

Tennessee Board of Osteopathic Examination



Newsletter



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CURRENT COMPOSITION OF THE BOARD

The Board of Osteopathic Examination is currently composed of the following members: Jill Robinson, D.O., Chair, Donald H. Polk, D.O., Secretary, Paul G. Smith, D.O., Rafael M. Sanchez, D.O., Karen Shepherd, D.O., and Janis Hinton, Public Member.

BOARD MEETING DATES

November 12, 2008

March 4, 2009

May 13, 2009

August 12, 2009

November 4, 2009

All board meetings begin at 9:00 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 Web site. [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.]

POLYSOMNOGRAPHY PROFESSIONAL STANDARDS COMMITTEE

The Polysomnography Practice Act established the Polysomnography Professional Standards Committee of the Board of Medical Examiners, which will license and regulate those who assist physicians in diagnosis and treatment of patients with sleep disorders. The Act was effective July 1, 2007. The Committee has now met and has authorized a rulemaking hearing. After the rules become effective, polysomnographers will be required to be licensed by the

committee and the Medical Board in order to perform polysomnography procedures. The Board's administrative office will update the Web site when rules are effective.

Genetic Counselors

In 2007, the General Assembly passed the Genetic Counseling Act. The Board of Medical Examiners has promulgated rules to implement the Act. Effective September 2008, genetic counselors must become licensed to practice their profession. The rules that will govern the practice of genetic counseling are located: http://health.state.tn.us/Downloads/ME_Rule_91707.pdf

ATTENTION PRESCRIBERS Details on Tamper-Resistant Prescription Pads

Effective April 1, 2008, a prescription written for a Medicaid recipient must contain at least one tamper resistant feature explained below.

Effective October 1, 2008, prescriptions will be required to have a minimum of one feature from all three CMS categories of tamper resistant features. The statute states that all written prescriptions must be "executed on a tamper-resistant pad." As a result, CMS has determined that features added to the prescription after they are printed do not meet the requirement of the statute (ex. gel ink). Features that would make the prescription tamper-resistant include certain types of paper, as well as certain items that can be preprinted on the paper.

CMS further clarified that computer generated prescriptions printed by a provider on plain paper, including electronic medical record (EMR) computer generated prescriptions, may meet CMS guidelines by containing one or more industry-recognized features designed either to prevent the erasure or modification of information contained on the prescription, or to prevent the use of counterfeit prescription forms. According to CMS, computer generated prescriptions printed by a prescriber on plain paper will not meet the requirement that prescriptions contain one or more industry recognized features

designed to prevent unauthorized copying of a completed or blank prescription form. Therefore, beginning October 1, 2008, computer generated prescriptions must be printed on paper that meets one of these requirements:

- 1) One or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form.
- 2) One or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription by the prescriber.
- 3) One or more industry-recognized features designed to prevent the use of counterfeit prescription forms.

If you would like additional information regarding tamper resistant prescription pad requirements, visit the Web site at: <http://www.cms.hhs.gov/center/intergovernmental.asp>

Exceptions:

Exempt from the tamper-resistant requirement are prescriptions that are:

- Faxed to the pharmacy from the provider's office.
- Telephoned to the pharmacy by the provider.
- E-prescribed.
- Refills for which the original prescription was filled before April 1, 2008

REPORT FROM THE BOARD OF PHARMACY

THE CONTROLLED SUBSTANCE DATABASE

The Board of Pharmacy houses and provides administrative support for the Controlled Substance Database. Currently, the database receives about 1.7 million prescriptions per month. The top five medications reported in order are:

- Hydrocodone/Vicodin®, Lortab®, Tussionex®, etc...
- Zolpidem/Ambien®
- Propoxyphene/Darvocet®, Darvon®
- Oxycodone/Percocet®, Percodan®, Roxicodone®, etc...
- Diazepam/Valium®

Currently, there are 4,600 prescribers and 2,100 pharmacists using the database. The feedback from prescribers and pharmacists indicate that they are using the system and it is having a positive impact on the treatment regimens of their patients. If you would like more information on the Controlled Substance Database, please visit the Web site at: <http://health.state.tn.us/Boards/ControlledSubstance/index.shtml>

REMINDER TO PHYSICIANS

Regarding the Controlled Substance Database Reporting Requirements

ATTENTION PHYSICIANS WHO INTEND TO DISPENSE: The Controlled Substance Monitoring Act of 2002 was enacted on July 3, 2002, codified as Tenn. Code Ann. §53-10-301 et seq., for the creation of the controlled substance database ("database"). Dispensers (**prescribers who dispense** and pharmacists) are required to submit data to the Controlled Substance Database about the controlled substances dispensed (including strength and quantity), along with the patient's name, twice each month.

IF YOU INTEND TO DISPENSE FROM YOUR OFFICE, it is imperative that you understand the above referenced statute and adhere to it strictly and understand that should you dispense from your office, you are required to report under this statute. Your failure to submit information to the database is grounds for denial of licensure or disciplinary action against you before the Board of Medical Examiners including revocation, suspension or other appropriate discipline, including civil penalties.

For more information regarding your statutory obligations as physician dispensers, please go to the Web site at: <http://health.state.tn.us/Boards/ControlledSubstance/index.shtml>. If you have any questions regarding these reporting requirements please contact Optimum Technology at (866) 683-9771 or email tnrxreport@otech.com.

REMINDER REGARDING CONTINUING MEDICAL EDUCATION

Change in Continuing Medical Education Rule: The Board's Rule regarding continuing medical education requires all licensees to complete forty (40) hours of continuing medical education courses during the two (2) calendar years (January 1 – December 31) that precede the licensure renewal year. Now, pursuant to Rule 1050-2-.1(a) **at least one (1) of the forty (40) required hours shall be a course designed specifically to address prescribing practices.**

The Board's administrative office randomly audits licensees to assure compliance. Should you fail to acquire the required continuing medical education you will face disciplinary action which is reportable on the Department of Health's Web site and its Monthly Disciplinary Action Report.

You can view this Rule in its entirety at the Web site: <http://www.state.tn.us/sos/rules/1050/1050-02.pdf> **beginning at page 27.** This rule will apply to licensees renewing in January, 2008 and thereafter.

TENNESSEE WEB IMMUNIZATION SYSTEM

Since 2003, the Tennessee Department of Health has offered many providers access to the State Immunization Registry. The Tennessee Web Immunization System (TWIS) allows users to perform a number of operations: to conduct patient searches, verify patient immunization information is accurate and complete, update patient information, print pre-populated school certificates for daycare and school, and initiate new patient records. Users may also get access to the latest links to other Web sites as indicated to get more specific information on vaccines, vaccination strategies or current information from the Tennessee Immunization Program.

With over 2,500 users and 900 providers, TWIS users have helped to increase the number patients in the registry to 1.4 million patients and 12 million vaccinations. With its simple, easy to use screens and sources for credible and secure information, TWIS can effectively reduce wasted time by reducing the number of calls to the local health department for immunization records and increase office productivity.

To register for TWIS online go to <https://twis.tn.gov>. For more information please contact us via e-mail at healthimm@state.tn.us or by phone 1-888-894-7435.

CONSUMER RIGHT-TO-KNOW

The Health Care Consumer Right-to-Know Act of 1998, T.C.A. § 63-51-101 et seq., requires physicians **who have submitted information to 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. Failure to comply with the requirement to update profiling information constitutes grounds for disciplinary action against your license.**

Visit the Web site at: <http://health.state.tn.us/Downloads/g6019027.pdf> for information on updating your practitioner profile.

CHANGE OF ADDRESS

A 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 Web site: www.state.tn.us/health

STATUTORY CHANGES OF INTEREST TO TENNESSEE PHYSICIANS

The 2008 Legislative Session has ended, and the Board of Osteopathic Examinations' administrative staff has monitored several bills that are of interest to physicians in the state of Tennessee. Below is a brief summary of those bills. If you wish to review any of these Public Chapters in their entirety, please visit: <http://www.tennessee.gov/sos/acts/index.htm>.

Public Chapter 927

LEVEL II OFFICE BASED SURGERY

On October 1, 2008, Public Chapter 927 will become effective requiring physicians who perform Level II office based surgery to so report at the time of initial application, reinstatement or renewal of a medical license. Level II office based surgery means level II surgery, as defined by the Board of Medical Examiners or the Board of Osteopathic Examination in their respective rules and regulations, that is performed outside of a hospital, an ambulatory surgical treatment center, or other medical facility licensed by the Department of Health. Under Public Chapter 927, you are required to report certain "unanticipated events" to the Board within mandated time frames of the occurrence. The complete text of the public chapter is available on the following Web site at: <http://state.tn.us/sos/acts/105/pub/pc0927.pdf>

Note: The Board of Osteopathic Examinations' rules relative to office based surgery are currently in the Attorney General's Office. Those rules can be viewed in their entirety at the Web site: http://health.state.tn.us/Downloads/Osteo_Rule052108.pdf

This Public Chapter is effective October 1, 2008.

Public Chapter 1003

RADIOLOGY ASSISTANTS

Public Chapter 1003 amended Tenn. Code Ann. §63-6-237, which governs the practice of radiology assistants. Current law requires that on or after July 1, 2007, any person seeking to become a radiologist assistant must have completed an

advanced academic program, a clinical preceptorship, and a baccalaureate degree. This Public Chapter delays that requirement until July 1, 2008. Current law requires that any person who was practicing on or before December 31, 2006 may be certified by the Board of Medical Examiners upon application and payment of the certification fee as long as he or she applies prior to December 31, 2007. This Public Chapter extends that period so that any person who practiced on or before December 31, 2007 could be certified by the board upon application and payment of the certification fee by December 31, 2009.

The complete text of the public chapter is available on the following Web site:

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

This Public Chapter became effective on May 21, 2008.

Public Chapter 921

VOLUNTEER HEALTH CARE SERVICES ACT

Public Chapter 921 enacts the "Volunteer Health Care Services Act" and provides tort liability immunity for crisis response service providers for services provided during a crisis or during trainings they perform except in certain specified instances involving unlawful or improper conduct. The complete text of the public chapter is available on the following Web site:

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

This Public Chapter became effective on July 1, 2008.

Public Chapter 747

ADVANCED PRACTICE NURSES

This Public Chapter adds a new subsection to Tenn. Code Ann. § 48-249-1109 allowing Advance Practice Nurses ("APNs") to enter into PLLCs with allopathic and osteopathic physicians. This gives APNs the ability to enter into PLLCs with physicians. The complete text of the public chapter is available on the following Web site:

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

This Public Chapter became effective on April 10, 2008.

Public Chapter 891

RADIOLOGY

This Public Chapter permits private entities to enforce non-compete agreements against radiologists for a period of two years or less and within a restricted geographic area surrounding the primary practice site. Faculty practice plan non-compete agreements against radiologists would have the same listed restrictions as private entities, but may also include additional restrictions that are reasonable and do not infringe on the public interest. The complete text of the public chapter is available on the following Web site:

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

This Public Chapter became effective on July 1, 2008.

Public Chapter 768

HEARING SCREENING OF NEWBORNS

Every newborn infant shall be screened for hearing loss in order to prevent the consequences of unidentified hearing loss unless the parent or parents of the child object on the grounds that the test would conflict with the parent or parents' religious tenets or practices. The complete text of the public chapter is available on the Web site at: <http://state.tn.us/sos/acts/105/pub/pc0768.pdf>

This Public Chapter became effective on July 1, 2008.

Public Chapter 874

DEPARTMENT TO CONSULT WITH PEDIATRIC GROUPS

This new Public Chapter requires the Department of Health to consult with organizations representing Tennessee pediatricians to develop standards for dissemination of information regarding conditions and diseases which commonly affect newborns, including respiratory syncytial virus (rsv).

The complete text of the public chapter is available on the Web site at: <http://state.tn.us/sos/acts/105/pub/pc0874.pdf>

This Public Chapter became effective on July 1, 2008

RULE CHANGES OF INTEREST TO LICENSEES

The Board has adopted new Rules physicians should be aware of:

Office Based Surgery

The Board has promulgated rules relative to office based surgery. The rules are currently under review in the Office of the Attorney General. The rules can be seen in their entirety on the Web at: http://health.state.tn.us/Downloads/Osteo_Rule052108.pdf

If you anticipate performing office based surgery at Level III, it is imperative that you read, understand and strictly comply with these rules.



DISCIPLINARY ACTION 2008

The Board took action against the following osteopathic physicians during 2008:

Eugene, Beatrice, D.O. – Date of Action: 5/21/08. License suspended, stayed, and placed on probation for no less than

three (3) years to run concurrent with Florida action. Unprofessional, dishonorable or unethical conduct; action in another state.

Floyd Brown, D.O. – Date of Action: 3/5/08. License revoked; assessed costs. Unprofessional, dishonorable or unethical conduct; violation or attempted violation, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate, any provision of this chapter or any lawful order of the board issued pursuant thereto, or any criminal statute of the state of Tennessee; and conviction of a felony, conviction of any offense under state or federal drug laws, or conviction of any offense involving moral turpitude.

John Daly, D.O. – Date of Action: 8/13/08. License revoked. Unprofessional, dishonorable or unethical conduct; violation

or attempted violation, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate, any provision of this chapter or any lawful order of the board issued pursuant thereto, or any criminal statute of the state of Tennessee; and conviction of a felony, conviction of any offense under state or federal drug laws, or conviction of any offense involving moral turpitude.

Stephen Johnson, D.O. – Date of Action: 5/21/08. Letter of Reprimand, assessed \$500.00 in civil penalties, plus costs. Conduct in violation of T.C.A. 63-9-111(b)(1).

Robert Sylvester, D.O. – Date of Action 5/21/08. License placed on probation for no less than five (5) years; must meet certain terms and conditions; assessed case costs. Unprofessional, dishonorable or unethical conduct.

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