

PUBLIC CHAPTER NO. 1035

SENATE BILL NO. 3746

By Ketron, Ford

Substituted for: House Bill No. 3110

By Hood, Hardaway

AN ACT to amend Tennessee Code Annotated, Title 38; Title 53 and Title 63, relative to safeguarding and monitoring of prescription drugs.

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

SECTION 1. Tennessee Code Annotated, Title 53, Chapter 10, is amended by adding the following language as a new Part 4:

Section 53-10-401.

(a) All prescriptions written or printed by practitioners authorized to write prescriptions in the State of Tennessee shall be written on tamper-resistant prescription paper which meets the current Centers for Medicare and Medicaid Services Guidance to State Medicaid Directors regarding section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 and meets or exceeds specific TennCare requirements for tamper-resistant prescription paper.

(b) A pharmacist shall not fill a written prescription from a Tennessee practitioner unless issued on tamper-resistant prescription paper, except that a pharmacist may provide emergency supplies in accordance with TennCare or other insurance contract requirements. Nothing in this section shall be construed to impact regulations regarding verbal, facsimile, electronic, or out-of-state prescription practices.

(c) All existing statutory requirements regarding prescriber-specific information to be included on prescriptions shall also apply to tamper-resistant prescriptions.

(d) Unique serial numbers may be included on tamper-resistant prescription paper for purposes of enhancing efforts to track and enforce any potential fraud. Inclusion of such numbers on the prescription shall not be construed as obligating prescribers or pharmacists to any additional tracking, monitoring or reporting requirements and prescribers and pharmacists shall bear no responsibility or liability with respect to the potential use of these unique serial numbers for enforcement purposes.

(e) Practitioners shall utilize reasonable safeguards to assure against theft, or unauthorized use of any prescriptions.

(f) Manufacturers of tamper-resistant prescription paper shall have an annual industry-approved SAS 70 audit that shall be made available by the manufacturer upon request by the board of pharmacy. The board of pharmacy shall maintain a list of any manufacturers who fail to show proof of such audit. Such list shall be made available to prescribers and pharmacists in Tennessee in a manner deemed appropriate by the board of pharmacy.

(g) The provisions of this section shall not apply to prescriptions written by veterinarians.

SECTION 2. Tennessee Code Annotated, Section 63-3-127, is amended by adding the following as a new subsection thereto:

(d) All handwritten, typed or computer-generated prescription orders must be issued on tamper-resistant prescription paper which meets the current Centers for Medicare and Medicaid Service Guidance to State Medicaid Directors regarding section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 and meets or exceeds specific TennCare requirements for tamper-resistant prescription paper.

SECTION 3. Tennessee Code Annotated, Section 63-5-122, is amended by adding the following as a new subsection thereto:

(f) All handwritten, typed or computer-generated prescription orders must be issued on tamper-resistant prescription paper which meets the current Centers for Medicare and Medicaid Service Guidance to State Medicaid Directors regarding section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 and meets or exceeds specific TennCare requirements for tamper-resistant prescription paper.

SECTION 4. Tennessee Code Annotated, Section 63-6-236, is amended by adding the following as a new subsection thereto:

(d) All handwritten, typed or computer-generated prescription orders must be issued on tamper-resistant prescription paper which meets the current Centers for Medicare and Medicaid Service Guidance to State Medicaid Directors regarding section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 and meets or exceeds specific TennCare requirements for tamper-resistant prescription paper.

SECTION 5. Tennessee Code Annotated, Section 63-7-123(b)(3), is amended by adding the following as a new subdivision thereto:

(E) All handwritten, typed or computer-generated prescription orders must be issued on tamper-resistant prescription paper which meets the current Centers for Medicare and Medicaid Service Guidance to State Medicaid Directors regarding section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 and meets or exceeds specific TennCare requirements for tamper-resistant prescription paper.

SECTION 6. Tennessee Code Annotated, Section 63-8-126, is amended by adding the following as a new subsection thereto:

(d) All handwritten, typed or computer-generated prescription orders must be issued on tamper-resistant prescription paper which meets the current Centers for Medicare and Medicaid Service Guidance to State Medicaid Directors regarding section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 and meets or exceeds specific TennCare requirements for tamper-resistant prescription paper.

SECTION 7. Tennessee Code Annotated, Section 63-9-116, is amended by adding the following as a new subsection thereto:

(d) All handwritten, typed or computer-generated prescription orders must be issued on tamper-resistant prescription paper which meets the current Centers for Medicare and Medicaid Service Guidance to State Medicaid Directors regarding section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 and meets or exceeds specific TennCare requirements for tamper-resistant prescription paper.

SECTION 8. Tennessee Code Annotated, Section 63-19-107(2)(E), is amended by adding the following as a new subdivision thereto:

(v) All handwritten, typed or computer-generated prescription orders must be issued on tamper-resistant prescription paper which meets the current Centers for Medicare and Medicaid Service Guidance to State Medicaid Directors regarding section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 and meets or exceeds specific TennCare requirements for tamper-resistant prescription paper.

SECTION 9. The provisions of this act shall not apply to prescriptions written for inpatients of a hospital, outpatients of a hospital where the doctor, or other person authorized to write prescriptions, writes the order into the hospital medical record and then the order is given directly to the hospital pharmacy and the patient never has the opportunity to handle the written order, a nursing home or an assisted care living facility as defined in § 68-11-201 or inpatients or residents of a mental health hospital or residential facility licensed under Title 33 or individuals incarcerated in a local, state or federal correctional facility.

SECTION 10. The provisions of this act with respect to TennCare prescriptions shall take effect October 1, 2008 in compliance with federal requirements, the public welfare requiring it. The provisions of this act with respect to non-TennCare related prescriptions shall take effect July 1, 2009, the public welfare requiring it.

PASSED: May 7, 2008



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 28th day of May 2008



PHIL BREDESEN, GOVERNOR