

Tennessee Board of Osteopathic Examination



Newsletter



Summer/Fall 2007

A regulatory agency of the State of Tennessee

Vol 1, No 2

Bureau of Health Licensure and Regulation • Health Related Boards • 227 French Landing, Suite 300, Heritage Place MetroCenter, Nashville, TN 37243
Phone: (615) 532-4384 - Toll Free: (800) 778-4123 ext. 24384 - Fax: (615) 253-4484 - tennessee.gov/health

Important Message from the Tennessee Board of Pharmacy Regarding the Controlled Substance Database

The Tennessee Board of Pharmacy has announced the release of phase II of the Controlled Substance Monitoring Program. This phase will allow authorized users to access the database to track the prescribing and dispensing of controlled substances to his/her patients.

Please note that Tenn. Code Ann. § 53-10-306(4) provides that a licensed medical practitioner having the authority to dispense controlled substances may access information in the database "to the extent that the information relates to a current patient to whom the practitioner has dispensed, is dispensing or considering dispensing any controlled substance." If you wish to view all of the laws governing the database, you may do so by visiting the following website: <http://state.tn.us/commerce/boards/pharmacy/bdLexisnexis.html>.

The notification to practitioner concerning this program will be phased in by county starting with Middle Tennessee then West Tennessee and then East Tennessee. This process could take as long as 6 weeks. Please have patience while the Board of Pharmacy begins this new program.

In order to request information from the database you must first obtain a password. You may obtain a password by filling out the registration page located at <https://prescriptionmonitoring.state.tn.us> under the heading "Not a User? Register to become a user." Then choose "practitioner" from the pull-down menu under the heading "User Job". Enter the information requested in all of the fields and then click the submit button. A user name, a temporary password and all future correspondence will be sent to you through the email address supplied on your registration form. If you wish to change the form in which you receive communications, please go to "My Account" and then "Preferences". The options available are e-mail, fax or message center.

Once you have received a user name and password you may access the database at <https://prescriptionmonitoring.state.tn.us>. When you log onto the system for the first time, you will be asked to change your temporary password. You

can change your password by clicking on the heading "My Account" and then "Change Password". You may submit requests for patient information by filling out an electronic request form or by submitting a fax request. To submit an electronic request please go to the heading "Request" and fill out the request form and hit "Submit". You must then choose the type of request "Patient or Practitioner". You must also check a certification box indicating that you have the legal authority to receive this information. Choose a report format (Excel or PDF) in which you would like to view the report and then click the Submit button. The report will be automatically generated. Please note you will receive the report via the method you chose during the registration process. If you need to change the Preferred Response Type, please Log onto the TN PMP Web Center portal and then go to My Account then Preferences. The three types of response are e-mail, fax or message center.

Although the Board of Pharmacy is now housed with the Department of Health and not the Department of Commerce and Insurance effective July 1, 2007, the Board of Pharmacy will still be responsible for the administration of the database.

If you have any questions, please do not hesitate to contact Kolleen Matthews at:

Phone Number: (615) 253-8542

Fax Number: (615) 253-8782

Email: Controlled.SubstanceDatabase@state.tn.us

TN Board of Pharmacy Website:
<http://health.state.tn.us/Boards/Pharmacy/index.shtml>
(click on Noteworthy)

Requests for information will not be accepted by phone or by email. Results cannot be provided by phone or email, but will be electronically submitted through the controlled substance database portal or faxed directly to the requestor.

Thank you for your involvement in this matter. The Tennessee Board of Pharmacy is committed to its mission to protect the public health, safety and welfare.



ABOUT THE BOARD

Current Composition of the Board

The Board of Osteopathic Examination is currently composed of the following members Jill Robinson, D.O., President; Donald H. Polk, D.O., Vice-President and Secretary; Paul G. Smith, Jr., D.O.; Rafael M. Sanchez, D.O.; Karen Sheppard, D.O.; and Janis E. Hinton, Public Member.

BOARD MEETING DATES

November 14, 2007

March 5, 2008

August 13, 2008

November 12, 2008

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 website. [In the event of an electronic meeting, a conference room is made available to the public and is the location from which the electronic meeting is conducted.]

STATUTORY CHANGES OF INTEREST TO TENNESSEE PHYSICIANS

The 2007 Legislative Session has ended, and the Board of Osteopathic Examination's 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 83 The General Assembly passed a new law this legislative session that mandates health care practitioners shall 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 should be operational in October 2007 and the Department will mail 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. **Effective July 1, 2007.**

Public Chapter 154 This chapter requires all providers of healthcare services of prenatal care of pregnant women to test for human immunodeficiency virus (HIV), except in cases when the woman refuses. Testing shall occur as early in the pregnancy as possible and again during the third trimester. Women who present for delivery and have no documentation supporting a negative test for HIV and have not been tested during the last trimester shall be tested. If a woman refuses

such test, she must be counseled regarding consequences of exposure of her unborn child to HIV. **Effective May 15, 2007.**

Public Chapter 182 This is the Department's "criminal activity report" bill which authorizes all licensing agencies attached to the Department to adopt rules to require criminal background information prior to issuance of a license. This bill gives the agencies alternatives to the existing TBI criminal background check. It requires the costs of any such information gathering to be paid by the applicant and provides immunity from lawsuits for agencies who deny licensure based upon the information received. **Effective May 16, 2007.**

Public Chapter 196 Provides that civil penalties assessed pursuant to any provision of the law authorizing the assessment of civil penalties by any board, council or committee attached to the Department, will become final, due and payable on the date that the order in which the penalty is assessed becomes final pursuant to the Uniform Administrative Procedures Act. It also authorizes the department, boards, councils and committees to order or enter into an agreement for the payment of assessed civil penalties in installments that are due and payable beyond the date on which the assessment becomes final. **Effective May 21, 2007.**

Public Chapter 265 Requires that the maximum amount of costs to be assessed against a Respondent be contained in the order when issued and followed up by an exact amount equal to or less than that contained in the order within 60 days of the effective date of the original order. **Effective date July 1, 2007.**

Public Chapter 298 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, however they had not be 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 in Tennessee law it was still 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 still listed as Schedule III. PC 298 now matches DEA and Glutethimide (Doriden) is Schedule II.
- Buprenorphine (Suboxone or Subutex) is a DEA Schedule III, however TN had it listed as Schedule V. PC 298 changed it to a Schedule III in TN.
- 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 III in both TN and DEA. **Effective June 1, 2007.**

Public Chapter 324 This Chapter allows speech language pathologists (under certain circumstances) to use rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing for the purpose of functional assessment, and rehabilitation planning. **Effective June 1, 2007.**

Public Chapter 365 Requires that a health insurance entity, whether or not a participating organization in the CAQH must, within 90 days of the completed application, notify the health care provider of the results of the provider's CAQH clean credentialing application and notify the healthcare provider as to whether or not the health insurance entity is willing to contract with the provider. It also provides that unless required by a national health insurance entity accrediting body, a health insurance entity may not mandate, in order to process a credentialing application, that a health care provider have an active malpractice insurance policy and bear the unnecessary costs of the premiums before the provider's employment start date; and no health insurance entity may indicate that a health care provider is an in-network provider or that the provider's credentialing application is pending approval until such time as a contract is signed by both the provider and the health insurance entity. **Effective date October 1, 2007.**

Public Chapter 373 Osteopathic Physicians who intend to do office based surgery now have the statutory authority to do so. Pursuant to Public Chapter 373, any physician licensed to practice medicine and surgery in the state of Tennessee who elects to perform surgery in his or her office rather than a hospital, abortion clinic, or ASTC, that licensee or the governing body of the entity lawfully authorized to practice medicine wherein the surgery is to be performed must comply with this Chapter. If you intend to perform office based surgery, it is imperative that you obtain a copy of this statute and adhere to it strictly. It is also imperative that you understand what is included in the definition of surgery covered by this statute. The effective date of the Statute is June 7, 2007. The Board of Osteopathic Examination will promulgate rules to implement the statute by October 1, 2007.

Public Chapter 391 Declares that it is public policy to promote communication between treating health care professionals and removes the legal barriers created by the Givens case (implied covenants of confidentiality) that prevented treating health care professionals from communicating with each other and allows hospitals access to health care providers who make entries in hospital patient medical records for information regarding the entries made in those records. **Effective date July 1, 2007.**

Public Chapter 393 Corrects a problem in the original bill from two years ago which did not clearly state its grandfathering provisions for radiology assistants. **Effective date June 11, 2007.**

Public Chapter 407 Transfers the Board of Pharmacy from the Department of Commerce and Insurance to the Department of Health under the administrative authority of the Division of Health Related Boards. **Effective date July 1, 2007.**

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

(2) "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

(7) "Health care facilities". (Nursing homes and long-term care facilities are exempted)

The legislation requires offices and health care facilities to 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. **Effective Date – October 1, 2007.**

Public Chapter 424 Clarifies reasonable fees for reproduction of medical records: a fee of eighteen dollars (\$18.00) which shall include the first five (5) pages of the medical record and a per page charge of eighty-five cents (85¢) a page for the sixth page up to and including the fiftieth page; sixty cents (60¢) a page for the fifty-first page up to the two hundred fiftieth page and thirty-five cents (35¢) a page for all pages thereafter. A fee for certifying medical records may also be charged not to exceed twenty dollars (\$20) for each record certified. **Effective July 1, 2007.**

Public Chapter 446 Effective July 1, 2007, all physicians licensed by the State of Tennessee Board of Osteopathic Examination shall post a sign(s) in their main public entrance containing the following information:

1. The statewide toll-free number of the Tennessee Division of Adult Protective Services (APS), **1-888-APS-TENN (1-888-277-8366)**, the number for the local district attorney's office and a statement that a person of advanced age who may be the victim of abuse, neglect, or exploitation may seek assistance or file a complaint with the APS Division concerning such; and,
2. A statement that any person, regardless of age, who may be a victim of domestic violence may call the

nationwide domestic violence hotline, 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY), for immediate assistance, with the hotline number printed in boldface type; and,

3. A statement that a teen involved in a relationship that includes dating violence may also call the national toll-free domestic violence hotline or the national teen dating abuse helpline, 1-866-331-9474, for immediate assistance.

You may choose to post this information on separate signs or combine it into one sign. Should you choose to post separate signs, the information in Item one (1) must be on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height. The information in Items two (2) and three (3) must be on signs no smaller than eight and one-half inches (8½") in width and eleven inches (11") in height.

Should you choose to combine all of this information into one sign, it must be at least eight and one half inches (8½") in width and fourteen inches (14") in height.

[Toll-Free Hotline Numbers Sign](#). If you wish to have a copy of this statement mailed to you, please contact the State of Tennessee Board of Osteopathic Examination toll-free at 1-800-778-4123 or 1-615-532-4384 to request the Toll-Free Hotline Numbers Notice. **Effective date July 1, 2007.**

Public Chapter 458 Makes it an offense for any person whose clinical visit or prescription is paid for by TennCare to fail to notify the prescriber of a controlled substance that the person has received a similar prescription from another provider in the previous 30 days. **Effective June 18, 2007.**

Public Chapter 464 Requires Economic Impact Statement preparation and dissemination during rulemaking process for all rules affecting small businesses. Similar to, but different from, Executive Order 38. **Effective date June 21, 2007.**

Public Chapter 469 Creates the Polysomnography Practice Act and establishes 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. **Effective date July 1, 2007.**

Public Chapter 498 Authorizes electronic Internet access to the Controlled Substance database and restricts the use by practitioners and pharmacists to patient specific information received from the database. **Effective date June 7, 2007.**

Public Chapter 518 Transfers the controlled substance database and the rulemaking authority for its operation from the Department of Commerce and Insurance to the Department of Health. **Effective date June 25, 2007.**

Public Chapter 529 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 they show they no longer employ, recruit or refer for a fee for employment, an illegal alien. This can be made by the person filing a sworn statement that they no longer employ 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. **Effective January 1, 2008.**

Public Chapter 530 This Chapter enacts the Tennessee Nurse Home Visitor Program Act. The nurse home visitor program will provide regular, in-home, visiting nurse services to low-income, first-time mothers, with their consent, during their pregnancies and through their children's second birthday. The program provides trained visiting nurses to help educate mothers on the importance of nutrition and avoiding alcohol and drugs, including nicotine, and to assist and educate mothers in providing general care for their children and in improving health outcomes for their children. In addition, visiting nurses may help mothers in locating assistance with educational achievement and employment. Any assistance provided through the program shall be provided only with the consent of the low-income, first-time mother, and she may refuse further services at any time. **Effective July 1, 2007.**

Public Chapter 579 Enacts the Uniform Emergency Volunteer Health Practitioners Act under which provisions are made to more easily move health care practitioners into the state from other states during an emergency. It is a Uniform Act suggested for adoption in all states to help alleviate the problems encountered after Hurricanes Katrina and Rita. **Effective date July 1, 2007 for rules and for all other purposes, January 1, 2008.**

RULE CHANGES OF INTEREST TO LICENSEES

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-.12(1)(b) **at least one (1) of the forty (40) required hours shall be a course designed specifically to address prescribing practices.** This rule will apply to licensees renewing in January, 2008 and thereafter.

You can view this Rule in its entirety at <http://www.state.tn.us/sos/rules/1050/1050-02.pdf> beginning at page 25.

Changes in Rules regarding Medical Professional Corporations. The Board's Rules regarding medical professional corporations and medical professional limited

liability companies have been rewritten to conform to the new PLLC.

You can view this Rule in its entirety at <http://www.state.tn.us/sos/rules/1050/1050-02.pdf> beginning at page 41.

Use of Titles: Any person who possesses a valid, unsuspended and unrevoked license issued by the Board has the right to use the titles "Osteopathic Physician," "Osteopathic Physician and Surgeon," "Doctor of Osteopathic Medicine," "Doctor of Osteopathy," or "D.O." and to practice osteopathic medicine, as defined in T.C.A. §§ 63-9-106. Violation of this rule regarding use of titles shall constitute unprofessional conduct and subject the licensee to disciplinary action.

You can view this Rule in its entirety at <http://www.state.tn.us/sos/rules/1050/1050-02.pdf> beginning at page 34.

Use of Laser Equipment: Any procedure encompassed within the definition of the practice of osteopathic medicine contained in T.C.A. § 63-9-106 that is to be performed by use of a laser shall be considered, except as provided in T.C.A. §§ 63-26-102 (5) and 63-6-204, to be the practice of osteopathic medicine.

You can view this Rule in its entirety at <http://www.state.tn.us/sos/rules/1050/1050-02.pdf> beginning at page 34.

ATTENTION TENNCARE PHARMACY PROVIDERS

On September 29, 2007, the federal government passed a bill that delayed the implementation date for TennCare prescriptions to be written on Tamper Resistant Prescription pads by 6 months. As a result of this delay, **TennCare prescriptions will not be required to contain at least one tamper resistant feature as of October 1, 2007.** Therefore,

contrary to the directives in recent TennCare notices, pharmacies should not begin to deny prescriptions for TennCare recipients on October 1, 2007 if they are written on a non-tamper resistant pad. In addition, pharmacies should not distribute the Non-Tamper Resistant Denial Notice to TennCare recipients. **Please alert your staff to this change in the effective date of the tamper resistant prescription requirement** so that TennCare patients may continue to receive prescriptions under their covered pharmacy benefit without any unnecessary delays.

TennCare will continue to notify pharmacy providers as they receive additional guidance from CMS on how and when to best implement requirements related to Tamper Resistant Prescription pads.

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. Of course you can e-mail the Board at: TN.Health@state.tn.us.

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

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

■ ■ ■

Tennessee Department of Health
Board of Osteopathic Examination
227 French Landing, Suite 300
Heritage Place Metrocenter
Nashville, TN 37243

Tennessee Board of Osteopathic Examination Board Members

Jill Robinson, DO
President
Morristown, TN

Donald H. Polk, DO
Vice-President/Secretary
Waynesboro, TN

Paul G. Smith, Jr., DO
Cleveland, TN

Rafael M. Sanchez, DO
Trenton, TN

Karen R. Shepherd, DO
Dunlap, TN

Janis Hinton
Clarksville, TN

Board Staff

Dave Hoffman
Administrator

Rosemarie Otto
Executive Director

Marsha Arnold
Unit Manager

Rolanda Stewart
Licensing Technician

Carolyn Jones
Licensing Technician

