



TENNESSEE BOARD OF PHARMACY

newsletter to promote pharmacy and drug law compliance

Board of Pharmacy Legislative Update – 2021

Public Chapter 37

This act prohibits agencies subject to sunset review from promulgating rules or adopting policies to exempt members solely by virtue of their status as members. This act took effect on March 23, 2021.

Public Chapter 136

This act was one of the Tennessee Department of Health's (TDH's) legislative initiatives, relative to the Controlled Substance Monitoring Database (CSMD). First, the act authorizes the state's chief medical examiner or county medical examiner to allow designees to approve death investigations. Next, this act allows de-identified CSMD data, rather than only aggregate, to be shared, with the intent of improving information access. Additionally, this act allows for CSMD data to be shared with additional state, county, or federal agencies outside of Tennessee. Lastly, this act decreases the quorum requirements of the CSMD committee by one member, but still have a majority of members present to conduct regular committee business (six). This act took effect on April 13, 2021.

Public Chapter 149

This act makes changes in the process of regulating compounding pharmacies. First, this act requires that prior to renewing or applying for licensure in Tennessee, an out-of-state pharmacy practice site must submit to the Tennessee Board of Pharmacy its most recent inspection by the regulatory agency of its respective state, conducted within the past year. It also authorizes the Board to request more information if needed. Second, it requires the out-of-state pharmacy to notify the Board within 14 business days of receipt of any order or decision by any regulatory agency in its state, rather than simply its in-state licensing entity. Lastly, rather than a quarterly report on the quality of products dispensed, this act requires out-of-state pharmacies that engage in sterile compounding to make this information available to the Board upon request and in a timely manner as defined by the Board. A pharmacy that engages in sterile compounding, except hospital pharmacies compounding for

inpatients of a hospital, shall make the quantity of sterile compounded products available to the Board upon request. However, the executive director of the Board may request the information from a hospital pharmacy for cause. This act took effect on April 13, 2021.

Public Chapter 179

This act authorizes unlicensed graduates of certain medical training programs to provide telehealth services, provided they maintain the same existing standards for telehealth that licensed providers must meet. This act took effect on April 20, 2021.

Public Chapter 230

This act revises the definition of marijuana to clarify that it does not include a product approved as a prescription by Food and Drug Administration. This act took effect on April 22, 2021.

Public Chapter 242

This act authorizes records custodians to petition a court for injunctive relief from individuals making frequent public records requests with the intent of disrupting government operations, following a fifth public records request. A records custodian can only petition a court if they notify the person in writing, stating the specific conduct that may constitute intent to disrupt government operations, and that the person continues to do so. The individual, upon a court injunction, would not be able to make public requests at the agency for up to one year. This chapter took effect on April 28, 2021, and will sunset July 1, 2025.

Public Chapter 291

This act requires the attorney general and reporter to not approve an emergency rule if the emergency rule does not meet the statutory criteria for adoption of the rule. This act took effect on July 1, 2021.

Public Chapter 328

This act requires that, starting December 1, 2023, state agencies submit a report of their effective rules to the chairs of the Government Operations Committee every eight years. The report is required to include a brief description of the department's operations that each chapter affects, as well as each rule and its administrative history, which would include the original promulgated date and the dates the rule was last amended, if applicable. Additionally, the report would include a determination of each rule on whether it adheres to current state or federal law or court rulings, should be amended or repealed, reviewed further, or continue in effect without amendment. Lastly, if there are any intentionally false statements in the report, the Government Operations Committee would have the ability to vote to request that the general assembly remove a rule or suspend the department's rulemaking authority for any reasonable period. This act took effect on July 1, 2021.

Public Chapter 346

This act was one of the Division of TennCare's legislative initiatives, relative to collaborative pharmacy practice agreements. In doing so, it authorizes the chief medical officer of TDH to implement a statewide collaborative pharmacy practice agreement specific to the distribution and administration of the coronavirus disease 2019 (COVID-19) vaccine, to be reimbursed through TennCare. This act requires pharmacists to maintain copies of the agreement and documentation of the vaccine administration training program on file and make them available to TDH on request. This act took effect on May 6, 2021.

Public Chapter 453

This act requires public or private entities or businesses that operate a building open to the general public to post signage regarding public restroom access in certain situations. Specifically, this applies to entities or businesses that have restroom policies allowing members of either biological sex to use any public restroom within their building. The act includes requirements for language, size, location, and even color for the signage. The act excludes unisex, single occupant restrooms, or family restrooms intended for use by either sex. This act took effect on July 1, 2021.

Public Chapter 461

This act requires TDH licensing authorities, upon learning that a health care prescriber was indicted of certain criminal offenses (controlled substance (CS) violations or sexual offenses), to automatically restrict the prescriber's ability to prescribe Schedule II CS until the case reaches a final disposition. The restriction shall be removed upon sufficient proof of acquittal or dismissal/nolle prosequi. The act further requires licensing authorities to automatically revoke the license of a practitioner who is convicted of those same criminal offenses. A new license shall be granted if the conviction is overturned or reversed (but shall be restricted related to prescribing if the case has not reached final disposition). In addition, the act requires the licensing authority to suspend the license of a mid-level practitioner (advanced practice registered nurse/physician assistant) upon finding the health care professional failed to comply with physician collaboration requirements. Finally, this act requires that facility administrators report certain disciplinary actions concerning licensed personnel to the professionals' respective boards. This act took effect on May 18, 2021.

Public Chapter 513

This act prohibits Governor Bill Lee from issuing an executive order and a state agency, department, or political subdivision from promulgating, adopting, or enforcing an ordinance or resolution that requires a person to receive an immunization, vaccination, or injection for the SARS-CoV-2 virus or any variant of the SARS-CoV-2 virus. It also deletes the previous override during an epidemic or immediate threat of an epidemic of an objection against vaccination that was made based on religious tenets. The law prohibits requiring the COVID-19 vaccine to attend k-12 schools. The prohibition against

requiring vaccines does not apply to governmental entities subject to federal or state statute or rule that prohibits the entity from requiring medical treatment for those who object on religious grounds or right of conscience. The law also does not apply to students of a public institution of higher education delivering health care services when the student is participating in/fulfilling requirements of a program in medicine, dentistry, pharmacy, or another health care profession. This act took effect on May 25, 2021.

Public Chapter 531

This act limits an agency's authority to promulgate rules without a public hearing. There are exceptions to the public hearing requirement. These exceptions include emergency rules, rules that are non-substantive modifications to existing rules (like clerical updates), rules that repeal existing rule, or rules that eliminate or reduce a fee described by an existing rule. This act took effect on July 1, 2021.

Public Chapter 532

This act authorizes the joint Government Operations Committee to stay an agency's rule from going into effect for a period not to exceed 90 days. If the Government Operations Committee determines that subsequent stays are necessary, then the joint committee may issue consecutive stays – each for an additional 90-day period – so long as such stays do not extend beyond the fifth legislative day of the year following the year in which the rule is filed with the Secretary of State. The initial stay may be done by either the House or Senate Government Operations Committee, but subsequent stays must be by agreement by the committees of both chambers. A stay is effective when the respective committee files written notice with the Secretary of State, and the respective committee shall specify the length of effectiveness of the stay. This act took effect on May 25, 2021.

Public Chapter 577

This public chapter establishes a medical cannabis commission, which is administratively attached to TDH for purposes of budgeting, audit, use of IT systems, HR support, clerical assistance, and administrative support. The commission is composed of nine members. The governor appoints three members (one from each grand division); the lieutenant governor appoints three members (one must be a physician and one a pharmacist); and the speaker of the House appoints three members (one must be a physician and one a pharmacist). The commission must be impaneled and hold its first meeting by October 1, 2021. The commission is required to meet at least once every two months prior to March 2023. The commission shall appoint an executive director.

The commission is to examine federal laws and other states' laws regarding medical use of cannabis, including issues relating to patient qualification, patient registration, the role of practitioners in recommending/prescribing, establishing guidelines for acceptable medical uses, the development of a standard of care, etc. This act took effect on May 27, 2021.

Additional public chapters are located [here](#).

Required Statute Regarding Background Checks

The Board office reminds registrants to review Tennessee Code Annotated (TCA) §63-1-149 regarding background registry and background checks as follows:

TCA §63-1-149. Registry check.

- (a) On and after October 1, 2010, before employing or contracting with any person who would be providing direct patient care, for whom a background check has not been completed, a health care professional licensed under any chapter of this title or title 68, chapters 24 and 140, shall initiate and perform a 'registry check' which for the purposes of this section is defined as:
 - (1) A state-by-state look in any state in which the person has lived in the previous seven (7) years of the national sex offender public registry website coordinated by the United States department of justice, including, but not limited to, the sexual offender registry maintained by the Tennessee bureau of investigation pursuant to title 40, chapter 39, part 2; and
 - (2) Any adult abuse registry maintained for any state in which the person has lived in the previous seven (7) years; and
 - (3) The department of health's elder abuse registry established pursuant to title 68, chapter 11, part 10.
- (b) Should an applicant be listed on any of the registries listed in subdivisions (a)(1)-(3), the health care professional shall not employ or contract with the person if the person would be providing direct patient care.
- (c) A health care professional who complies with the requirements to perform registry checks under subsection (a), or relies on a documented representation provided by an entity with which the health care professional contracts that the person who will work in the office is not on any of these registries, shall not be subject to civil or criminal liability solely based upon the information provided through a registry check under this section. This immunity shall extend to a claim related to the professional's refusal to employ or contract with a person based on information obtained from a registry check.
- (d) This section is not intended to apply to contracted, external staff who provide such services as cleaning services, maintenance of office or medical equipment or other services where direct patient contact is not intended.
- (e) This section shall not apply to health care professionals licensed chapter 12 of this title.
- (f) The department of health shall post no later than October 1, 2010, in a conspicuous location on its website as well as the website of each applicable licensing board a link to all potential databases the health care professional would be required to check pursuant to subsection (a). In addition, each applicable licensing board shall notify all of its licensees at least annually through board newsletters of their obligations under this section.

The Use of Triplicate DEA Form 222 to Expire

Per Title 21 Code of Federal Regulations **§1305.20 Transition provisions allowing continued use of existing stocks of triplicate DEA Forms 222**, “Registrants may continue to use existing stocks of the triplicate DEA Form 222 **until October 30, 2021.**”

After that date, the registrant must use the new single-sheet Drug Enforcement Administration (DEA) Form 222. Supervisory diversion investigators for both the Middle and West Tennessee DEA offices have advised registrants to order the new single-sheet form and send blank triplicate forms back to either of the addresses listed below. Void the forms before sending. The investigators indicated that the voided forms may also be kept and stored at the registrant’s site. To order the new single-sheet forms, click [here](#).

- **West Tennessee Office:** DEA/Attn: Diversion Group
50 North Front Street, Suite 500
Memphis, TN 38103
- **Middle Tennessee Office:** DEA/Attn: Diversion Group
457 McNally Drive
Nashville, TN 37211

Tennessee Pharmacy Recovery Network

If you need help with addiction or know an associate (pharmacist or pharmacy technician) who does, please contact Dr Baeteena Black, Tennessee Pharmacy Recovery Network (TPRN) program director, by phone at 615/256-3023 or by email at bblack@tnpharm.org. More information, including the reporting form, is located on the TPRN [website](#).

Disciplinary Actions

For disciplinary actions taken against registrants licensed with the health-related boards, click [here](#).

Board Meeting Schedule

The Board extends an open invitation for all registrants and the general public to attend its public meetings at 665 Mainstream Drive, Nashville, TN 37243. The meetings are currently scheduled to begin at 9 AM. It is advised to check for schedule changes on the Board website under the [Meeting Schedule](#) tab.

The 2021 meeting schedule is as follows:

- September 14-15
- November 16-17

The 2022 meeting schedule is as follows:

- January 11-12
- March 8-9
- May 10-11
- July 12-13
- September 13-14
- November 8-9

Tennessee Board of Pharmacy Members

- Dr Katy Wright, President
- Dr Adam Rodgers, Vice President
- Dr Melissa McCall, Board Member
- Dr Richard Breeden, Board Member
- Dr Shanea McKinney, Board Member
- Dr Rissa Pryse, Board Member
- Mr Jake Bynum, Public Member

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<https://www.tn.gov/health/health-program-areas/health-professional-boards/pharmacy-board.html>
