 501

This Public Chapter amends Tennessee Code Annotated, Title 39, Chapter 17, Part 15 and Title 39, Chapter 17, Part 1, relative to electronic cigarettes.

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

SECTION 1. Tennessee Code Annotated, Section 39-17-1501, is amended by deleting the section in its entirety and by substituting instead the following:

This part shall be known and may be cited as the "Prevention of Youth Access to Tobacco and Electronic Cigarettes Act".

SECTION 2. Tennessee Code Annotated, Section 39-17-1502, is amended by inserting the following language immediately following the first sentence of the section:

The purpose of this part is also to prohibit the sale or distribution of electronic cigarettes to, or purchase of electronic cigarettes on behalf of, persons under eighteen (18) years of age.

SECTION 3. Tennessee Code Annotated, Section 39-17-1503, is amended by adding the following language as a new, appropriately designated subdivision:

() "Electronic cigarette" means an electronic device that converts nicotine into a vapor that is inhaled by the user;

SECTION 4. Tennessee Code Annotated, Section 39-17-1504, is amended by adding the following as a new, appropriately designated subsection:

() It is unlawful for any person to sell or distribute any electronic cigarette to another person who has not attained eighteen (18) years of age or to purchase an electronic cigarette on behalf of such person under eighteen (18) years of age.

SECTION 5. This act shall take effect July 1, 2011, the public welfare requiring it.

PUBLIC CHAPTER 296

This Public Chapter Tennessee Code Annotated, Title 39 and Title 68, relative to regulation of smoking by local governments with respect to hospitals.

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

SECTION 1. Tennessee Code Annotated, Section 39-17-1551, is amended by designating the existing language as subsection (a) and by adding the following language as a new subsection (b):

(b)(1) Notwithstanding subsection (a) or any other provision of this title, a municipality, a county or a county having a metropolitan form of government is authorized by local ordinance or resolution to prohibit smoking on the grounds of a hospital or in the public areas immediately outside of a hospital building and its entrances, including public sidewalks.

(2) Any regulation or ordinance that is passed or adopted by a local government pursuant to the authority granted by this subsection (b) may prohibit smoking by a distance of up to fifty (50) feet from a hospital's entrance unless the application of a fifty (50) foot limit would place hospital patients in a potentially unsafe condition. In which case the fifty (50) foot limit shall be extended to such distance as is necessary to ensure patient safety as determined by the local government's legislative body in consultation with representatives of any hospitals that are subject to the regulation or ordinance.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PUBLIC CHAPTER 369

This Public Chapter amends Tennessee Code Annotated, Title 29; Title 33, Chapter 10, Part 1; Title 63 and Title 68, Chapter 11, relative to liability of health care institutions.

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

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 11, is amended by adding the following language as a new, appropriately designated part:

68-11-2001.

As used in this part:

(1) "Drug abuse" means a condition characterized by the continuous or episodic use of a drug or drugs that results in social impairment, vocational impairment, psychological dependence, or pathological patterns of use;

(2) "Health care institution" means any publicly or privately owned or operated institution, facility, center, or place licensed by the department of health that provides health services for patients that engage in drug abuse;

(3) "Health care provider" means a person licensed under title 63 or this title to provide health care or related services; and

(4) "Indwelling catheter" means a proprietary indwelling *device* that is inserted under a patient's skin to provide long-term IV access for administering blood products, prescribed medication, high-dose chemotherapy, or other treatments.

68-11-2002.

(a) Notwithstanding any law to the contrary, a health care institution or health care provider shall be immune from suit and any liability under state law with respect to all claims for loss caused by, arising out of, relating to, or resulting from misuse of an indwelling catheter that the health care provider placed in a patient if:

(1) The misuse occurs after placement of the indwelling catheter, after the patient is discharged from the health care institution, or after both; and

(2) The health care institution provides written notice of such immunity to the patient at the time of or subsequent to the placement of the indwelling catheter, but in all cases prior to the patient's discharge from the health care institution.

(b) For purposes of this section, misuse of an indwelling catheter means that an individual, other than an employee of the health care institution or health care provider:

(1) Introduces any drug as defined in title 39, chapter 17, part 4 into the indwelling catheter;

(2) Introduces any medication not prescribed by the health care provider into the indwelling catheter; or

(3) Introduces any other substance harmful to the patient into the indwelling catheter.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PUBLIC CHAPTER 271

This Public Chapter amends Tennessee Code Annotated, Section 63-6-204, relative to the practice of medicine.

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

SECTION 1. Tennessee Code Annotated, Section 63-6-204(f)(2)(B), is amended by deleting the subdivision in its entirety and by substituting the following:

(B) For physicians employed independently of a bona fide practice purchase, employing entities shall not restrict the employed physician's right to practice medicine upon the termination or conclusion of the employment relationship, except as allowed by § 63-1-148 or any successor section.

SECTION 2. Tennessee Code Annotated, Section 63-6-204(f)(2)(C), is amended by deleting the subdivision in its entirety.

SECTION 3. This act shall take effect upon becoming law, the public welfare requiring it.

PUBLIC CHAPTER NO. 391

This Public Chapter amends Tennessee Code Annotated, Title 50, Chapter 7, relative to extended benefits for unemployment compensation.

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

SECTION 1. Tennessee Code Annotated, Section 50-7-305(a)(6)(A), is amended by deleting the punctuation "." at the end of subdivision (a)(6)(A)(iii)(b) and by substituting instead the following:

; or

(iv) Notwithstanding subdivision (a)(6)(D), effective with respect to compensation for weeks of unemployment in which there is one hundred percent (100%) federal sharing authorized by federal law for weeks of unemployment beginning after December 17, 2010 and ending on or before December 31, 2011, or until the week ending four (4) weeks prior to the last week of unemployment for weeks of unemployment established in federal law permitting this subdivision (a)(6)(A)(iv) ---

(a) The average rate of total unemployment (seasonally adjusted), as determined by the United States secretary of labor, for the period consisting of the most recent three (3) months for which data for all states are published before the close of such week equals or exceeds six and one half percent (6.5%); and

(b) The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States secretary of labor, for the three-month period referred to in subdivision (a)(6)(A)(i), equals or exceeds one hundred and ten percent (11 0%) of such average for any or all of the corresponding three-month periods ending in the three (3) preceding calendar years.

SECTION 2. It is the clear and unequivocal intent of the general assembly that § 50-7-305(a)(6)(A)(iv), as amended by this act, have retroactive application to December 17, 2010.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PUBLIC CHAPTER 201

This Public Chapter amends Tennessee Code Annotated, Title 63, relative to the prescriptions for certain drugs issued by healthcare providers.

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

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 10, Part 2, is amended by adding a new section to be appropriately designated:

63-10-215.

(a) Pharmacists, pharmacy interns and pharmacy technicians are authorized to comply with federal and state prescription requirements, including the requirement of a separate prescription for a Schedule II controlled substance found in §§ 63-3-128, 63-5-122(g), 63-6-239, 63-8-134, 63-9-118, 63-7-123(b)(3)(B) and (F), and 63-19-107(2)(E)(ii) and (2)(G), by transferring from a prescription containing a Schedule II controlled substance any drug that is a non-scheduled prescription drug or any prescribed supply to another prescription form.

(b) The transfer authorized in the preceding subsection may be accomplished by scanning, photocopying or transcribing, by hand or other means, and shall include all information regarding each drug or supply being transferred.

(c) The prescription generated in a pharmacy by the transfer process shall not be required to be on tamper-resistant prescription paper.

(d) The prescription generated in a pharmacy utilizing the transfer process shall be recognized as a valid, legal prescription order and shall serve as the original prescription for recordkeeping and other purposes.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming law, the public welfare requiring it.

* * * * *

HOUSE JOINT RESOLUTION 0058

A RESOLUTION to encourage the implementation and use of telemedicine in Tennessee.

WHEREAS, it is a goal of the One Hundred Seventh General Assembly to encourage the accessibility and quality of health care in all areas of the State of Tennessee; and,

WHEREAS, the growing development of telecommunications has expanded the use and delivery of healthcare, particularly in the rural areas of Tennessee; and,

WHEREAS, the use of telemedicine improves access to quality health care; and,

WHEREAS, improved health care economics should promote access, quality, and efficiency for all Tennesseans; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED AND SEVENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING: that we, the members of the One Hundred Seventh General Assembly, encourage and advocate the expanded use of telemedicine in the State of Tennessee in order to:

- (1) Improve access to necessary medical services for patients in all regions of Tennessee;
- (2) Improve patient choices and experiences in interacting with health care services;
- (3) Promote competitive health care delivery options;
- (4) Improve the reach of physicians and health care personnel in ways that improve quality and efficiency; and
- (5) Improve the satisfaction of physicians and their staff in providing care for patients through extending their reach.

BE IT FURTHER RESOLVED, that as used in this resolution, "telemedicine" means using telecommunications technology to deliver health care, including but not limited to:

- (1) Any medical encounter (e.g. physician-patient visit, nursing-patient visit, nurse or ancillary provider educational visit, consultations, review and explanation of diagnostic tests or studies, etc.) that can be accomplished via telemedicine should be encouraged when it improves access to care and improves patient and/or provider experience;
- (2) Any time telemedicine can be used to improve access of medical care to a region that is currently underserved, it should be encouraged as an option through collaboration between providers and payers;
- (3) When telemedicine is utilized, medical providers should be reimbursed for the telemedicine services in comparable ways as when those services are provided in person:

- (i) Where costs to provide telemedicine increase the cost of provision of care (e.g. broadband services, information technology infrastructure costs, etc.) these increased costs should be considered in the payment methodologies agreed upon between provider and payer; and
- (ii) Likewise, when costs to provide telemedicine decrease the cost of provision of care (e.g. saving of travel time, travel reimbursement, nonproductive staff time due to travel, etc.) these decreased costs should also be considered in the payment methodologies agreed upon between provider and payer, so as to promote the most efficient health care delivery system for all persons in Tennessee;

(4) Any clinical service that can be delivered appropriately by telemedicine should be considered a legitimate provision of care under global payment methodologies as long as appropriate quality and patient satisfaction measures are reviewed;

(5) With the exception of teleradiology and other imaging transfers, and if and when telemedicine is used for physician to physician consultation about a patient, a patient informed consent document should be used for telemedicine services. This document should contain the components outlined in a model informed consent document and specifically outline the risks and benefits of telemedicine;

(6) A patient should have the right to choose either telemedicine or in-person services when both are available; and

(7) Telemedicine should be considered as a tool to bring health care specialist consultation into the primary care office during the time of primary care visits to augment primary care capability of care for chronic and complex diseases and to effectively maximize what can be evaluated and treated in the patient's hometown and minimize the need for unnecessary specialty visits and patient travel.

HOUSE JOINT RESOLUTION 0104

A RESOLUTION relative to standards of care for hormone replacement therapy.

WHEREAS, due to the recent growth in the number of health care providers who offer hormone replacement therapy, Tennessee has seen growth in the use of hormone replacement therapy throughout the state; and

WHEREAS, some health care providers in this state have voiced concerns about the quality of medical care provided by some hormone replacement therapy programs; and

WHEREAS, some unease exists concerning the advertising claims of some hormone replacement therapy programs which fail to mention potential adverse affects of the therapy; and

WHEREAS, the adequacy of marketing practices of hormone replacement therapy programs that employ sales plans claiming treatments are covered by third party reimbursement is also a concern; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED SEVENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that the board of medical examiners, in collaboration with the board of nursing and the committee on physician assistants, is directed to study and to recommend a standard of care for hormone replacement therapy and the promulgation rules addressing any identified deficiencies in the oversight or delivery of such therapy.

BE IT FURTHER RESOLVED, that the study should give consideration to, but not be limited to, advertising claims by health care provides who deliver hormone replacement

therapy, the qualifications of the medical directors involved in delivery of hormone replacement therapy, and the qualifications and supervision of allied health care providers offering hormone replacement therapy.

BE IT FURTHER RESOLVED, that the board of medical examiners, in collaboration with the board of nursing and the committee on physician assistants, shall complete its study and report its findings, recommendations, and any proposed rules and legislation to the house health and human resources committee and the senate general welfare, health and human resources committee on or before January 31, 2012.

BE IT FURTHER RESOLVED, that a certified copy of this resolution be prepared and delivered to the board of medical examiners, the board of nursing and the committee on physician assistants.



DISCIPLINARY ACTION August 2010 – September 2011

The Board took the following actions from September 2010 until September 2011:

SEPTEMBER 2010

Licensee: Curtis L. Beauregard, M.D., Alexandria, La.

Violation: Action taken by the state of Louisiana

Action: License placed on probation to run concurrent with Louisiana Order; assessed costs

Licensee: Beth N. Boyer, M.D.X., White House, Tenn.

Violation: Failed to properly submit sufficient continuing education credits

Action: License reprimanded; must submit 10 hours of continuing education within 180 days; assessed costs

Licensee: James L. Crabb, M.D., Brentwood, Tenn.

Violation: Gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of medical practice

Action: License placed on probation for three years, must meet certain terms and conditions; assessed \$1,000 civil penalty

Licensee: Richard W. Donaldson, M.D., Hixson, Tenn.

Violation: Inappropriately prescribed controlled substances

Action: License placed on probation to run concurrent with initial contract already in place with the Tennessee Medical Foundation

Licensee: William L. Fontenot, M.D., Lawrenceburg, Tenn.

Violation: Unprofessional, dishonorable, or unethical conduct

Action: License placed on probation for five years, must maintain advocacy of the Tennessee Medical Foundation; assessed costs

Licensee: Robert M. Hollister, M.D., Franklin, Tenn.

Violation: Failed to keep complete and accurate records of the care provided to patients

Action: License voluntarily surrendered

Individual: Barry Kneer, Nashville, Tenn.

Violation: Performed laser treatment without having appropriate license

Action: Cease and desist performing or direct employees to perform laser treatments without the supervision of a licensed physician; assessed \$21,000 civil penalty

Individual: Lori Kneer, Nashville, Tenn.

Violation: Performed laser treatment without having appropriate license

Action: Cease and desist performing or direct employees to perform laser treatments without the supervision of a licensed physician; assessed \$21,000 civil penalty

Individual: Jenny Mason, Knoxville, Tenn.

Violation: Unlawful practice of Naturopathy

Action: Cease and desist from practicing all aspects naturopathy; assessed \$14,000 civil penalty.

Licensee: Debra K. McKenzie, M.D., Dyersburg, Tenn.

Violation: Failed to appropriately maintain office

Action: License reprimanded; assessed \$2,000 civil penalty, plus costs

Licensee: Tony N. Phillips, M.D., Jackson, Tenn.

Violation: Engaging in the practice of medicine when mentally or physically unable to do so

Action: License summarily suspended

Licensee: Katherine E. Wilson, M.D.X., Portland, Tenn.

Violation: Performed procedures without adequate training, education, experience, and certifications

Action: License reprimanded; assessed \$500 civil penalty

NOVEMBER 2010

Licensee: James R. Appleton III, M.D., Lexington, Tenn.

Violation: Violation of board order

Action: License revoked; assessed costs

Licensee: Charles P. Bownds, M.D., Pikeville, Tenn.

Violation: Failed and/or neglected to document clinical indication to substantiate continued use of narcotic or other controlled drugs; failed to develop appropriate treatment plan to cure the patient

Action: License suspended for not less than two months, must meet certain terms and conditions; assessed \$24,000 civil penalty, plus costs

Licensee: Nicholas C. Caro, M.D., Chicago, IL.

Violation: Prior action taken by the state of Illinois

Action: License placed on probation for not less than three years; must comply with terms of Illinois Order; assessed costs

Licensee: Anthony P. Dalton, M.D., Winchester, Tenn.

Violation: Violation of board Order

Action: License voluntarily surrendered

Licensee: Charles W. Emerson III, M.D., Hendersonville, Tenn.

Violation: Failed to properly supervise staff

Action: License placed on probation for not less than five years; must meet certain terms and conditions; assessed \$6,000 civil penalty, plus costs

Licensee: Ali A. Garatli, M.D., Johnson City, Tenn.

Violation: Failed to properly maintain sufficient continuing education credits

Action: License reprimanded; must meet certain terms and conditions; assessed \$320 civil penalty, plus costs

Licensee: Karole J. Hays, M.X.R.T., Bartlett, Tenn.

Violation: Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances or other drugs or stimulants to affect the ability to practice

Action: License suspended; must meet certain terms and conditions; assessed costs

Licensee: Jamal Isber, M.D., Lafollette, Tenn.

Violation: Failed to properly maintain sufficient continuing education credits

Action: Assessed \$1,460 civil penalty; must submit 36.5 hours of continuing education within 180 days and an additional ten hours within two years

Licensee: Sunil M. John, M.D., Knoxville, Tenn.

Violation: Failed to properly maintain sufficient continuing education credits

Action: Assessed \$180 civil penalty; must submit 4.5 hours of continuing education within 180 days and an additional ten hours within two years

Licensee: George S. Kerr, M.D., Dalton, Ga.

Violation: Prior action taken by the state of Georgia

Action: License reprimanded; must comply with terms of Georgia Order; assessed costs

Licensee: Edward L. King, M.D., Hermitage, Tenn.

Violation: Violation of board Order

Action: License permanently surrendered/revoked

Licensee: Bruce P. Levy, M.D., Nashville, Tenn.

Violation: Found to be in possession of marijuana

Action: License placed on probation for not less than five years; must meet certain terms and conditions; assessed \$1,000 civil penalty, plus costs

Licensee: Aubrey D. McElroy Jr., M.D., Johnson City, Tenn.

Violation: Misconduct regarding advertising for remote services; inadequate supervision of advanced practice nurse

Action: Assessed \$2,500 civil penalty, plus costs

Licensee: Sherita D. Willis, M.D., Marion, Ark.

Violation: Failed to properly maintain sufficient continuing education credits

Action: Assessed \$1,600 civil penalty; must submit 40 hours of continuing education within 180 days and an additional ten hours within two years

DECEMBER 2010

Licensee: Bronwen Burwell, M.D., Old Hickory, Tenn.
Violation: Engaging in the practice of medicine when mentally or physically unable to do so
Action: License summarily suspended

Licensee: Allen R. Foster, M.D., Knoxville, Tenn.
Violation: Alleged over-prescribing of controlled medications
Action: License restricted effective December 24, 2010, from writing prescriptions for controlled substances, approving such prescriptions written by any other providers, or supervising any other provider who writes such prescriptions

Licensee: Philip W. Hunt, M.D., LaFayette, Tenn.
Violation: Unprofessional conduct; habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances or other drugs or stimulants in such a manner as to adversely affect the person's ability to practice medicine
Action: License suspended; must meet certain terms and conditions; assessed costs

JANUARY 2011

Licensee: Russell D. Beis, M.D., Bartlett, Tenn.
Violation: Prescribing or otherwise distributing any drug to a family member
Action: License placed on probation for not less than two years; must meet certain terms and conditions; assessed costs

Licensee: Dhillon, M.D., Winchester, Tenn.
Violation: Violation of board order
Action: License indefinitely suspended effective February 11, 2010; must meet certain terms and conditions; assessed costs

Licensee: Valery P. Sobczynski, M.D., Franklin, Tenn.
Violation: Action taken by the state of Arizona
Action: License reprimanded

Licensee: Laura F. Hunt Weikert, M.D., Franklin, Tenn.
Violation: Unprofessional, dishonorable and unethical conduct
Action: License reprimanded; assessed costs

Licensee: John M. Windland, M.D., Franklin, Tenn.
Violation: Unprofessional, dishonorable or unethical conduct; failed to maintain accurate patient records
Action: License placed on probation; must meet certain terms and conditions; assessed \$23,500, plus costs

MARCH 2011

Licensee: Richard Adler, M.D., Copperhill, Tenn.
Violation: Under Federal indictment related to the dispensing of controlled substances outside the scope of professional practice
Action: License suspended

Licensee: Gregory Anderson, M.D., Memphis, Tenn.
Violation: Failed to properly maintain sufficient continuing education credits

Action: Assessed \$830 civil penalty; must submit 20.75 continuing education credits within 180 days and an additional ten credits within two years

Licensee: Deborah Barton, M.D., Knoxville, Tenn.
Violation: Dispensing of controlled substances in amounts and/or for durations not medically necessary, advisable or justified for a diagnosed condition
Action: License suspended; must meet certain terms and conditions; assessed costs

Licensee: Sterling R. Craig, M.D., Jackson, Tenn.
Violation: Failed to properly maintain sufficient continuing education credits
Action: Assessed \$1,520 civil penalty; must submit 38 continuing education credits within 180 days and an additional ten credits within two years

Licensee: Rodney Dunham, M.D., Athens, Tenn.
Violation: Sexual misconduct with patients for which practitioner completed inpatient treatment and is followed under a five year support contract by the Tennessee Medical Foundation
Action: License suspended for 17 months with credit given from the date of the summary suspension action to be followed by minimum five years probation with terms, plus \$4,000 civil penalty and costs

Licensee: Julie R. Dunn, M.D., Nashville, Tenn.
Violation: Failed to perform diagnostic tests, institute treatment plans, or make appropriate referrals and failed to monitor patients for signs of narcotics abuse and compliance
Action: License placed on probation; must meet certain terms and conditions; assessed \$1,700 civil penalty, plus costs

Licensee: Pamela Callis Flowers, M.D. X-ray, Nesbit, Miss.
Violation: Failed to properly maintain sufficient continuing education credits
Action: Assessed \$80 civil penalty; must submit four continuing education credits within 180 days

Individual: Tamral Guzman, Unlicensed., Maryville, Tenn.
Violation: Practicing without a license
Action: Cease and desist any and all unlicensed practice of medicine; assessed costs

Licensee: Houston A. Kelly, M.D., Nashville, Tenn.
Violation: Failed to properly maintain sufficient continuing education credits
Action: Assessed \$790 civil penalty; must submit 19.75 continuing education credits within 180 days and an additional ten credits within two years

Licensee: Martha Price Leonard, M.D., Nashville, Tenn.
Violation: Failed to properly maintain sufficient continuing education credits
Action: Assessed \$700 civil penalty; must submit 17.5 continuing education credits within 180 days and an additional ten credits within two years

Licensee: Vickie R. Moore, M.D. X-ray, Lake Cormorant, Miss.

Violation: Failed to properly maintain sufficient continuing education credits

Action: Assessed \$400 civil penalty; must submit 20 continuing education credits within 180 days and an additional ten credits within two years

Licensee: James E. Morrow, M.D., Chattanooga, Tenn.

Violation: Failed to properly maintain sufficient continuing education credits

Action: Assessed \$540 civil penalty; must submit 13.5 continuing education credits within 180 days and an additional ten credits within two years

Licensee: Donna A. Newberry, M.D. X-ray, Wartburg, Tenn.

Violation: Failed to properly maintain sufficient continuing education credits

Action: Assessed \$40 civil penalty; must submit two continuing education credits within 180 days

Licensee: Michael A. Patterson, M.D., Germantown, Tenn.

Violation: Violation of board order

Action: License revoked; assessed costs

Licensee: Daniel J. Paul, M.D., Elizabethton, Tenn.

Violation: Action taken by the Commonwealth of Virginia

Action: License reprimanded; assessed costs

Licensee: Elizabeth Reimers, M.D., Winchester, Tenn.

Violation: Unprofessional conduct; gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of medical practice

Action: License permanently revoked; assessed \$20,000 civil penalty, plus costs

Licensee: Steven M. Smith, M.D., Knoxville, Tenn.

Violation: Failed to properly maintain sufficient continuing education credits

Action: Assessed \$1,520 civil penalty; must submit 38 continuing education credits within 180 days and an additional ten credits within two years

Individual: Charles A. Walker, M.D., Paris, Tenn.

Violation: Treated family members as primary care physician, which included the prescribing of controlled substances

Action: License reprimanded; must meet certain terms and conditions; assessed \$3,000 civil penalty, plus costs

Licensee: Susan Linen Warner, M.D., Nashville, Tenn.

Violation: Failed to properly maintain sufficient continuing education credits

Action: Assessed \$1,600 civil penalty; must submit 40 continuing education credits within 180 days and an additional ten credits within two years

Licensee: Mitzi C. Williams, M.D. X-ray, Centerville, Tenn.

Violation: Failed to properly maintain sufficient continuing education credits

Action: Assessed \$400 civil penalty; must submit 20 continuing education credits within 180 days and an additional ten credits within two years

Licensee: Harry A. Zain, M.D., Morristown, Tenn.

Violation: Sexual misconduct with a patient; unprofessional, dishonorable or unethical conduct; dispensing, prescribing or otherwise distributing and controlled substance or other drug to any person in violation of any law of the state or of the United States

Action: License placed on probation for three years and until certain terms and conditions are met; assessed \$7,500 civil penalty, plus costs

MAY 2011

Licensee: Basit Aziz, M.D., Hendersonville, Tenn.

Violation: Unprofessional, dishonorable or unethical conduct

Action: License placed on probation for three years; must meet certain terms and conditions; assessed \$2,000 civil penalty, plus costs

Licensee: Terry R. Bailey, Med. X-ray Op., Maynardville, Tenn.

Violation: Guilty of a crime; impersonating another licensed practitioner

Action: License permanently revoked; assessed costs

Licensee: Vidya R. Bethi, M.D., Clarksville, Tenn.

Violation: Unprofessional conduct

Action: License reprimanded; assessed \$3,400 civil penalty, plus costs

Licensee: Eric S. Brecher, M.D., Marietta, Pa.

Violation: Action taken by Colorado

Action: License reprimanded

Licensee: Eugenio Castillo, M.D., Hobbs, NM.

Violation: Failed to maintain sufficient continuing education credits

Action: Assessed \$960 civil penalty; must submit 24 hours of continuing education credits within 180 days and an additional ten hours within two years

Licensee: Barry D. Crabtree, M.D., Cleveland, Tenn.

Violation: Failed to maintain sufficient continuing education credits

Action: Assessed \$960 civil penalty; must submit 23.5 hours of continuing education credits within 180 days and an additional ten hours within two years

Licensee: Frank A. Desandre, M.D., Crump, Tenn.

Violation: Dispensing of controlled substances in amounts and/or for durations not medically necessary, advisable or justified for a diagnosed condition

Action: License retired; upon reinstatement will be placed on probation for five years; must meet certain terms and conditions; assessed costs

Licensee: Justin D. Digby, M.D., Elizabethton, Tenn.

Violation: Failed to maintain sufficient continuing education credits

Action: Assessed \$1,080 civil penalty; must submit 27 hours of continuing education credits within 180 days and an additional ten hours within two years

Licensee: John R. Gibson, M.D., Nashville, Tenn.

Violation: Failed to maintain sufficient continuing education credits

Action: Assessed \$240 civil penalty; must submit 6 hours of continuing education credits within 180 days and an additional ten hours within two years

Licensee: Mark E. Green, M.D., Maryville, Tenn.

Violation: Unprofessional, dishonorable or unethical conduct

Action: License suspended for not less than two month; must meet certain terms and conditions; assessed \$21,000 civil penalty, plus costs

Licensee: Mickey Loyd Keen, Med. X-ray Op., Jackson, Tenn.

Violation: Failed to maintain sufficient continuing education credits

Action: Assessed \$270 civil penalty; must submit 13.5 hours of continuing education credits within 180 days

Licensee: Tonya M. Matheny, Med. X-ray Op., Decaturville, Tenn.

Violation: Failed to maintain sufficient continuing education credits

Action: Assessed \$400 civil penalty; must submit 20 hours of continuing education credits within 180 days

Licensee: Lawrence H. Miller, M.D., Cleveland, Tenn.

Violation: Failed to maintain sufficient continuing education credits

Action: Assessed \$930 civil penalty; must submit 23.25 hours of continuing education credits within 180 days and an additional ten hours within two years

Licensee: Melvyn M. Okeon, M.D., Hanford, Cal.

Violation: Failed to maintain sufficient continuing education credits

Action: Assessed \$1,180 civil penalty; must submit 29.5 hours of continuing education credits and an additional ten hours within two years

Licensee: Sai Wentum, M.D., Nashville, Tenn.

Violation: Unprofessional, dishonorable or unethical conduct; engaging in the practice of medicine under a false or assumed name, or the impersonating of another practitioner, or a like, similar or different name

Action: Application for licensure denied

Licensee: John S. Slaven, M.D., Nashville, Tenn.

Violation: Failed to maintain sufficient continuing education credits

Action: Assessed \$1,260 civil penalty; must submit 31.5 hours of continuing education credits within 180 days and an additional ten hours within two years

Licensee: Mark T. Simpson, M.D., Chattanooga, Tenn.

Violation: Violation of board order

Action: Probation extended five years from current probation; must meet certain terms and conditions; assessed costs

Licensee: Michael L. Smith, M.D., Savannah, Tenn.

Violation: Unprofessional, dishonorable or unethical conduct

Action: License reprimanded; must cease and desist any practice as a medical examiner in Tennessee; assessed \$3,000 civil penalty, plus costs

JUNE 2011

Licensee: Bronwen Burwell, M.D., Old Hickory, Tenn.

Violation: Agreed Order on Summary Suspension

Action: License to remain suspended; must meet certain terms and conditions

Licensee: Marilyn Prince Watts, M.D., Memphis, Tenn.

Violation: Guilty of a crime

Action: License suspended for one year retroactive to run concurrent with voluntary withdrawal from practice and during period of in-house arrest; placed on probation for five years, effective May 25, 2011; assessed costs

JULY 2011

Licensee: James H. Algeo, Jr., Hendersonville, Tenn.

Violation: Action taken by the state of Texas

Action: Assessed \$500 civil penalty, plus costs

Licensee: Gary B. Bryant, M.D., Manchester, Tenn.

Violation: Dispensing, prescribing or otherwise distributing controlled substances not medically necessary, advisable or justified for a diagnosed condition

Action: License voluntarily surrendered/revoked; assessed \$8,000 civil penalty, plus costs

Licensee: David H. Drucker, M.D., Chattanooga, Tenn.

Violation: Action taken by the state of Georgia

Action: License placed on probation for not less than five years; must meet certain terms and conditions; assessed \$2,000 civil penalty, plus costs

Licensee: John L. Herzog, M.D., Cleveland, Tenn.

Violation: Action taken by the state of Mississippi

Action: License reprimanded; restricted from performing any invasive cardiac procedures until completion of all terms of Mississippi Order; assessed \$500 civil penalty, plus costs

Licensee: Katherine W. Jones, M.D., Mt. Juliet, Tenn.

Violation: Unprofessional, dishonorable or unethical conduct

Action: License reprimanded; assessed \$12,500 civil penalty, plus costs

Licensee: Daniel J. Miller, M.D., Chattanooga, Tenn.

Violation: Dispensing, prescribing or otherwise distributing controlled substances not medically necessary, advisable or justified for a diagnosed condition

Action: License placed on probation for three years; must meet certain terms and conditions; assessed \$4,000 civil penalty, plus costs

SEPTEMBER 2011

Licensee: Neil O. Chamberlain, M.D., Columbia, Tenn.

Violation: Unprofessional, dishonorable or unethical conduct; prescribed or dispensed drugs

without obtaining a sufficient medial history, physical examinations, and/or diagnostic testing to justify the medical necessity and/or duration of the medications

Action: License retired; must meet certain terms and conditions if reactivated; assessed costs

Licensee: Brian K. Collier, M.D., Knoxville, Tenn.

Violation: Unprofessional, dishonorable or unethical conduct

Action: License reprimanded; assessed \$1,000 civil penalty, plus costs

Licensee: David G. Crawford, M.D., Memphis, Tenn.

Violation: Unprofessional conduct; making false statements or representations in obtaining to admission to practice

Action: License reprimanded; assessed \$500 civil penalty; plus costs

Licensee: Pamela L. Gray, X-ray Op., Crossville, Tenn.

Violation: Failed to properly maintain sufficient continuing education credits

Action: Assessed \$200 civil penalty; must submit 10 continuing education credits

Licensee: Gary S. Hayes, M.D., Jasper, Tenn.

Violation: Dispensing, prescribing or otherwise distributing controlled substances not medically necessary, advisable or justified for a diagnosed condition; failed to maintain accurate patient records

Action: License placed on probation for no less than five years; must meet certain terms and conditions; assessed \$16,000 civil penalty, plus costs

Licensee: Warren T. Hill, M.D., Goodlettsville, Tenn.

Violation: Unprofessional, dishonorable or unethical conduct

Action: License voluntary surrender/revoked; assessed costs

Licensee: Mohamed Z. Knefati, M.D., Eads, Tenn.

Violation: Failed to properly maintain sufficient continuing education credits

Action: Assessed \$400 civil penalty; must submit 20 continuing education credits

Licensee: Lawson P. McNary, M.D., Forest Hills, Ky.

Violation: Action taken by the state of Kentucky

Action: License reprimanded; must meet terms of Kentucky order; assessed costs

Licensee: Edward L. Mosley, M.D., Chattanooga, Tenn.

Violation: Action taken by the state of Virginia

Action: License reprimanded; assessed costs

Licensee: Robert W. Osteen, M.D., Maryville, Tenn.

Violation: Violation of board order

Action: License surrendered/revoked, assessed costs

Licensee: Todd V. Robinson, M.D., Memphis, Tenn.

Violation: Failed to maintain sufficient continuing education credits

Action: Must submit amount of continuing education hours he is lacking; must submit ten additional hours; assessed \$1,600 civil penalty

Licensee: Joy Vest, X-ray Op., Dandridge, Tenn.

Violation: Failed to maintain sufficient continuing education credits

Action: Must submit amount of continuing education hours she is lacking; must submit ten additional hours; assessed \$400 civil penalty

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