

Tennessee Board of Nursing



Newsletter



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Medication Aide Certified Rules Stayed

The Tennessee General Assembly passed a bill signed into law as Tenn. Code Ann. §63-7-127, Public Acts of 2009, creating a Medication Aide Certified (MAC) program regulated under the Board of Nursing. Rules to implement the law that were to become effective August 13, 2012 have been stayed for 60 days to give time for the board to submit revised emergency rules. The board will meet August 22nd to review the concerns of the Joint Government Operations Committee.

Please follow this website for MAC updates law, rules and policies, approved schools, application for certificate and testing information.

Rulemaking Hearing August 22, 2012

The board will hold a rulemaking hearing Wed. Aug. 22, 2012, 1:00 p.m., Iris Room, 227 French Landing, Suite 100, Nashville, to consider a continued competence requirement for APN prescribers that will require a one hour board approved course addressing controlled substance prescribing practices. The hearing is scheduled during the board's August meeting, Wednesday August 22nd at 1:00 p.m. For a copy of the notice go to http://state.tn.us/sos/rules_filings/07-04-12.pdf



STATUTORY CHANGES OF INTEREST TO TENNESSEE NURSES

PUBLIC CHAPTER NO. 814

Board of Nursing

This law continues the Board of Nursing until 2014, changes the composition of the board, reduces successive member terms to two and specifies geographic diversity of members.

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29 and Title 63, Chapter 7, relative to the board of nursing.

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

SECTION 1. Tennessee Code Annotated, Section 4-29-232(a), is amended by deleting subdivision (63) in its entirety.

SECTION 2. Tennessee Code Annotated, Section 4-29-235(a), is amended by adding a new subdivision thereto, as follows:

() Board of nursing, created by § 63-7-201;

SECTION 3. Tennessee Code Annotated, Section 63-7-202, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The governor shall appoint eleven (11) members to the board, as follows:

(1) Nine (9) members, one (1) from each congressional district, who are either an advanced practice nurse or a registered nurse at the time of their appointment. At least two (2) members shall be registered nurses. At least three (3) members shall be advanced practice nurses. For the purposes of this section, an advanced practice nurse shall not include registered nurses;

(2) One (1) member who is a licensed practical nurse at the time of such nurse's appointment; and

(3) One (1) consumer member.

(b) In making appointments to the board, the governor shall consider appointing members who work in a variety of healthcare positions, including the following practice settings:

(1) A Level I trauma center licensed pursuant to Title 68, Chapter 11, Part 2;

(2) An acute care hospital;

(3) A critical access hospital or a rural hospital;

(4) A mental health facility licensed under Title 33; and

(5) A long-term care facility.

(c) No more than three (3) members shall be engaged in an academic position at the time of their appointment to the board.

(d) In making appointments to the board, the governor should consider the importance of geographical diversity to this board.

(e)(1) Members of the board may be appointed by the governor from lists of qualified persons submitted by interested nursing groups including, but not limited to, their respective organizations. Each list may contain a minimum of three (3) times as many names as the number of appointments to be made. Lists of persons shall be submitted at least forty-five (45) days prior to the expiration of the term of office of any members of the board. The appointment provisions of this subdivision (1) shall not apply to the public member serving on the board.

(2) In making appointments to the board in accordance with subdivision (1), the governor

shall consult with interested nursing groups including, but not limited to their respective organizations to determine qualified persons to fill the positions.

(f) Each licensee member appointed to serve on the board shall:

(1) Be a resident of this state for at least one (1) year immediately preceding appointment;

(2) Be currently licensed and in good standing with an unencumbered license;

(3) Be currently engaged in the practice of nursing; and

(4) Have no less than five (5) years of experience as an advanced practice nurse, registered nurse, or licensed practical nurse.

(g) The consumer member appointed to the board shall:

(1) Be a resident of this state for at least one (1) year immediately preceding their appointment;

(2) Not have a direct or indirect financial interest in healthcare services;

(3) Not have been a healthcare provider or be enrolled in any health-related educational program; and

(4) Not be a member or employee of any board of control of any public or private healthcare organization.

(h) A vacancy on the board shall be filled for the unexpired term by appointment by the governor in such a manner to ensure the requirements of this section are met.

(i) In making appointments to the board, the governor shall strive to ensure that at least one (1) person serving on the board is sixty (60) years of age or older and that at least one (1) person serving on the board is a member of a racial minority.

(j) Except as provided in subsection (k), members currently holding appointments on the board shall serve their full terms. As vacancies occur, new appointments shall be filled by the governor in accordance with this section.

(k) No member shall serve more than eight (8) continuous years on the board. A member shall be eligible to be reappointed after not serving on the board for four (4) years. The term of any member of the board with eight (8) or more years of service on the board upon the effective date of this act shall terminate January 1, 2013.

SECTION 4. Tennessee Code Annotated, Section 63-7-203, is amended by deleting the language "three (3) consecutive terms.", and by substituting instead the language "two (2) consecutive terms. At least four (4) years shall lapse before a member may be reappointed to the board or may serve in any capacity associated with the board."

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.
PASSED: April 9, 2012

PUBLIC CHAPTER NO. 559 Nurse Licensure Compact

This chapter places the Nurse Licensure Compact on a schedule of review (sunset).

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29 and Title 63, Chapter 7, Part 3, relative to the interstate nurse licensure compact.

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

SECTION 1. Tennessee Code Annotated, Section 4-29-235(a), is amended by adding the following language as a new, appropriately designated subdivision:

() Interstate nurse licensure compact, created by § 63-7-301;

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

PASSED: February 23, 2012

PUBLIC CHAPTER NO. 869

Pain Management Clinics

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 1, 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, Section 63-1-301, is amended by deleting subdivision (5) in its entirety and by substituting instead the following:

(5) "Pain management clinic" means a privately-owned facility in which a majority of the facility's patients, seen by any or all of its medical doctors, osteopathic physicians, advanced practice nurses with certificates of fitness to prescribe, or physician assistants, are provided pain management services by being prescribed or dispensed, opioids, benzodiazepines, barbiturates, or carisoprodol, but not suboxone, for more than ninety (90) days in a twelve (12) month period; and

SECTION 2. Tennessee Code Annotated, Section 63-1-302, is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(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, including, but not limited to, clinics that have an agreement to train residents by members of that clinic who are appointed as adjunct faculty of the school or program;

SECTION 3. Tennessee Code Annotated, Section 63-1-302, is amended by deleting subdivision (2) in its entirety and by substituting instead the following:

(2) A hospital as defined in § 68-11-201, including any outpatient facility or clinic of a hospital if such outpatient facility or clinic is regulated under Title 68;

SECTION 4. Tennessee Code Annotated, Section 63-1-306, is amended by deleting subdivision U) in its entirety and by substituting instead the following:

(j) A pain management clinic operating on or before January 1, 2012, may continue to operate as long as an application for certification is timely filed on or before October 1, 2012. This provision shall apply

retroactively to applications for certification filed since January 1, 2012.

SECTION 5. Tennessee Code Annotated, Section 63-1-309, is amended by adding the following at the end of subdivision (a)(2):

An applicant who is denied a certificate or a renewal of a certificate may appeal the decision in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 6. Tennessee Code Annotated, Title 63, Chapter 1, is amended by adding the following new section:

63-1-312.

(a) If, prior to the renewal of a certificate pursuant to § 63-1-308, a registered pain management clinic wishes to voluntarily inactivate its certificate, it shall file notification with the department. The notification shall state the date on which the pain management clinic did or will cease to operate as a pain management clinic (the inactive date). In no case shall a certificate be considered inactivated on any date on which the clinic operated or will operate as a pain management clinic. No fees will be refunded as a result of the filing of an inactivity notice.

(b) The department may charge a fee to process inactivity notices received from pain management clinics.

(c) This section shall not be used to circumvent enforcement or inspection activities conferred by this part to the department or a board for any alleged offense occurring during the time the pain clinic was registered or was required to be registered as a pain management clinic.

(d) If the pain management clinic thereafter wishes to register, it shall submit a new application, pay the requisite registration fee and meet such other reasonable requirements as deemed necessary by the department as if an original application was filed.

SECTION 7. This act shall take effect on becoming law, the public welfare requiring it April 12, 2012.

PUBLIC CHAPTER NO. 836

Hormone Replacement Therapy

AN ACT to amend Tennessee Code Annotated, Title 63, relative to hormone replacement therapy.

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

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 6, is amended by adding a new section to read as follows:

63-6-242.

(a)(1) "Hormone replacement therapy clinic" or "hormone therapy clinic" means a medical office in which the clinicians are primarily engaged in hormone replacement or supplementation therapy or a medical office which holds itself out to the public as being primarily or substantially engaged in hormone replacement therapy. For the purposes of this definition, the phrase "primarily engaged" means that a majority of the clinic's patients receive hormone replacement therapy and may be further defined by the board by rule. Hormone replacement therapy clinic does not mean a medical office in which the clinicians are primarily engaged in obstetrics and gynecology (OB/GYN), urology or primary care.

(2) "Hormone replacement therapy" or "hormone therapy" means the branch of the practice of medicine whereby the patient is treated with medications that include, but are not limited to, creams or natural formulas taken through the skin, under the tongue, in subcutaneous pellets, or orally that contain hormones that have the same bioidentical or similar chemical formula as those produced naturally in the human body or that the provider thinks or claims to be similar or identical, but shall not include the treatment of patients with birth control pills.

(b) In hormone replacement therapy clinics:

(1) All hormone replacement therapy shall be performed by a physician licensed under Title 63, Chapter 6 or 9, or delegated by such physician to a certified nurse practitioner licensed pursuant to Title 63, Chapter 7 or a physician assistant licensed pursuant to Title 63, Chapter 19; and

(2) If hormone replacement therapy is delegated, the supervising physician shall ensure that written

protocols are developed for licensees to whom hormone replacement therapy is delegated, that such protocols are updated as necessary and that the patient is informed of both the name and contact information of the supervising physician and an indication of whether the physician is available on-site or remotely.

(c) A physician supervising hormone replacement therapy in a hormone replacement therapy clinic shall ensure that for each patient, all of the following requirements are met:

(1) Prior to the initial hormone replacement therapy or course of treatments, an appropriate physical examination shall be conducted;

(2) An appropriate medical history shall be taken and documented on the patient;

(3) A written order for hormone replacement therapy shall be entered by the treating provider in the patient's medical record documenting the diagnosis and medical reason for the patient's need for hormone replacement therapy. If the treating provider is not a physician, the supervising physician shall make a personal review of the historical, physical and therapeutic data gathered by the treating provider and shall so certify the review in the patient's chart within seven (7) days of the patient being served;

(4) The patient gives written consent for hormone replacement therapy, which includes notification of possible complications and reasonable expectations and any applicable FDA warnings associated with any part of the therapy; and

(5) The supervising physician shall be immediately notified upon discovery of a complication.

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 9, is amended by adding a new section to read as follows:

63-9-119.

(a)(1) "Hormone replacement therapy clinic" or "hormone therapy clinic" means a medical office in which the clinicians are primarily engaged in hormone replacement or supplementation therapy or a medical office which holds itself out to the public as being primarily or substantially engaged in hormone replacement therapy. For the purposes of this definition, the phrase "primarily engaged"

means that a majority of the clinic's patients receive hormone replacement therapy and may be further defined by the board by rule. Hormone replacement therapy clinic does not mean a medical office in which the clinicians are primarily engaged in obstetrics and gynecology (OB/GYN), urology or primary care.

(2) "Hormone replacement therapy" or "hormone therapy" means the branch of the practice of medicine whereby the patient is treated with medications that include, but are not limited to, creams or natural formulas taken through the skin, under the tongue, in subcutaneous pellets, or orally that contain hormones that have the same bioidentical or similar chemical formula as those produced naturally in the human body or that the provider thinks or claims to be similar or identical, but shall not include the treatment of patients with birth control pills.

(b) In hormone replacement therapy clinics:

(1) All hormone replacement therapy shall be performed by a physician licensed under Title 63, Chapter 6 or 9, or delegated by such physician to a certified nurse practitioner licensed pursuant to Title 63, Chapter 7 or a physician assistant licensed pursuant to Title 63, Chapter 19; and

(2) If hormone replacement therapy is delegated, the supervising physician shall ensure that written protocols are developed for licensees to whom hormone replacement therapy is delegated, that such protocols are updated as necessary and that the patient is informed of both the name and contact information of the supervising physician and an indication of whether the physician is available on-site or remotely.

(c) A physician supervising hormone replacement therapy in a hormone replacement therapy clinic shall ensure that for each patient, all of the following requirements are met:

(1) Prior to the initial hormone replacement therapy or course of treatments, an appropriate physical examination shall be conducted;

(2) An appropriate medical history shall be taken and documented on the patient;

(3) A written order for hormone replacement therapy shall be entered by the treating provider in the patient's medical record documenting the

diagnosis and medical reason for the patient's need for hormone replacement therapy. If the treating provider is not a physician, the supervising physician shall make a personal review of the historical, physical and therapeutic data gathered by the treating provider and shall so certify the review in the patient's chart within seven (7) days of the patient being served;

(4) The patient gives written consent for hormone replacement therapy, which includes notification of possible complications and reasonable expectations and any applicable FDA warnings associated with any part of the therapy; and

(5) The supervising physician shall be immediately notified upon discovery of a complication.

SECTION 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect on July 1, 2012, the public welfare requiring it. PASSED: April 5, 2012

PUBLIC CHAPTER NO. 961

Interventional Pain Management

AN ACT to amend Tennessee Code Annotated, Title 63, relative to interventional pain management.

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

SECTION 1. Tennessee Code Annotated, Section 63-7-126, is amended by adding a new subsection (f) as follows:

(f) An advanced practice nurse shall only perform invasive procedures involving any portion of the spine, spinal cord, sympathetic nerves of the spine or block of major peripheral nerves of the spine in any setting not licensed under Title 68, Chapter 11 under the direct supervision of a Tennessee physician licensed pursuant to Chapter 6 or 9 of this title who is actively practicing spinal injections and has current privileges to do so at a facility licensed pursuant to Title 68, Chapter 11. The

direct supervision provided by a physician in this subsection (f) shall only be offered by a physician who meets the qualifications established in § 63-6-241 (a)(1) or (a)(3) or § 63-9-119(a)(1) or (a)(3). For purposes of this subsection (f), direct supervision is defined as being physically present in the same building as the advanced practice nurse at the time the invasive procedure is performed. This subsection (f) shall not apply to an advanced practice nurse performing major joint injections except sacroiliac injections, or to performing soft tissue injections or epidurals for surgical anesthesia or labor analgesia in unlicensed settings.

SECTION 2. Tennessee Code Annotated, Section 63-7-126(e), is amended by deleting the language "Nothing" at the beginning of the subsection and substituting instead the following: With the exception of subsection (f), nothing

SECTION 3. Tennessee Code Annotated, Section 63-19-107, is amended by adding a new subdivision (5) as follows:

(5) A physician assistant shall only perform invasive procedures involving any portion of the spine, spinal cord, sympathetic nerves of the spine or block of major peripheral nerves of the spine in any setting not licensed under Title 68, Chapter 11 under the direct supervision of a Tennessee physician licensed pursuant to Chapter 6 or 9 of this title who is actively practicing spinal injections and has current privileges to do so at a facility licensed pursuant to Title 68, Chapter 11. The direct supervision provided by a physician in this subsection shall only be offered by a physician who meets the qualifications established in § 63-6-241(a)(1) or (a)(3) or § 63-9-119(a)(1) or (a)(3). For purposes of this subdivision (5), direct supervision is defined as being physically present in the same building as the physician assistant at the time the invasive procedure is performed. This subdivision (5) shall not apply to a physician assistant performing major joint injections except sacroiliac injections, or to performing soft tissue injections or epidurals for surgical anesthesia or labor analgesia in unlicensed settings.

SECTION 4. Tennessee Code Annotated, Title 63, Chapter 6, Part 2, is amended by adding a new section as follows:

63-6-241.

(a) A physician licensed pursuant to this chapter may only practice interventional pain management if the licensee is either:

(1) Board certified through the American Board of Medical Specialties (ABMS) or the American Board of Physician Specialties (ABPS)/American Association of Physician Specialists (AAPS) in one of the following medical specialties:

- (A) Anesthesiology;
- (B) Neurological surgery;
- (C) Orthopedic surgery;
- (D) Physical medicine and rehabilitation;
- (E) Radiology; or
- (F) Any other board certified physician who has completed an ABMS subspecialty board in pain medicine or completed an ACGME accredited pain fellowship;

(2) A recent graduate in a medical specialty listed in (a)(1) not yet eligible to apply for ABMS or ABPS/AAPS board certification; provided, there is a practice relationship with a physician who meets the requirements of subdivision (a)(1) or an osteopathic physician who meets the requirements of § 63-9-119(a)(1);

(3) A licensee who is not board certified in one of the specialties listed in subdivision (a)(1) but is board certified in a different ABMS or ABPS/AAPS specialty and has completed a post-graduate training program in interventional pain management approved by the board;

(4) A licensee who serves as a clinical instructor in pain medicine at an accredited Tennessee medical training program; or

(5) A licensee who has an active pain management practice in a clinic accredited in outpatient interdisciplinary pain rehabilitation by the Commission on Accreditation of Rehabilitation Facilities or any successor organization.

(b) For purposes of this section, interventional pain management is the practice of performing invasive procedures involving any portion of the spine, spinal cord, sympathetic nerves of the spine or

block of major peripheral nerves of the spine in any setting not licensed under Title 68, Chapter 11.

(c) The board is authorized to define through rulemaking the scope and length of the practice relationship established in subdivision (a)(2).

(d) A physician who provides direct supervision of an advanced practice nurse or a physician's assistant pursuant to § 63-7-126 or § 63-19-1 07 must meet the requirements set forth in subdivision (a)(1) or (a)(3).

(e) A physician who violates this section is subject to disciplinary action by the board pursuant to § 63-6-214, including, but not limited to, civil penalties of up to one thousand dollars (\$1 ,000) for every day this section is violated.

SECTION 5. Tennessee Code Annotated, Title 63, Chapter 9, Part 1, is amended by adding a new section as follows:

63-9-119.

(a) A physician licensed in this chapter may only practice interventional pain management if the licensee is either:

(1) Board certified through the American Osteopathic Association (AOA) or the American Board of Physician Specialties (ABPS)/American Association of Physician Specialists (AAPS) in one of the following medical specialties:

- (A) Anesthesiology;
- (B) Neuromusculoskeletal medicine;
- (C) Orthopedic surgery;
- (D) Physical medicine and rehabilitation;
- (E) Radiology; or
- (F) Any other board certified physician who has completed an ABMS subspecialty board in pain medicine or completed an ACGME accredited pain fellowship;

(2) A recent graduate of a medical specialty listed in subdivision (a)(1) not yet eligible to apply for AOA or ABPS/AAPS specialty certification;

provided, there is a practice relationship with an osteopathic physician who meets the requirements of subdivision (a)(1) or a physician who meets the requirements of § 63-6-241 (a)(1);

(3) A licensee who is not board certified in one of the specialties listed in subdivision (a)(1) but is board certified in a different AOA or ABPS/AAPS specialty and has completed a post-graduate training program in interventional pain management approved by the board;

(4) A licensee who serves as a clinical instructor in pain medicine at an accredited Tennessee medical training program; or

(5) A licensee who has an active pain management practice in a clinic accredited in outpatient interdisciplinary pain rehabilitation by the Commission on Accreditation of Rehabilitation Facilities or any successor organization.

(b) For purposes of this section, interventional pain management is the practice of performing invasive procedures involving any portion of the spine, spinal cord, sympathetic nerves of the spine or block of major peripheral nerves of the spine in any setting not licensed under Title 68, Chapter 11.

(c) The board is authorized to define through rulemaking the scope and length of the practice relationship established in subdivision (a)(2).

(d) An osteopathic physician who provides direct supervision of an advanced practice nurse or a physician's assistant pursuant to § 63-7-126 or § 63-19-107 must meet the requirements set forth in subdivision (a)(1) or (a)(3).

(e) An osteopathic physician who violates this section is subject to disciplinary action by the board pursuant to § 63-9-111, including, but not limited to, civil penalties of up to one thousand dollars (\$1 ,000) for every day this section is violated.

SECTION 6. This act shall take effect July 1, 2013, the public welfare requiring it. April 27, 2012

PUBLIC CHAPTER NO. 817

Genital Mutilation

AN ACT to amend Tennessee Code Annotated, Title 38; Title 39; Title 63 and Title 68, relative to female genital mutilation.

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

SECTION 1. Tennessee Code Annotated, Section 38-1-101, is amended by inserting the language ", or appears to be suffering from or to have been the victim of female genital mutilation in violation of§ 39-13-110," between the language "suffocation," and "shall report".

SECTION 2. This act shall take effect July 1, 2012, the public welfare requiring it. PASSED: April11, 2012

Public Chapter 880

Tennessee Prescription Safety Act

AN ACT to amend Tennessee Code Annotated, Title 53, Chapter 10, Part 3; Title 53, Chapter 11,

Part 3; Title 53, Chapter 11, Part 4 and Title 63, Chapter 1, Part 3, relative to controlled substance database, criminal penalties and enforcement of narcotic drugs and drug control.

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

SECTION 1. This act shall be known and may be cited as the "Tennessee Prescription Safety Act of 2012."

SECTION 2. Tennessee Code Annotated, Section 53-10-302, is amended by deleting the section in its entirety and by substituting instead the following:

53-10-302.

As used in this part:

(1) "Board" means the board of pharmacy created by Title 63, Chapter 10, Part 3;

(2) "Commissioner" means the Commissioner of Health;

(3) "Committee" means the controlled substance database committee created by this part;

(4) "Controlled substances" means a drug, substance or immediate precursor in Schedules I through VI defined or listed in Title 39, Chapter 17, Part 4;

(5) "Database" means the controlled substance database created by this part;

(6) "Department" means the Department of Health;

(7) "Dispense" means to physically deliver a controlled substance covered by this part to any person, institution or entity with the intent that it be consumed away from the premises on which it is dispensed. It does not include the act of writing a prescription by a practitioner to be filled at a pharmacy licensed by the board. For purposes of this act, physical delivery includes mailing controlled substances into this state;

(8) "Dispenser" means a pharmacist, a pharmacy, or any healthcare

practitioner who is licensed and has current authority to dispense controlled

substances;

(9) "Healthcare practitioner" means:

(A) A physician, dentist, optometrist, veterinarian, or other person licensed, registered, or otherwise permitted to prescribe, distribute, dispense or administer a controlled substance in the course of professional practice; or

(B) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, or administer a controlled substance in the course of professional practice;

(10) "Healthcare practitioner extender" means any registered or licensed healthcare professional, and up to two (2) unlicensed persons designated by the prescriber or dispenser, who act as agents of that prescriber or dispenser. The prescriber or

dispenser shall be responsible for all actions taken by their agents pursuant to this act.

(11) "Law enforcement personnel" means agents of the Tennessee Bureau of Investigation, agents of a judicial district drug task force, federal law enforcement officers commissioned by a federal government entity, certified law enforcement officers certified pursuant to § 38-8-107, and certified law enforcement officers in other states; and

(12) "Prescriber" means an individual licensed as a medical doctor, podiatrist, dentist, optometrist, veterinarian, osteopathic physician, or physician assistant who has the authority to issue prescriptions for controlled substances, or an advanced practice nurse with a certificate of fitness to prescribe and the required supervisory relationship with a physician.

SECTION 3. Tennessee Code Annotated, Section 53-10-303(a), is amended by deleting the word "advisory".

SECTION 4. Tennessee Code Annotated, Section 53-10-303(f), is amended by deleting the subsection in its entirety and substituting instead the following:

(f) The commissioner shall have the authority to promulgate rules and regulations, pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, necessary for implementation of this part. The commissioner shall promulgate rules regarding:

(1) Establishing, maintaining and operating the database;

(2) Access to the database and how access is obtained;

(3) Control and dissemination of data and information in the database; and

(4) The sharing and dissemination of data and information in the database with other states or other entities acting on behalf of a state.

SECTION 5. Tennessee Code Annotated, Section 53-10-304(d), is amended by deleting the subsection in its entirety and substituting instead the following:

(d) The data required by this part shall be submitted in compliance with this part to the database by any dispenser, or dispenser's agent, who dispenses a controlled substance contained in Schedules II, III, and IV, and Schedule V controlled substances identified by the controlled substance database committee as demonstrating a potential for abuse. The reporting requirement shall not apply for the following:

- (1) A drug administered directly to a patient;
- (2) Any drug sample dispensed;
- (3) Any drug dispensed by a licensed veterinarian; provided, that the quantity dispensed is limited to an amount adequate to treat the non-human patient for a maximum of forty-eight (48) hours;
- (4) Any facility that is registered by the United States Drug Enforcement Administration as a narcotic treatment program and is subject to the recordkeeping provisions of 21 CFR 1304.24; or
- (5) Any drug dispensed by a licensed healthcare facility; provided, that the quantity dispensed is limited to an amount that is adequate to treat the patient for a maximum of forty-eight (48) hours.

SECTION 6. Tennessee Code Annotated, Section 53-10-305, is amended by deleting the section in its entirety and substituting instead the following:

53-10-305.

(a) All prescribers with DEA numbers who prescribe controlled substances and dispensers in practice providing direct care to patients in Tennessee for more than fifteen (15) calendar days per year shall be registered in the controlled substance database. New licensees shall have up to thirty (30) calendar days after notification of licensure to register in the database. Licensed veterinarians who never prescribe a controlled substance in an amount intended to treat a non-human patient for more than

forty-eight (48) hours shall not be required to register in the database.

(b)(1) Each dispenser or dispenser's agent shall, regarding each controlled substance dispensed, submit to the database all of the following information:

- (A) Prescriber identifier;
- (B) Dispensing date of controlled substance;
- (C) Patient identifier;
- (D) Controlled substance dispensed identifier;
- (E) Quantity of controlled substance dispensed;
- (F) Strength of controlled substance dispensed;
- (G) Estimated days supply;
- (H) Dispenser identifier;
- (I) Date the prescription was issued by the prescriber;
- (J) Whether the prescription was new or a refill;
- (K) Source of payment; and
- (L) Other relevant information as required by rule.

(2) The information in the database, as required by subdivision (b)(1), shall be submitted by a procedure and in a format established by the committee, at least once every seven (7) days for all the controlled substances dispensed during the preceding seven (7) day period.

(c) The committee shall have the authority to shorten the length of time dispensers are required to submit to the database through the promulgation of rules pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. When the committee shortens the length of time dispensers are required to submit to the database, the department shall provide notice to all dispensers who are registered in the database at least sixty (60) days prior to the date in which the rule goes into effect. If the committee shortens the length of time which dispensers must submit information to the database, a dispenser may

provide to the committee a written statement indicating why it creates a hardship for that dispenser to submit information within that time period, and the committee may grant an extension up to seven (7) days within which that dispenser must submit the information to the database. Such a hardship extension shall be valid for two (2) years and may be renewed by the committee upon request of the dispenser.

(d) Any dispenser, except veterinarian dispensers, that uses a computerized system to record information concerning the dispensing of controlled substances, shall submit the required information to the database utilizing nationally recognized pharmacy telecommunications format standards.

(e) The board shall maintain the database in an electronic file or by other means established by the committee in such a manner so as not to infringe on the legal use of controlled substances, and in such a manner as to facilitate use of the database by the committee for identification of:

(1) Prescribing and dispensing practices and patterns of prescribing and dispensing controlled substances; and

(2) Individuals, facilities or entities that receive prescriptions for controlled substances from prescribers, and who subsequently obtain dispensed controlled substances from a dispenser in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance, or by means of forged or otherwise false or altered prescriptions.

(f) The committee or a designee appointed by the committee shall review information in the database. If the committee or its designee determines from review that a prescriber or dispenser may have committed a violation of the law, the committee shall notify the entity responsible for licensure, regulation, or discipline of that prescriber or dispenser and shall supply information required by the entity for an investigation of the violation of the law that may have occurred.

(g)(1) The committee shall by rule establish the electronic format in which the information required

under this section shall be submitted to the database and shall allow for waiver of electronic reporting for individual dispensers for whom it would cause undue hardship as determined by the committee. The waiver may be valid for two (2) years from ratification by the committee.

(A) The committee may authorize a designee to initially approve a waiver subject to ratification by the committee.

(2) The committee shall ensure the database system records and shall maintain for reference:

(A) Identification of each person who requests or receives information from the database;

(B) The information provided to each person; and

(C) The date and time the information is requested or provided.

(h) The committee shall make rules to:

(1) Effectively enforce the limitations on access to the database as described in this part; and

(2) Establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information from the database without a request.

SECTION 7. Tennessee Code Annotated, Section 53-10-306(a), is amended by deleting the language "persons, and in accordance with the limitations stated and rules promulgated pursuant to this part:" and substituting instead the language "persons in accordance with the limitations stated and rules promulgated pursuant to this part, or as otherwise provided for in § 53-10-311 :".

SECTION 8. Tennessee Code Annotated, Section 53-10-306(a)(2), is amended by deleting

the subdivision in its entirety and substituting instead the following:

(2) Authorized committee, board, or Department of Health personnel or any designee appointed by the committee engaged in analysis of controlled substances prescription information as a part of the

assigned duties and responsibilities of their employment;

SECTION 9. Tennessee Code Annotated, Section 53-10-306(a)(3), is amended by deleting the subdivision in its entirety and substituting instead the following:

(3) A prescriber conducting medication history reviews who is actively involved in the care of the patient; a prescriber or supervising physician of the prescriber conducting a review of all medications dispensed by prescription attributed to that prescriber; or a prescriber 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 prescriber, to whom the prescriber has prescribed or dispensed, is prescribing or dispensing, or considering prescribing or dispensing any controlled substance. Each authorized individual referenced under this subdivision shall have a separate identifiable authentication for access;

SECTION 10. Tennessee Code Annotated, Section 53-10-306(a)(4), is amended by deleting the subdivision in its entirety and substituting instead the following:

(4) A dispenser or pharmacist not authorized to dispense controlled substances conducting drug utilization or medication history reviews who is actively involved in the care of the patient; or a dispenser having authority to dispense controlled substances to the extent the information relates specifically to a current or a bona fide prospective patient to whom that dispenser has dispensed, is dispensing, or considering dispensing any controlled substance. Each authorized individual referenced under this subdivision shall have a separate identifiable authentication for access;

SECTION 11. Tennessee Code Annotated, Section 53-10-306(a)(6), is amended by adding the language "or violations under this part" after the language "controlled substances" and before the

language"; and that any law".

SECTION 12. Tennessee Code Annotated, Section 53-10-306(a)(6)(C), is amended by deleting the language "a law enforcement agency, a judicial drug task force or the TBI" and substituting instead the language "law enforcement personnel".

SECTION 13. Tennessee Code Annotated, Section 53-10-306(a), is amended by adding the following language as a new, appropriately designated subdivision ():

() A healthcare practitioner extender, who is acting under the direction and supervision of a prescriber or dispenser, and only to the extent the information relates specifically to a current or bona fide prospective patient to whom the prescriber or dispenser has prescribed or dispensed, is prescribing or dispensing, or considering prescribing or dispensing any controlled substance. Each authorized individual referenced under this subdivision shall have a separate identifiable authentication for access;

SECTION 14. Tennessee Code Annotated, Section 53-10-306(h), is amended by deleting the subsection in its entirety and substituting instead the following:

(h) Any prescriber, dispenser or healthcare practitioner extender 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 for the purpose of adjusting the patient's treatment plans or counseling the patient to seek substance abuse treatment;

(2) Other dispensers or prescribers who are involved or have a bona fide prospective involvement in the treatment of the patient, or dispensers or prescribers identified by the information for the purpose of verifying the accuracy of the information; or

(3) Any law enforcement personnel to whom reporting of controlled substances being obtained in a manner prohibited by § 53-11-401, § 53-11-402(a)(3) or (a)(6) and required by § 53-11-309, or

any agent of the prescriber who is directed by the prescriber to cause a report to law enforcement to be made in accordance with § 53-11-309(a) and (d).

SECTION 15. Tennessee Code Annotated, Section 53-10-306(4), is amended by deleting the subdivision in its entirety and substituting instead the following:

(4) The results of the audit conducted pursuant to subdivision U)(2) shall be discoverable by a prescriber, dispenser or healthcare practitioner extender charged with violating any state or federal law involving controlled substances or under a notice of charges proffered by an appropriate licensing board for a violation of any law involving controlled substances, but only the results pertaining to that prescriber, dispenser or healthcare practitioner extender are discoverable. If, however, there is an active criminal investigation involving a prescriber, dispenser or healthcare practitioner extender or the prescriber, dispenser or healthcare practitioner extender is under investigation by any investigations or prosecution unit of the appropriate licensure board, the results of the audit conducted pursuant to subdivision U)(2) shall not be discoverable by the prescriber, dispenser or healthcare practitioner extender during either such period.

SECTION 16. Tennessee Code Annotated, Section 53-10-307(d), is amended by deleting the subsection in its entirety and substituting instead the following:

(d) Submitting the information as required by this part shall not subject the person submitting the information to licensure disciplinary action or any action for breach of confidentiality, ethical duty to a patient, or the sharing of any professional secret.

SECTION 17. Tennessee Code Annotated, Section 53-10-308(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(a)(1) Notwithstanding any other provision of this part to the contrary, the committee or its designee, after consultation with the member of the

committee who represents the board which has licensed the individual being considered for investigation, may release confidential information from the database regarding dispensers, prescribers, healthcare practitioner extenders, or patients, to a manager of any investigations or prosecution unit of an appropriate licensure board, committee, or other governing body that licenses or registers dispensers, prescribers or healthcare practitioner extenders and is engaged in an investigation, adjudication, or prosecution of a violation under any state or federal law that involves a controlled substance.

(2) Notwithstanding any other provision of this part to the contrary, the committee or its designee may release confidential information from the database regarding patients to law enforcement personnel engaged in an investigation, adjudication, or prosecution of a violation under any state or federal law that involves a controlled substance, pursuant to the procedure established in § 53-10-306(a)(6).

(3) Notwithstanding any other provision of this part to the contrary, the committee or its designee shall release information from the database when ordered by a court to do so upon the court's finding that disclosure is necessary for the conduct of proceedings before the court regarding the investigation, adjudication, or prosecution of a violation under any state or federal law that involves controlled substances and after an appropriate protective order is issued regarding the information to be released to the court.

SECTION 18. Tennessee Code Annotated, Section 53-10-308(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c) No information may be released under this section until it has been reviewed by the committee or its designee and the member of the committee who represents the board which has licensed the individual being considered for investigation, and certified that further investigation or prosecution is warranted and that release of the information is necessary to that continued investigation or prosecution.

SECTION 19. Tennessee Code Annotated, Section 53-10-309, is amended by deleting the words "or pharmacist" and substituting instead the words ", dispenser or healthcare practitioner extender".

SECTION 20. Tennessee Code Annotated, Section 53-10-310, is amended by deleting the section in its entirety and substituting instead the following:

53-10-310.

(a) Each person or entity operating a practice site where a controlled substance is prescribed or dispensed to a human patient shall provide for electronic access to the database at all times when a prescriber or dispenser provides healthcare services to a human patient potentially receiving a controlled substance.

(b) This section shall not apply to any dispensers that are not required to report pursuant to § 53-1-304(d) or § 53-1-305(g).

(c) A violation of subsection (a) is punishable by a civil penalty not to exceed one hundred dollars (\$100) per day assessed against the person or entity operating the practice site; provided, however, that the penalty shall only be imposed when there is a continued pattern or practice of not providing electronic access to the database.

(d) Any prescriber, dispenser, individual or entity who is authorized to access the database by this part shall not be subject to a suit for civil damages or held civilly liable for the failure to register in, report to, or check the database, or for actions taken after reasonable reliance on information in the database, or accessing the database to determine whether or not the prescriber or dispenser's professional medical credentials are being inappropriately used or for reporting the same to the appropriate authorities, except as otherwise provided in this part.

(e)(1) All prescribers or their designated healthcare practitioner's extenders, unless otherwise exempted under this part, shall check the controlled substance database prior to prescribing one of the controlled substances identified in subdivision (e)(3) to a human patient at the beginning of a new

episode of treatment and shall check the controlled substance database for that human patient at least annually when that prescribed controlled substance remains part of the treatment.

(2) Before dispensing, a dispenser shall have the professional responsibility to check the database or have a health care practitioner extender check the database if the dispenser is aware or reasonably certain that a person is attempting to obtain a Schedule 11-V controlled substance, identified by the committee as demonstrating a potential for abuse for fraudulent, illegal, or medically inappropriate purposes, in violation of § 53-11-402.

(3) The controlled substances which trigger a check of the controlled substance database pursuant to subdivision (e)(1) include, but are not limited to, all opioids and benzodiazepines. By rule, the committee may require a check of the database for additional Schedule 11-V controlled substances that are identified by the committee as demonstrating a potential for abuse.

(4) The board shall adopt rules in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, that establish standards and procedures to be followed by a dispenser regarding the review of patient information available through the database.

(5) Prescribers are not required to check the controlled substance database before prescribing or dispensing one of the controlled substances identified in subdivision (e)(3) or added to that list by the committee if one or more of the following conditions is met:

(A) The controlled substance is prescribed or dispensed for a patient who is currently receiving hospice care;

(B) The committee has determined that prescribers in a particular medical specialty shall not be required to check the database as a result of the low potential for abuse by patients receiving treatment in that medical specialty;

(C) The controlled substance is prescribed or dispensed to a patient as a non-refillable

prescription as part of treatment for a surgical procedure that occurred in a licensed healthcare facility.

(D) The quantity of the controlled substance which is prescribed or dispensed does not exceed an amount which is adequate for a single, seven (7) day treatment period and does not allow a refill.

(f) Each appropriate licensure board shall promulgate rules pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, to establish procedures, notice requirements, and penalties for prescribers and dispensers who fail to register in, report to, or check the controlled substance database as required.

(g) Notwithstanding any other provision of this part to the contrary, a prescriber, dispenser or healthcare practitioner extender shall not be in violation of this part during any time period in which the controlled substance database is suspended or not operational or the Internet is not operational or available as defined by rules promulgated by the commissioner after consultation with the committee.

SECTION 21. Tennessee Code Annotated, Title 53, Chapter 10, Part 3, is amended by adding the following as a new section:

53-10-311.

Notwithstanding any other provision of this part to the contrary, the commissioner is authorized to enter into agreements with other states or other entities acting on behalf of a state for the purposes of sharing and dissemination of data and information in the database. Disclosure of such agreements shall be consistent with the provisions and limitations set forth in this part. All such agreements shall specifically provide which prescribers, dispensers, healthcare practitioner extenders or law enforcement personnel who are licensed, registered, or certified in other states shall have access to the database.

SECTION 22. Tennessee Code Annotated, Section 53-11-309(a), is amended by adding the word

"pharmacist," after the word "veterinarian," and before the word "advanced".

SECTION 23. Tennessee Code Annotated, Section 53-11-402(b)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

(b)(1) A violation of this section is a Class D felony, except that a violation of subdivision (a)(6) is a Class A misdemeanor and any violation of subdivision (a)(6) involving more than two hundred fifty (250) units of a controlled substance is a Class E felony. For purposes of this subdivision, a "unit" means an amount of a controlled substance in any form that would equate to the initial single individual dosage recommended by the manufacturer of the controlled substance.

SECTION 24. Tennessee Code Annotated, Section 63-1-309(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c) If any practitioner providing services at a pain management clinic dispenses or prescribes 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.

SECTION 25. This act shall be interpreted to be consistent with all state and federal laws addressing privacy of patient records.

SECTION 26. Tennessee Code Annotated, Section 53-10-309, is amended by adding the following language between the first and second sentences of that section: The committee's annual report shall include information about the prescribing and dispensing patterns of prescribers and dispensers, and this data shall be made available electronically to prescribers and dispensers in a format that will allow them to compare their prescribing and dispensing patterns to those of their peers.

SECTION 27. 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 28. Notwithstanding any provision of the law to the contrary, no funds maintained in any of the accounts created pursuant to Tennessee Code Annotated, Section 63-1-137 shall be used to pay any of the expenses incurred in acquiring hardware, software, or contracted services or employing personnel needed to implement and enhance the operation of the controlled substance monitoring database pursuant to the provisions of this act.

SECTION 29. For purposes of promulgating rules and regulations, including emergency rulemaking, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, except the requirements of subdivision (e)(1) in Section 20, this act shall take effect on January 1, 2013, the public welfare requiring it. The requirements of subdivision (e)(1) in Section 20 shall take effect on April 1, 2013, the public welfare requiring it. The provisions of this act shall expire and be of no force and effect after June 30, 2016, and on July 1, 2016, the existing provisions of Tennessee Code Annotated, Title 53, Chapter 10, Part 3, shall be revived and reenacted as they were codified on March 1, 2012.

SENATE RESOLUTION 94

Cosmetic Procedures

By Crowe

A RESOLUTION relative to the practice of cosmetic procedures.

WHEREAS, Senate Bill 2275 / House Bill 2558 was considered by the Senate Health and Welfare Committee, and that committee recommended certain actions; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED SEVENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, at the recommendation of the Senate Health and Welfare Committee, that this body urges the board of medical examiners, in consultation with the department of health, the board of nursing, the board of osteopathic examiners, the committee on physician assistants and the board of cosmetology, to promulgate rules and regulations by no later than January 1, 2013, to prescribe standards applicable to the practice of cosmetic procedures or treatments involving, but not limited to, the use of laser invasive technology and the use of chemical peels.

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the board of medical examiners.

Renew Online

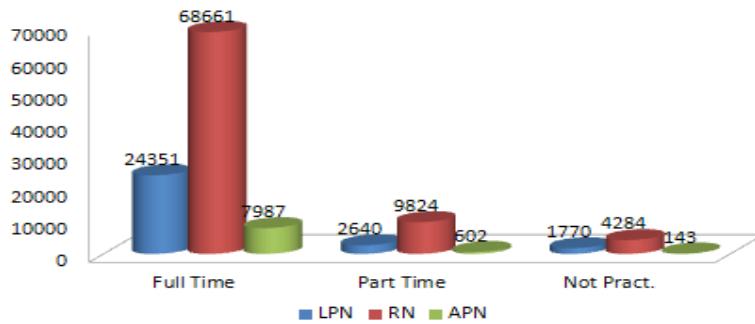
Up to 65 percent of nurses save time and postage by renewing online. You may pay with a debit or credit card. Go to:

<https://apps.tn.gov/hhrs/begin.jsp;jsessionid=E91CBA7034094790D84D6C1851CFFB9.portalprod7>

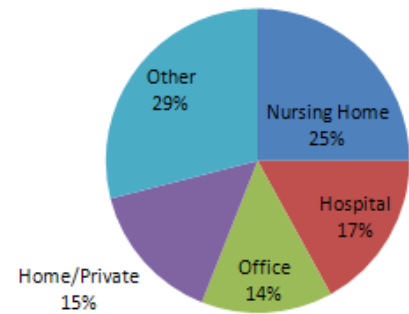
Workforce Data

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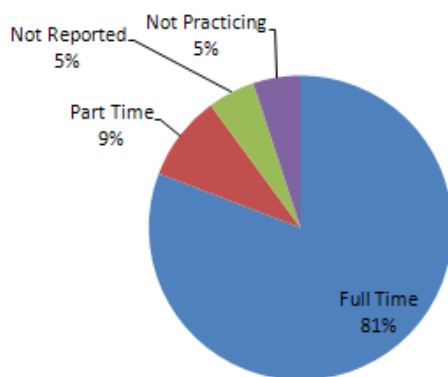
Licensed Nurses



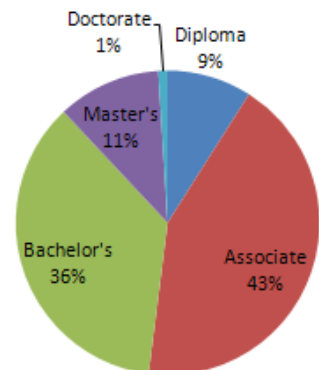
LPN Employment



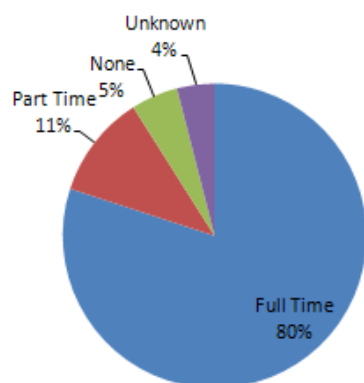
LPN Practice Status



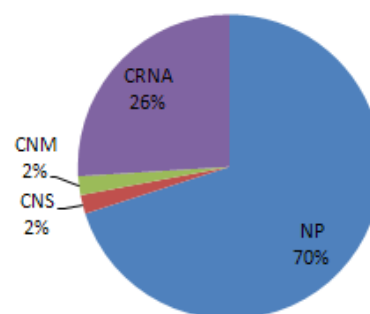
RN by Highest Degree in Nursing



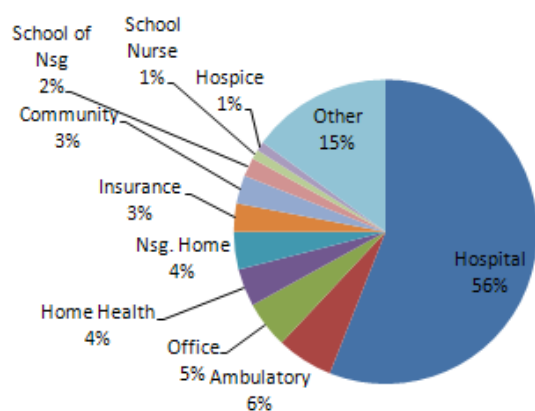
RN Practice Status



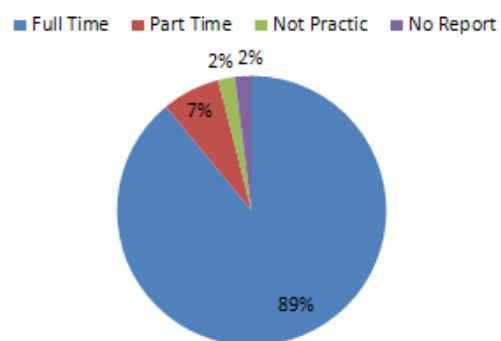
APN Role



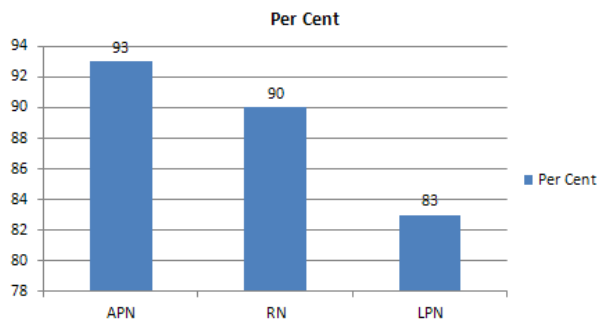
RN Practice Field



APN Practice Status



Continued Competence Compliance



Non-compliance breakdown typically involves the licensee documenting only one of the two required selections for competence or failure to respond to audit letters requesting documentation of compliance.

BOARD MEETING DATES

August 22-23, 2012
 November 29-30, 2012
 February 20-21, 2013
 May 8-9, 2013
 August 20-21, 2013
 November 12-13, 2013

All board meetings begin at 8:30 a.m., Central Time. Board meetings are held at the board's office, 227 French Landing, Heritage Place, MetroCenter, Nashville, TN 37243, and are open to the public. Dates are subject to change and are listed on the board's website

BOARD OF NURSING

Members	Position	Status	Expiration
Cheryl Stegbauer	Chairman	RN	09-30-2013
Barbara Brennan	Vice Chairman	RN	05-31-2012
Donald M. Bell	Board Member	APN	09-30-2013
Patricia Vanhook	Board Member	APN	05-31-2014

Terri Bowman	Board Member	LPN	09-30-2013
Debbie Holliday	Board Member	LPN	05-31-2012
Betty J. Thompson	Board Member	RN	05-31-2012
Kathleen Harkey	Board Member	Consumer	09-30-2013
Marilyn A. Dubree	Board Member	RN	05-31-2012
Marian Stewart	Board Member	RN	09-30-2013
Arthur L. Thompson	Board Member	LPN	09-30-2013

BOARD STAFF

For any questions regarding this newsletter or any other nursing-related topic, contact the staff of the Tennessee Board of Nursing at (800)-778-4123, extension 532-5166 or 615-532-5166.

Elizabeth Lund, Executive Director
 Martha Barr, Nurse Consultant – Education
 Donna Fairchild, Nurse Consultant – Practice and Discipline
 Vacant, Nurse Consultant – MAC Program
 Sandra Powell, Administrative Director
 Suzanne Hunt, Examination Administrator
 Ronda Vari, Endorsement Administrator – RN
 Sally Sadek, Endorsement Administrator – RN
 Ed Gentry-- Endorsement Administrator– LPN
 Diana Merickle, Administrator – APN, Foreign-Educated Exam Applicants
 Marilyn Smith – Reinstatements, Front Desk
 Greg Bass – Renewals
 Charles Custer – Examination Applications
 Howard Walsdorff – Verifications
 Deidre Simpson, Licensing Administrator – Refresher Programs
 Angela Lawrence—Staff Support