

# Tennessee Board of Podiatric Medical Examiners



## Newsletter

Autumn 2007

A regulatory agency of the State of Tennessee

Vol. 7, No. 1

227 French Landing, Suite 300, Heritage Place MetroCenter, Nashville, TN 37243 • <http://health.state.tn.us> (615) 532-5088 or 1-800-778-4123  
Office Hours: Monday – Friday 8:00 a.m. to 4:30 p.m. Central Time (except State and Federal holidays) Fax: (615) 532-5369

In conjunction with the purpose and goals of the Department of Health, the Mission of the Bureau of Health Licensure and Regulation is to: Monitor, access and enforce health care laws and regulations; Protect, promote and enhance quality health care for all citizens; Continuously strive to meet the needs of our customers in a respectful and caring manner; Provide quality work-life necessary to attract and retain competent, caring employees; Empower our employees to become entrepreneurs in their jobs; Increase awareness and public confidence in our services; and, Utilize our resources efficiently and cost effectively.

### Susan R. Cooper, M.S.N., R.N. Commissioner Tennessee Department of Health



Susan R. Cooper, M.S.N., R.N., made Tennessee history on January 20, 2007 when she became the first nurse to serve as Commissioner of the Tennessee Department of Health.

Commissioner Cooper is a master's prepared registered nurse. She earned both her bachelor and master of nursing degrees from Vanderbilt University School of Nursing.

Cooper was raised in Tennessee, and considers it a great honor to have been asked by Governor Phil Bredesen to serve as Commissioner of Health. Her priorities are to protect, promote and improve the health of all Tennesseans. She considers this the most important work she will face in her career.

"Now is the time that I can perhaps influence the citizens of this state in a positive manner," said Cooper. "I hope to leave a footprint on the health status of this state."

Cooper first came to the State in 2005, as a special policy and health advisor to the Governor. She was charged with developing Tennessee's Health Care Safety Net program for citizens facing dis-enrollment from TennCare.

Cooper later assumed leadership of Project Diabetes, a program the Governor created to address the threat of Type 2 diabetes facing young people in Tennessee. In addition, she helped facilitate the creation of the Governor's GetFitTN initiative. The statewide public awareness program is aimed at addressing the rising epidemic of Type 2 diabetes and risk factors that lead to diabetes, like obesity. The program involves educating adults and children how they can make modest lifestyle changes to delay or prevent the onset of Type 2 diabetes.

Before joining state government, Cooper was a faculty member and Assistant Dean of Practice at Vanderbilt University's School of Nursing, overseeing the nurse-managed clinics and operations led by the School. She also served as co-director of the Health Systems Management program at Vanderbilt University School of Nursing.

Cooper has an extensive background in health policy, health care regulation, and evidence-based practice. She helped create the Center for Advanced Practice Nursing and Allied Health at Vanderbilt University Medical Center, covering the regulatory needs and credentialing for the hundreds of non-physician providers at Vanderbilt.

Cooper was born and raised in West Tennessee. Her father was an ophthalmologist and her mother was a nurse. One of the Commissioner's first jobs as a teenager was in her father's office in West Tennessee, checking in patients, and later performing routine vision checks.

The Commissioner currently resides in Franklin, Tennessee. She enjoys spending time with her three grown children and three grandchildren.

## Cover Tennessee: Health Care for Tennessee's Uninsured

Governor Phil Bredesen's multi-pronged effort, **Cover Tennessee**, extends health insurance to uninsured individuals in Tennessee through three insurance programs and a pharmacy assistance program.

**CoverTN** is an affordable and portable health insurance initiative for working Tennesseans who are uninsured. Comprehensive coverage for children is provided through **CoverKids**, and chronically ill adults are eligible for **AccessTN**. **CoverRx** is a statewide pharmacy assistance program designed to assist those who have no pharmacy coverage, but have a critical need for medication.

**Cover Tennessee** provides health insurance coverage that is affordable to participants and affordable to the state.

### Overview of Programs

#### CoverTN

CoverTN is a partnership between the state, small businesses and self-employed individuals to provide coverage for the most needed medical services. CoverTN is a voluntary initiative for uninsured Tennesseans to obtain private insurance. The individual owns the plan, not the state or the company. To promote personal responsibility, premiums are based on weight, tobacco use and age – with an average monthly premium of \$50 for each payer.

CoverTN is affordable. The program features no deductibles and pricing is simple and straight-forward: \$20 co-payment for a doctor's office visit and \$10 for most prescription drugs. There is also coverage for hospitalization and other medical needs.

Enrollment is a two-step process. Once a business is confirmed as eligible, BlueCross BlueShield of Tennessee, the program's insurer, sends out enrollment materials, and individuals have 90 days to make a decision.



#### CoverKids

CoverKids offers comprehensive health insurance coverage to uninsured children 18 years-old and younger, and maternity coverage for pregnant women with household incomes below 250 percent of the federal poverty level. Families above the income limit, who wish to purchase coverage for their child, can "buy in" to the program by paying monthly premiums. The coverage is similar to the benefits offered to dependents of state employees. BlueCross BlueShield of Tennessee administers the program.

#### AccessTN

AccessTN provides comprehensive health insurance options to uninsurable Tennesseans. AccessTN, a high-risk pool, was created for persons with one of 55 specified medical conditions, or those who are unable to get insurance in the commercial market because of their health status. BlueCross BlueShield of Tennessee administers the program.

#### CoverRx

CoverRx is a statewide pharmacy assistance program designed to assist those who have no pharmacy coverage, but have a critical need for medication. CoverRx is not health insurance. It provides up to five prescriptions per month. (Insulin and diabetic supplies will not count against the monthly limit.) Express Scripts administers the program.

[www.covertn.gov](http://www.covertn.gov)

1-866-COVERTN or  
1-866-268-3786

### 2008 Board Meeting Dates

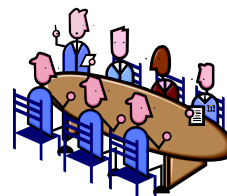
January 24, 2008  
9:00 a.m. – Poplar Room

April 23, 2008  
9:00 a.m. - Poplar Room

July 31, 2008  
9:00 a.m. – Poplar Room

September 4, 2008  
9:00 a.m. – Poplar Room

All board meetings will be held at 227 French Landing, Suite 150, Heritage Place, MetroCenter, Nashville, TN, unless otherwise noted.



## Policy Statements

The Board adopted the following two policy statements effective April 18, 2007.

1. It is the position of the State of Tennessee Board of Podiatric Medical Examiners that the use of allergy skin patches (whether applied to the back or any other part of the body) is within the scope of practice for podiatrists, insofar as such patches are used for the purpose of examining, diagnosing, or treating medically, mechanically, or surgically, ailments of the human foot, ankle and soft tissue structures extending no higher than the distal tibial metaphyseal flair.

In the event allergy patches reveal an ailment or ailments which fall outside the scope of podiatric medicine, then the podiatrist would be obligated to refer the patient to a physician or other appropriate practitioner.

2. It is the position of the State of Tennessee Board of Podiatric Medical Examiners that lower extremity multi-level arterial/vascular testing is within the scope of practice for podiatrists, insofar as it is done for the purpose of examining, diagnosing, or treating medically, mechanically, or surgically, ailments of the human foot, ankle and soft tissue structures extending no higher than the distal tibial metaphyseal flair.

In the event such testing reveals an ailment or ailments which fall outside the scope of podiatric medicine, then the podiatrist would be obligated to refer the patient to a physician or other appropriate practitioner.

## Rule Amendments

**Rule amendment 1155-2-.02** allows a licensed podiatrist to order diagnostic tests from licensed medical laboratories and receive results of such tests, provided the need for such tests is relevant to the practice of podiatry. This amendment became effective July 10, 2006.

**Rule amendment 1155-2-.08** replaces the oral examination with the jurisprudence examination and became effective July 19, 2006.

**Rule amendment 1155-2-.12** requiring licensees to obtain at least one (1) hour, of the fifteen (15) hour requirement, every other calendar year, in a course designed specifically to address prescribing practices becomes effective January 1, 2008.

You may download a copy of the rules at <http://Tennessee.gov/health>, click "licensing," click "Health Professional Boards", click "Board of Podiatric Medical Examiners" and "Rules and Regulations." Other information such as applications, forms, Board meeting minutes and policy statements can be downloaded at the web site.

## Controlled Substance Database Program

**Attention:** For questions about the Controlled Substance Database Program please call 615-253-8542.

**Note:** If you are a physician and do not dispense, you are not required to report data to the Board of Pharmacy.

On December 1, 2006, the Tennessee Board of Pharmacy began accepting prescription information into the Controlled Substance Database Program. The Program collects prescription data for Schedules II-V drugs into a central database, which can then be used by limited authorized users. The information collected in this program is maintained by the Department of Health, and strict security and confidentiality measures are enforced. Only those persons authorized by law can be provided information from the database to assist in determining treatment history and to rule out the possibility that a patient may be "doctor shopping" or "scamming" in order to obtain controlled substances. Prescribers, dispensers, and other authorized users may soon make requests for data from the Controlled Substance Database Program via the secured website <https://prescriptionmonitoring.state.tn.us>.

## Public Chapters

### **Public Chapter 529**

#### **Prohibition of Employment of Illegal Aliens**

If the Commissioner of Labor and Workforce Development receives a complaint that a person licensed by a state regulatory board knowingly employs, recruits or refers for a fee for employment, an illegal alien, that person is subject to an investigation and contested case hearing.

If there is proof a person knowingly employed, recruited or referred for a fee for employment, an illegal alien, which occurred while acting within the scope of practice of his/her license, the regulatory board will be required to revoke, suspend, or deny the person's license.

For the first violation, the regulatory board will be required to suspend the person's license until the licensee shows the licensee no longer employs, recruits or refers for a fee for employment, an illegal alien. This can be shown by the person filing a sworn statement that the licensee no longer employs illegal aliens.

If a second violation occurs within three (3) years from the first order, the regulatory agency will be required to suspend the person's license for one (1) year.

## **Public Chapter 83 Mandatory Domestic Violence Reporting**

The General Assembly passed a new law last legislative session that mandates health care practitioners report cases of suspected or confirmed domestic violence to the Tennessee Department of Health.

The mandatory monthly reporting will be by a web-based system developed by the Department's Division of Health Statistics. The system became operational in October 2007, and the Department has mailed you details of the required data to be reported and instruction on how to use the reporting tool. The Board will also keep you informed as more information is available.

## **Public Chapter 298 Controlled Drugs Reclassification**

Public Chapter 298 primarily corrects some discrepancies between the Tennessee and DEA Schedules for controlled substances. Some of the listed drugs have had their Schedule changed in recent years by the DEA, but they had not been reclassified in Tennessee law. Although individual states may place a drug into a more restrictive Schedule than DEA, states do not have the authority to be less restrictive than DEA. The language of this Act brings Tennessee in line with DEA classifications. Some of the more frequently encountered drugs affected are listed below along with their common trade names.

- Gamma hydroxybutyric acid (GHB) is classified by DEA as a Schedule I; however, TN had it listed as a Schedule IV. PC 298 brought TN in line with DEA.
- Glutethimide (Doriden) is classified by DEA as a Schedule II; however, TN had it listed as Schedule V. PC 298 now matches DEA and Glutethimide (Doriden) as Schedule II.
- Buprenorphine (Suboxone or Subutex) is a DEA Schedule II; however, TN had it listed as Schedule V.
- Some other changes for consistency include Dichloralphenazone (Midrin), Zaleplon (Sonata), Zopiclone (Lunesta), Butorphanol (Stadol), Fencamfamin (Reactivan), Fenproporex (Gacilin or Solvolip), Mefenorex (Pondonil), Modafinil (Provigil), and Sibutramine (Meridia) being listed as Schedule IV in TN to match DEA.
- Of interest in veterinary medicine, Carfentanil (Wildnil) is now classified as Schedule II which is consistent with DEA classification. The combination drug tiletamine-zolazepam (Telazol) is now listed as Schedule II in both TN and DEA.



## **Public Chapter 410 Non-Smoker Protection Act**

Public Chapter 410 creates the Non-Smoker Protection Act which prohibits smoking in all enclosed public places within the State of Tennessee including, but not limited to, the following places:

- Areas available to, and customarily used by, the general public in businesses and non-profit entities patronized by the public including, but not limited to: banks, laundromats, factories, professional offices and retail service establishments; and health care facilities. (Nursing homes and long-term care facilities are exempt)

The legislation requires that offices and health care facilities do the following:

- Inform all existing employees and any prospective employees upon their application for employment of the prohibition on smoking; and
- "No Smoking" signs, or the international "No Smoking" symbol, shall be clearly and conspicuously posted at every entrance to every public place and place of employment where smoking is prohibited.

The Department of Health shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Act. Information about these inspections will be communicated with the appropriate offices and/or health care facilities in the future.

## **Public Chapter 487 Non-Compete Covenants between Health Care Providers and Employees**

This new law sets forth parameters for reasonable non-compete covenants between health care providers and employees upon termination or conclusion of the employment or contractual relationship. It applies to health care providers licensed by the Board of Registration in Podiatry, Board of Chiropractic Examiners, Board of Dentistry, Board of Medical Examiners, Board of Optometry, and Board of Examiners in Psychology. It does not apply to physicians who specialize in the practice of emergency medicine or radiology.

The restriction must be set forth in employment agreement or other written document signed by the health care provider and the employing or contracting entity and must be for two years or less. The maximum allowable geographic restriction is the greater of a ten mile radius from the primary practice site of the health care provider, while employed or contracted, or the county in which the primary practice of the health care

provider, while employed or contracted, is located. The health care provider may also be restricted from practicing his or her profession at any facility at which the employing or contracting entity provided services while the health care provider was employed or contracted with the employing or contracting entity. Any restriction under this subsection shall not be binding on a health care provider who has been employed by, or under contract with, the employing or contracting entity for at least six years.

The Act also allows that an agreement entered into in conjunction with the purchase or sale of a health care provider's practice, or all or substantially all of the assets of the health care provider's practice, may restrict such health care provider's right to practice his or her profession, provided that the duration of the restriction and the allowable area of the restriction are reasonable under the circumstances. There shall be a rebuttal presumption that the duration and area of restriction agreed upon by the parties in such an agreement are reasonable.

### **Public Chapter 365 Contracts Between Healthcare Providers and Health Insurance Entities**

Public Chapter 365 requires newly licensed health care providers who move into a new community or change practices to submit a credentialing application for approval by a health insurance entity (insurance entity). Upon approval, a contract must be made between the provider and insurance entity in order for the provider to be an in-network provider.

The insurance entity must obtain from the Council on Affordable Quality Health (CAQH) a clean CAQH credentialing application for the provider. The insurance entity must then notify the provider within ninety (90) days if they are willing to contract with the provider. A clean CAQH means an application has no defects, misstatement of facts, improprieties, including a lack of required substantiating documentation or circumstance requiring special treatment that delays prompt credentialing.

Unless otherwise required by a national accrediting body, the insurance entity must accept and begin processing a completed credentialing application. The insurance entity shall not require the provider to have an active malpractice insurance policy in order to process the application before the provider's employment start date. The insurance entity shall notify its members in writing or on a website that the provider is an in-network provider or that his application is pending approval.

This section does not require an insurance entity to contract with a provider if the entity and the provider do not agree on the terms and conditions of the contract.

**The complete text of the Public Acts, including provisions for any areas of exemption, enforcement of the Acts, and action to be taken for violation of the Acts is available on the following website:**

[tennessee.gov/sos/acts/index.htm](http://tennessee.gov/sos/acts/index.htm)

## **Disciplinary Actions 2006 – 2007**

### **Matthew D. Westerfield, DPM – License No. 366**

Unprofessional conduct; invasion of a field of practice in which the licensee is not licensed to practice or is not within limits of the licensee's respective callings; dispensing, prescribing or otherwise distributing any controlled substance or any other drug not in the course of professional practice. License placed on probation for one (1) year. Must attend prescribing course. Assessed \$3,000 in civil penalties and assessed costs. Date of Board action: April 11, 2006.

### **Michael J. Westerfield, DPM – License No. 447**

Dispensing, prescribing or otherwise distributing any controlled substance or any other drug not in the course of professional practice, or not in good faith to relieve pain and suffering or not to cure an ailment, physical infirmity or disease. License revoked. Date of Board action: January 26, 2006.

## **Orthotists, Prosthetists and Pedorthists**

Effective September 26, 2006, the Tennessee Board of Podiatric Medical Examiners began governing the professions of Orthotists, Prosthetists and Pedorthists pursuant to **Chapter 1155-4** of its rules.

**The Board's recognition of new licensure categories (Orthotics, Prosthetics and Pedorthics) does not in any way limit or restrict the scope of practice for licensed podiatrists. A podiatrist who is already licensed by the board may still provide any and all professional podiatric services he/she has always provided, and without having to obtain any additional licensure.**



Tennessee Board of Podiatric Medical Examiners  
227 French Landing, Suite 300  
Heritage Place MetroCenter  
Nashville, TN 37243



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## Tennessee Board of Podiatric Medical Examiners Board Members as of October 24, 2007

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Knoxville, TN

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Murfreesboro, TN

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Department of Health. Authorization No. 343726, 550 copies, December 2007. This public document was promulgated at a cost of \$1.16 per copy.