



Controlled Substance Monitoring Database (CSMD)  
Committee Meeting Minutes  
July 25, 2017

**MEMBERS PRESENT**

Mr. Brent Earwood, Board of Nursing, Chairperson  
Dr. R. Michael Dickenson, Board of Pharmacy  
Dr. Brad Lindsay, Board of Optometry  
Ms. Lisa Tittle, Board of Pharmacy  
Dr. Shant Garabedian, Osteopathic Board  
Mr. Omar Nava, Committee on Physician Assistants  
Mr. Robert Ellis, Board of Medical Examiners

**MEMBERS ABSENT**

Dr. Katherine Hall, Board of Dentistry  
Dr. Sheila Schuler, Podiatry Board  
Dr. Kimberly Johnson, Board of Veterinary Medicine  
Dr. Melanie Blake, Board of Medical Examiners

**STAFF PRESENT**

Dr. D. Todd Bess, Director of Controlled Substance Monitoring Database  
Dr. Mitchell Mutter, Medical Director for Special Projects  
Mr. Andrew Coffman, Attorney, Office of General Counsel  
Ms. Debora Sanford, Project Manager  
Ms. Antoinette Welch, Director, Office of Investigations  
Ms. Tracy Bacchus, Administrative Assistant

The CSMD Committee convened on Tuesday, July 25, 2017, in the Iris Room, 665 Mainstream, Nashville, TN. Mr. Earwood called the meeting to order at 9:05 a.m. and the members introduce themselves. The controlled substance committee did not have a quorum so the minutes will have to be table until the October meeting.

Mr. Earwood mention to the group that we are live streaming so please make sure the green light is on and speak into microphone.

**Legislative Update – Jeremy Davis**

**Public Chapter 329**

This Public Chapter is known as the Visiting Sports Team Act. This legislation allows physicians licensed in other states to practice in Tennessee without a Tennessee license if the physician is providing care to team members and coaching staff at a specific sporting event, or the physician is providing services to athletes and coaching staff at an event or competition at a national sports training center. The licensure exemption may not exceed 10 days unless extended by the BME and cannot exceed 30 days in a calendar year.

Physicians exempt under this law may not dispense or administer controlled substances unless it is to an athlete or coach over the age of 18 and the physician reports it to the controlled substance database in the physician's state of licensure. This law was enacted on May 9, 2017 for the purposes of rulemaking but, for all other purposes, does not take effect until January 1, 2018.

**Public Chapter 112**

As enacted, this legislation requires the commissioners of TDH and TDMHSAS to produce guidelines on nonresidential buprenorphine treatment by January 1, 2018 that prescribers can use as a guide to caring for patients, and annually update those guidelines. The commissioner of TDMHSAS shall submit the guidelines to the BME and each health-related board licensing buprenorphine prescribers. These boards shall review the guidelines and determine how they should be used by the board's licensees as well as post the guidelines on the board's website. This law took effect on April 7, 2017.

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**Public Chapter 420**

This Act creates a state palliative care and quality of life task force with the administrative support of the Commission on Aging and Disability. The task force is charged with:

- Assessing the current status of palliative care in Tennessee
- Examining the existing barriers, services, and resources addressing the needs of persons who could benefit from palliative care
- Developing recommendations to address problems associated with the availability of palliative care; and
- Recommending needed state policies or legislative remedies to enhance the delivery of palliative care in Tennessee.

This Act took effect on May 18, 2017.

**Public Chapter 334\***

This legislation revises the terminology used to describe the relationship between APRN's and physicians in certain situations and instances in the Code from "supervise, supervision, etc." to "collaborate, collaboration, etc." The situations are:

- Practice in a certified pain clinic under T.C.A. 63-3-106.
- Prescriptive services under T.C.A. 63-7-123.
- Definition of Prescription Order under T.C.A. 63-10-204.
- Collaborative Practice Pharmacy Agreements under T.C.A. 63-10-217.
- The Health Care Consumer Right-to-Know Act of 1998 under T.C.A. 63-51-115.
- Top Prescribers of Controlled Substances under T.C.A. 68-1-128.

The intent of the legislation is a change in terminology only and not to alter the relationships and responsibilities between APRN's and physicians. This legislation takes effect on July 1, 2017.

**Public Chapter 483**

This requires TDH, beginning July 1, 2017, to identify high-risk prescribers based on clinical outcomes including patient overdoses and makes the prescribers subject to selected chart review and investigation by TDH. It requires TDH, if a prescriber is identified as a high-risk prescriber, to submit the high-risk prescriber's information to the board that issued the prescriber's license for appropriate action. It requires the licensing board, upon receiving the information, to notify the prescriber, and, if applicable, the prescriber's supervising physician, of their high-risk status and require the prescriber to meet certain criteria. If a prescriber is identified as high risk, he or she must:

- Participate in additional continuing education about opioid addiction.
- Make opioid addiction literature available in the prescriber's waiting room.
- Obtain written consent from certain long-term opioid patients. This consent must be renewed every 4 weeks for patients who remain on opioid therapy.
- Comply with these requirements for one year.

All costs associated with this section are to be paid by the identified provider. Providers identified as high-risk who dispute such identification may request TDH to conduct an internal review of the

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identification, which is to be done by the Commissioner or the Commissioner's designee. Additionally, this legislation requires the Commissioner, on or before January 15, 2018, in consultation with the Perinatal Advisory Committee and with the assistance of relevant state agencies, to report to the Health Committee of the House of Representatives and the Health and Welfare Committee of the Senate concerning the aspects of births involving neonatal abstinence syndrome (NAS) and opioid use by women of childbearing age for the last two available fiscal years or calendar years. It also requires TennCare to issue RFIs for initiatives aimed at primary and secondary prevention of NAS births. This act took effect on June 6, 2017.

### **Public Chapter 392**

This legislation authorizes the Department of Health, in cooperation with the Board of Pharmacy, to establish a prescription drug donation repository program under which a person or organization may donate prescription drugs and supplies for use by an eligible nonprofit organization. The law requires these nonprofit organizations to report data to the department about the number of donors, donations, types of prescriptions and other data. The law allows donated drugs to be dispensed at no cost if they are in their original sealed packaging, are inspected by a pharmacist, and are prescribed by a healthcare practitioner and dispensed by a pharmacist. Additionally, the law provides for limited civil and criminal liability for matters related to the donation, acceptance, or dispensing of drugs pursuant to this repository program. Finally, the law allows the department of health, in consultation with the Board of Pharmacy, to promulgate rules to effectuate the purposes of this part. This act will take effect on January 1, 2018.

### **Public Chapter 355**

This was a companion bill to the drug donation repository program legislation. This act allows nursing homes to participate in the repository program. Furthermore, it directs the board for licensing health care facilities to use emergency rulemaking to permit facilities to permit the disposal of drugs by use of the repository program. This legislation took effect on May 11, 2017.

Dr. Mutter asked if he could elaborate on the drug testing legislative where the hospital can drug test its employees. Mr. Davis stated that there was a piece of legislation that passed at the end of legislative session regarding drug testing. This law allows an employer to drug test all of its employees whether it is pre-employment or drug free work place initiative. If the test comes back positive or the employee refuses the test then the employer would have three days to enter into a peer review process or that states employer would have to report that to their licensing board. For any board action, the Department of Health does not have to go seek prior approval from the Attorney General to pursue action on their license.

### **Bureau of Investigations – Antoinette Welch**

- Handed out the Chronic Pain Guidelines to the Committee
- Presented the new drug testing law
  - Her department is trying to figure out the best way to keep the prescriber from getting another job if they are addicted to drugs
  - Already received a couple of complaints from hospital and other employers related to the new law
  - Plan is to have the investigation completed within 30 days
- There have been no pain clinic audits within several months due to the law changes
  - Every clinic will need to be audited or inspected
  - Sixty-seven pain clinics need to start the process now because they will need at least ninety days before they expire
  - Inspection fees

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- \$1,500 for the renewal fee
- \$1,500 inspection fee
- \$1,000 re-inspection fee
- The pain clinic can apply for an extension on their clinic application
- Dr. Mutter mentioned that the pain clinic rules meeting will be on August 24, 2017
- Mr. Earwood asked how are the suboxone clinics regulated, and Mr. Coffman said that Mental Health and Substance Abuse should be monitoring those clinics

### **Office of General Counsel- Andrew Coffman**

- List of prescribing cases from March 2017 – May 2017
  - One nursing case agreed to probation
  - Med Choice PC dba Pro Care agreed to voluntary surrender of their pain management clinic certificate, and a \$32,400 civil penalty
  - Two BME cases one agreed to probation and the other permanent surrender their license
- The pain management clinic had a rule making hearing on July 24, 2017
- First case regarding a person failure to register in the CSMD and affirm by the Board Medical Examiners
  - PA did not registered in CSMD
  - Supervisor did not have a DEA
- The Kentucky PMP datasharing contract has come back to Andrew and is sitting on his desk
  - Security of the information
  - Two agreements need to be signed
  - Will update committee at the next meeting
- Boards are requesting CSMD Reports for applicants
  - Nursing board changed their application in March, and they are asking the question are you taking a controlled substance that impairs your ability to safely work as nurse. If the applicant answers yes then they are asking them to provide proof and some of them are asking for their CSMD report
  - Mr. Coffman states the real question is does this substance effect their ability to work as a nurse, and the physician should be the person who present this to the board.
  - Mr. Earwood wanted to the committee to discuss how to handle the increase demand for the data, and without having any limitation on what we can use it for
  - Dr. Bess mentioned that the interstate data sharing piece is something we should consider working with other states to allow someone with administrative roles to be able to pull data
  - Dr. Bess also mentioned that there was about 44% of overdose deaths in 2015 did not have data in the CSMD the preceding 60 days
  - A physician should not discount a negative CSMD report
  - After this discussion there was a consensus that the boards should receive an assessment from the persons provider when an assessment is required related to the licensee's ability to work safe while taking controlled substances.
- The Department of Health had a meeting on July 24, 2017 to discuss the pain management rules, and any concerns that individuals may have with rules
  - Bond insurance is a required piece that will make it into the rules
  - The criminal background check
  - Changing location of a pain clinic issue
  - Time required to get records for the inspection
  - How long can the alternate medical director fill in if the medical director can't

### **Medical Director for Special Projects – Dr. Mitchell Mutter**

- We had about 1,500 who watched the archive event through Vanderbilt University and received their CME credit
- Ms. Johnson has added SBIRT program to our program



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- Prescriber will receive 2.5 hours of CME for attending one of the educational efforts for 2017
  - 5/4/2017 Johnson City
  - 7/06/2017 Murfreesboro
  - 7/13/2017 Franklin Co.
  - 8/10/2017 Jackson
  - 8/22/2017 Clarksville
  - 9/21/2017 Cookeville
  - 10/5/2017 Nashville
  - 11/7/2017 Knoxville
- CDC reports that Tennessee has gone from number two to four in prescriptions in the state
- Dr. Mutter mentioned that Chief Rausch is administering naloxone every day in Knox county
- Mr. Coffman stated that Dr. Mutter, Linda Johnson, and Dr. Bess do an exceptional job going out to educating the prescribers

### **CSMD Director's Report – Dr. D. Todd Bess**

- Dr. Bess and Dr. Dilliard completed the University of Tennessee College of Pharmacy weekend updates
    - Knoxville, TN
    - Kingsport, TN
    - Jackson, TN
    - Chattanooga, TN
    - Cookeville, TN
    - Memphis, TN
    - Murfreesboro, TN
    - Nashville, TN
  - Enhancements to the CSMD
    - Created the medical examiner role
    - Created a functionality for medical examiners for users of the CSMD to identify the reason for request when request being made for a suspected overdosed or poisoning.
    - Created a CRNA roles
    - We will turn back on the dashboard to notify of high risk patients and the prescriber will receive the top 25 patients weekly in their dashboard.
  - Appriss Contract Updates
    - TDH sent the contract to our vendor on July 7, 2017 for their review and CSMD should have a response by the end of the week July 25, 2017.
    - Working with vendor to give you three different perspectives for the practitioner vs. peer report for the last six months
      - The number of patients
      - The number of prescriptions
      - Multitier MME comparison
      - Dangerous drug combinations
      - CSMD use (prescriber and their delegates)
  - Government Operation Committee is scheduled for September 19 or 20, 2017 and request our chair (or a member of CSMD Committee) there to answer questions
  - Our next meeting is scheduled for October 16, 2017
- The meeting adjourned at 11:46 a.m.