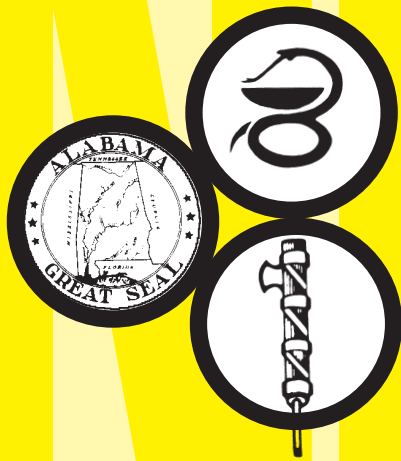


August 2002



Alabama State Board of Pharmacy

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Published to promote voluntary compliance of pharmacy and drug law.

Board Mourns Loss of Byron Thomas (Tom) Alford

Tom Alford, immediate past president of the Alabama State Board of Pharmacy; his wife, Margaret, and their two (2) daughters; Marla, 26, and Catherine, 22, were killed Sunday, June 23, 2002, when a tractor-trailer careened across the Interstate 20 median near Moody and hit their car. The family died instantly.

Tom was the director of central distribution for Carraway Methodist Medical Center in Birmingham and was a board member of the Alabama Quality Assurance Foundation, an agency that conducts research to improve Medicare service.

Tom was appointed to the Board of Pharmacy by Governor Fob James, Jr, to serve a five- (5) year term beginning January 1, 1997, and ending December 31, 2001. He served on the Board in the designated position for hospital pharmacists, representing the Alabama Society of Health-System Pharmacists.

Tom's tenure on the Board was spent helping move the practice of pharmacy into the 21st Century. The practice of pharmacy as it affects the public health, safety, and welfare of the people of Alabama was of major concern to Tom, but his dedication to his fellow pharmacists and the pharmacy profession was his first and foremost priority.

The profession of pharmacy has lost a true advocate and will be greatly missed by all who knew him and his family for many years to come.

Tom and his family were buried on Thursday, June 27, 2002.

Board Mourns Loss of Malvin Goldstein

Mr Malvin O. Goldstein, age 73, of Birmingham, AL, passed away on Friday, July 5, 2002. A lifelong resident of Birmingham, AL, and a Korean War Veteran. He was a former owner of Crestline Pharmacy and a member of the Alabama Pharmacy Association for 50 years. He was a

former president of the State Board of Pharmacy and held numerous offices and received numerous awards, the last being the Bowl of Hygiea. He was co-founder of the American Pharmacy Association and Federation of Pharmacy Networks. He was a member of the Coalition for Tobacco Free Jefferson County and Governor's Task Force on teenage smoking. He was a member of Temple Beth-El. Mr Goldstein was buried on July 8, 2002. The Board extends its deepest sympathy to his family and friends.

HB 171

The Board office is receiving a large volume of calls concerning HB 171, which became effective June 1, 2002. It is the Board's position that as to prescriptions for patients covered by either PEEHIP or SEIB, the provisions of the Code of Alabama (1975), §34-23-8, would **not** apply. Generic substitution would be required unless one of the three phrases, mentioned below, written in the physician's own hand appears on the prescription. The law reads:

As a condition of participation in the public education employees health insurance programs (PEEHIP), or an insurance policy of the state employees insurance board (SEIB) a pharmacist shall dispense a generic equivalent medication to fill a prescription for a patient covered by PEEHIP or SEIB when one is available unless the physician indicates in longhand writing on the prescription 'medically necessary' or 'dispense as written' or 'do not substitute.' The generic equivalent drug product dispensed shall be pharmaceutically and therapeutically equivalent and contain the same active ingredient, or ingredients and shall be of the same dosage, form, and strength.

Rule Changes Effective September 5, 2002:

The following rules have been amended to read as follows:

Continued on page 4

Continued from page 1

680-X-2-14 The Role of Technicians in Pharmacies in Alabama

- (1) Title 34 Chapter 23 of the Code of Alabama specifies that only persons licensed by the Board of Pharmacy may practice pharmacy. The practice of pharmacy shall mean the interpretation and evaluation of prescription orders; the compounding, dispensing, administering and labeling of drugs and devices; the participation in drug selection and drug utilization reviews and drug therapy management; the proper and safe storage of drugs and devices and the maintenance of proper records; the responsibility for advising, where necessary or where regulated, of therapeutic values, content, hazards and use of drugs and devices; and the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of pharmacy.
 - (2) The only other persons who may perform the above tasks other than a licensed pharmacist, and then only under the immediate direct supervision of a pharmacist, are the following:
 - (a) A person serving an internship who holds a professional degree in pharmacy from a school of pharmacy recognized by the Board.
 - (b) A person serving an externship who is enrolled in a school of pharmacy recognized by the Board.
 - (c) A person who holds an assistant's license.
 - (3) It is ruled by the Board of Pharmacy that three (3) technicians, one of which shall be certified through the Pharmacy Technician Certification Board (PTCB), on duty are sufficient in the prescription area of a retail pharmacy or an institutional pharmacy for each full time licensed pharmacist on duty. Nothing in this rule shall prevent a pharmacy from employing technicians to perform supervised tasks not requiring professional judgment.
 - (4) In order to adequately protect the public health, technicians shall not:
 - (a) Communicate, orally or in writing, any medical, therapeutic, clinical or drug information, or communicate any information recorded on a patient profile that requires professional judgment.
 - (b) Document the receipt of a controlled substance into inventory.
 - (c) Accept by oral communication a new prescription of any nature.
 - (d) Prepare a copy of a prescription or read a prescription to another person.
 - (e) Provide a prescription or medication to a patient without a pharmacist's verification as to the correctness of the prescription or medication. For the purpose of this rule, verification shall mean that the licensed pharmacist shall be aware of the patient profile, DUR, computer overrides and drug interactions as well as the correctness of the selected medication and labeling.
 - (f) Counsel a patient on medications or perform a drug utilization review.
 - (g) Perform any task that requires the professional judgment of a pharmacist.
 - (h) Perform any task that is in violation of any federal, state or local pharmacy regulations.
- (5) Written control procedures and guidelines for supervision of technicians by a licensed pharmacist and for performance of tasks by technicians shall be established and made available for review by the Board of Pharmacy.
 - (6) In order to be registered as a pharmacy technician in this state, an applicant shall:
 - (a) Have submitted a written application on a form provided by the Board of Pharmacy
 - (b) Have attained the age of seventeen (17).
 - (7) No pharmacist whose license has been denied, revoked, suspended, or restricted for disciplinary purposes shall be eligible to be registered as a pharmacy technician.
 - (8) All technicians shall wear a name tag, identifying them as such, while on duty.
 - (9) Each technician registered by the Board shall notify the board in writing within 10 days on change of employment. The notice shall contain his/her name, registration number, the name of the pharmacy where formerly employed and the name of the pharmacy where currently employed.
 - (10) Effective January 1, 1997, all pharmacy technicians shall register with the Board of Pharmacy and pay a \$20.00 fee annually, such fee being due on January 1 each year and delinquent after the last day of February of each year. All pharmacy technician registrations shall expire on December 31 following the date of issue. The payment of the renewal fee shall entitle the registrants to renewal of their registrations at the discretion of the Board. If any pharmacy technician shall fail to pay a renewal fee on or before the last day of February of any year, such registration shall become null and void, and the holder of such registration may be reinstated as a pharmacy technician only upon payment of a penalty of Ten Dollars (\$10.00) for each lapsed year and all lapsed fees for each lapsed year, provided the lapsed time of registration shall not exceed five (5) years, in which case reinstatement may be had only upon satisfactory examination by the Board.
 - (a) Every pharmacy technician registered by the Alabama State Board of Pharmacy shall, prior to reregistration, obtain three (3) hours of continuing education annually, one hour of which must be 'live' continuing education.

Continued on page 5

Continued from page 4

- (11) The Alabama State Board of Pharmacy shall refuse to issue a pharmacy technician registration whenever the Board finds by the preponderance of the evidence any of the following:
 - (a) That the applicant does not possess good moral character.
 - (b) That the applicant has willfully violated any of the provisions of Code of Alabama (1975), §34-23-1 et seq., or the Alabama Uniform Controlled Substances Act.
 - (c) That the applicant has willfully violated any rule or regulation promulgated in accordance with the provisions of Code of Alabama (1975), §34-23-1 et seq., or in accordance with the Alabama Uniform Controlled Substances Act.
 - (d) That the applicant has engaged in conduct which threatens the public health, safety or welfare.
 - (e) That the applicant has been convicted of a felony or a misdemeanor involving moral turpitude. A copy of the record of the conviction, certified by the Clerk of the Court entering the conviction, shall be conclusive evidence of the conviction.
 - (f) That the applicant has been convicted of a felony or misdemeanor involving a drug related offense of a legend drug of controlled substance. A copy of the record of the conviction, certified by the Clerk of the Court entering the conviction, shall be conclusive evidence of the conviction.
 - (g) That the applicant has been convicted of any crime or offense that reflects the inability of the applicant to engage in the performance of pharmacy technician functions with due regard for the health and safety to the public. A copy of the record of the conviction, certified by the Clerk of the Court entering the conviction, shall be conclusive evidence of the conviction.
 - (h) That the applicant has attempted to obtain a pharmacy technician registration by fraudulent means.
 - (i) That the applicant has violated any of the laws regulating the sale or dispensing of narcotics, exempt narcotics or drugs bearing the label "caution, federal law prohibits dispensing without prescription" or similar wording which causes the drugs to be classified as prescription legend drugs.
 - (j) That the applicant is unable to engage in the performance of pharmacy technician functions with reasonable skill and safety by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals or any other substance, or as a result of any mental or physical condition.
 - (k) The suspension, revocation or probation by another state of the applicant's license, permit or registration to practice as a pharmacy technician. A certi-

fied copy of the record of suspension, revocation or probation of the State making such suspension, revocation or probation shall be conclusive evidence of the suspension, revocation or probation.

- (l) That the applicant refused to appear before the Board after having been ordered to do so in writing by the Executive Officer or President of the Board.
- (m) That the applicant made any fraudulent or untrue statement to the Board.

680-X-2-.28 Temporary Absences of Pharmacists During Break and Meal Period

- (1) This rule is to allow pharmacists to have breaks and meal periods without unreasonably impairing the ability of a pharmacy to remain open.
- (2) In any pharmacy that is staffed by a single pharmacist, the pharmacist may leave the pharmacy area or department, temporarily, for breaks and meal periods without closing the pharmacy and removing interns/externs and technicians from the pharmacy, if the pharmacist reasonably believes that the security of the controlled substances will be maintained in his or her absence.
 - (a) If, in the professional judgment of the pharmacist, the pharmacist determines that the pharmacy should be closed during his or her absence, then the pharmacist shall close the pharmacy area or department and remove all interns/externs and technicians from the pharmacy during his or her absence.
- (3) During the pharmacist's temporary absence, no prescription medication may be provided to a patient or to a patient's agent unless the prescription medication is a new or refill medication that the pharmacist has checked, released for furnishing to the patient and was determined not to require the consultation of a pharmacist.
- (4) During such times that the pharmacist is temporarily absent from the pharmacy area or department, the interns/externs and technicians may continue to perform the non-discretionary duties authorized to them by any applicable law or rule. However, any duty performed by an intern/extern or technician shall be reviewed by a pharmacist upon his or her return to the pharmacy.
- (5) The temporary absence authorized by this rule shall be limited to thirty (30) minutes. The pharmacist shall remain within the facility during the break period and be available to handle all emergency situations.
- (6) The pharmacy shall have written policies and procedures regarding the operations of the pharmacy area or department during the temporary absence of the pharmacist for breaks and meal periods. The policies and procedures shall include the authorized duties of interns/externs and technicians, the pharmacist's responsibility for maintaining the security of the pharmacy. The policies and procedures shall be open to inspection by the Board or its designee at all times during business hours.

Disciplinary Actions

From March until June 2002, the Board heard a total of thirty-three (33) cases. These included eighteen (18) technicians, three (3) applicants for technicians, three (3) candidates for reciprocity, seven (7) pharmacists, and two (2) manufacturers/wholesalers/distributors. In addition, nineteen (19) technicians; two (2) interns/externs; twelve (12) pharmacists; and six (6) pharmacies entered into "Consent Orders" with the Board for technicians working without a current registration.

The following are examples of cases that have come before the Board in the stated three-month period:

Technicians obtaining controlled substances without a prescription. Action – Revoked; administrative fine assessed.

Impaired pharmacist violated previous Board Order. Action – five years suspension with provisions; may apply for probation after three years.

Technician having ingested or being under the influence of marijuana while working. Action – Suspended for a period of five years; immediately revert to probation with conditions. Administrative fine of \$200.

Pharmacist's Florida license indefinitely suspended, violating Code of Alabama by dispensing controlled substances and/or legend drugs to self without the express authorization of a practitioner. Action – five years probation; after six months may apply to consider reduction of the period of probation; enter five-year written contract with Committee on Rehabilitating Impaired Pharmacists.

Pharmacist selling and/or dispensing unknown amounts of penicillin without or not on the prescription of a licensed practitioner; failing to properly discharge obligations as supervising pharmacist. Action – one-year probation; administrative fine for pharmacist and pharmacy.

Scheduled Board Meetings for Remainder 2002

- ◆ August 27 – 28, 2002 in Birmingham
- ◆ September 24 – 25, 2002 in Birmingham (Administration Hearings)
- ◆ October 30, 2002 in Birmingham
- ◆ November 19 – 20, 2002 in Birmingham (Administration Hearings)
- ◆ December 18, 2002 in Birmingham

Alabama State Board of Pharmacy's Web Site

The Alabama State Board of Pharmacy's Web site contains all the pharmacy laws, forms for registration, and other pertinent information, which we hope will be useful to pharmacists, technicians, and permit holders. Our Web site address is www.albop.com.

Do You Know a Pharmacist Who Needs Help?

Call the Committee on Rehabilitating Impaired Pharmacists (CORIP) help line at the voice mail of Steve Moore at 205/975-8548. All calls are confidential.

Page 6 – August 2002

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