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# SC Department of Labor, Licensing & Regulation – Board of Pharmacy

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Published to promote voluntary compliance of pharmacy and drug law.

## **Certified Technician Update**

As mentioned in our previous *Newsletter*, to qualify as a state-certified pharmacy technician, applicants will be required to document 1,500 hours of work experience as a pharmacy technician under a licensed pharmacist **or** complete a South Carolina Department of Labor, Licensing, and Regulation Board of Pharmacy-approved pharmacy technician training course. The 1,500 hours work experience can date back as far as five years and be cumulative of numerous employers, but all experience must be verified by a pharmacist-in-charge. Certified pharmacy technicians will also be required to have a high school diploma or equivalent. All state-certified pharmacy technicians are required to pass the National Technician Certification Board exam or another Board of Pharmacy-approved exam and to maintain their current certification. Forms for documentation and proof of hours will be mailed to all technicians this month. Once returned, certified technicians who have met all requirements will receive a color-coded registration notating their state certification, which they must display in their current place of employment. Those who do not meet these requirements before July 1, 2004, will have to meet the certification requirements effective on that date.

Beginning July 1, 2004, to be certified as a pharmacy technician in the state of South Carolina, an individual must:

- ◆ have worked for 1,000 hours under the supervision of a licensed pharmacist as a technician **and** have completed a Board of Pharmacy-approved technician course;
- ◆ have a high school diploma or equivalent;
- ◆ passed the National Technician Certification Board exam or a Board of Pharmacy-approved exam and has maintained current certification;

- ◆ fulfilled continuing education requirements as provided in Section 40-43-130(G).

Beginning with the renewal period after June 30, 2003, state-certified pharmacy technicians will be required to submit 10 American Council on Pharmaceutical Education or Continuing Medical Education 1-approved continuing education to be eligible for renewal. A minimum of four of these hours must be live. Topics should be designed to maintain the professional competence of pharmacy technicians registered with the Board and to improve their professional skills in order to protect the public health and safety, and must be submitted on the Board-approved renewal form.

The duties a certified pharmacy technician may undertake are outlined in the new legislation. A supervising pharmacist may authorize a certified pharmacy technician to:

- ◆ receive and initiate verbal orders;
- ◆ conduct one-time prescription transfers;
- ◆ check a technician's refills of medications if the medication is to be administered by a licensed health care professional in an institutional setting;
- ◆ check a technician's repackaging of medications from bulk to unit dose in an institutional setting.

## **Exemptions for Individuals Working in Free Medical Clinics**

The South Carolina Pharmacy Practice Act amendments address the registration of those pharmacy technicians working in a free medical clinic. The amended Section 40-43-82(F) states:

*Notwithstanding the requirements of this section or any other provision of law or regulation, an individual who works as an unpaid volunteer under the personal supervision of a licensed pharmacist or who*

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*handles legend drugs in a pharmacy department of a free medical clinic staffed by a licensed pharmacist may be registered as a pharmacy technician and may perform pharmacy functions as a pharmacy technician without payment of a registration fee or filing with the board; provided that a register is maintained in the pharmacy department of the free medical clinic bearing the name of every such volunteer performing pharmacy functions as a pharmacy technician and documenting each volunteer's period of service. This special registration is valid only in the free medical clinic. The register must be kept for a period of three years. For the purposes of this section, 'free medical clinic' means a permitted facility that provides medical services, including the dispensing of legend drugs and other medications, free of any charge to members of the public.*

### **Board of Pharmacy Committees**

The Board of Pharmacy has many committees in place to address the issues that affect the practice of pharmacy in the state of South Carolina. These committees are put to the task of making recommendations for the Board on issues relating to all professionals in the practice of pharmacy. These committees are as follows:

- ◆ Pharmacy Technician Committee – Davis Hook, Jr, Chairman; Dock Henry Rose, Co-Chairman
- ◆ Medication Errors Committee – Rufus Sadler, Chairman
- ◆ Pharmacy Benefits Management (PBM) Committee – Marvin Hyatt, Chairman
- ◆ Compounding Task Force – Davis Hook, Jr, Chairman; Dock Henry Rose, Co-Chairman
- ◆ Technology Committee – Terry Lewis, Chairman, David Banks, Co-Chairman
- ◆ Recovering Professional Program (RPP) – Dr Leo Richardson
- ◆ Legislative Committee – Bobby Bradham, Chairman
- ◆ Nuclear Pharmacy Committee – Dock Henry Rose, Chairman
- ◆ Durable Medical Equipment (DME) Liaison Committee – Ronnie Cromer and Hugh Mobley, Co-Chairmen

All committee meetings are open and the public is invited to any meeting they are interested in attending. For more committee information, call the South Carolina Board of Pharmacy office.

### **Subpoenas for Pharmacy Records**

The South Carolina Pharmacy Practice Act generally provides that a pharmacist should not divulge patient in-

formation, including the nature of professional pharmacy services, without the express consent of the patient or an order or direction of a court. S.C. Code §40-43-86(DD)(3). While this direction seems clear, a pharmacist faced with a subpoena duces tecum for pharmacy records must be careful in response. At least one court in another state has found that a health care provider has a duty at least to examine the subpoena carefully to determine that it is valid. Other courts have found that a health care provider may be in contempt of court for failure to respond to a subpoena. As a health care provider, the pharmacist is caught between these two duties.

Several types of subpoenas may be issued in South Carolina. A pharmacist is expected to respond differently to each kind. The most common subpoena is issued by one of the attorneys in a civil suit, using a form SCCA/254, which bears the signature of the attorney. Release of records based upon receipt of this type of subpoena is unprofessional practice and both the pharmacist and the pharmacy may be disciplined by the Board and sued by the patient. The pharmacist has 14 days to inform the attorney that the records cannot be released without the express consent of the patient or an order or direction of a court. This response should be in writing and directed to the attorney who signed the subpoena.

However, some subpoenas are actually court orders. These subpoenas generally are issued after some party objects to a subpoena on the grounds that it requires disclosure of privileged or confidential information. These subpoenas will be signed by a judge, a magistrate, or a clerk of court on behalf of a judge or magistrate. It is not unprofessional conduct to honor these subpoenas; and it will be contempt of court to refuse to do so.

A third class of subpoena can be issued by a federal, state, county, or municipal officer engaged in investigating a violation of the law. Each of these subpoenas should cite the law allowing the subpoena, name the investigation the subpoena concerns (the name is often merely a case number), and be signed by a government official. Many government offices are authorized to issue investigative subpoenas and to enforce them with court orders. The government official who signs the subpoena may be a member of a regulatory agency like the Social Security Administration, the Federal Trade Commission, the Food and Drug Administration, Department of Health and Environmental Control (DHEC), the Department of Labor, Licensing, and Regulation, or one of the professional or occupational licensing boards. In each case, the careful pharmacist will comply with the subpoena.

There is no law that requires a pharmacist to notify his or her patient that he or she has received a subpoena for

that patient's records. This is especially true when the investigation is confidential, as in the case of professional licensing investigations by Labor, Licensing, and Regulation. Failure to contact the patient will not subject the pharmacist or the pharmacy to discipline by the Board of Pharmacy. However, a careful pharmacist may choose to notify his or her patient. If the patient agrees to the release, then the pharmacist may release the records based upon that consent. If the patient objects to the release, the patient has the opportunity to go to the court or agency that issued the subpoena and seek an appropriate protective order. Since the privacy interest to be protected belongs to the patient, it is often best for the patient to seek his or her own protection, which can be personalized by the court to fit his or her need.

### **Board of Pharmacy Welcomes New Staff**

Edward "Eddie" Durant, RPh, joined the staff at the Board of Pharmacy on September 3, 2002, as a part-time inspector. He received his bachelor's degree in pharmacy from the University of South Carolina in 1976. Mr Durant has 25 years of experience in the practice of pharmacy, most recently working for DHEC-Bureau of Drug Control as a controlled substance inspector and investigator for the past 21 years. He and his wife, Jamie, reside in Sumter, South Carolina. They have two children.

Sally D. Green joined the Board of Pharmacy staff on September 17, 2002. She will be serving as the pharmacy technician registration administrative specialist. Sally has been employed by the state of South Carolina for eight years, most recently with the Environmental Certification Board. She and her husband, James, and their seven children reside in Columbia.

### **House Bill 4981**

On September 26, 2002, Governor Jim Hodges signed House Bill 4981. The following changes to the SC Controlled Substances Act were made:

1. Theft of a controlled substance is a felony.
2. Prescriptions for controlled substances, in all schedules, with the exception of transdermal patches, may be dispensed up to a 31-day supply, without regard to dosage.
3. Prescriptions for Schedule II controlled substances may be dispensed up to 60 days after the date of issue.
4. Prescriptions for controlled substances, in all schedules, may not be filled unless the dispenser knows the recipient, or requires identification and notes such on the prescription.
5. Recordkeeping for hypodermic devices is no longer required, ie, sales register, inventory, and invoices.

If you have any questions, please contact Wilbur Harling at 803/896-0636.

### **Policy and Procedure #066**

The South Carolina Board of Pharmacy has modified its Policy and Procedure #066 to address the growing degree of technology in the pharmacy. The policy has been revised to read:

The use of computer generated electronic signatures on prescriptions for legend non-controls is approved by the Board providing the following:

The practitioner is responsible for the integrity of the prescription. The pharmacist must use his professional judgment in accepting and may refuse or check with the practitioner if any doubt exists regarding the prescription's validity.

Prescriptions received by a pharmacist from a patient must have (a) an original signature of a practitioner or (b) have a digital signature and be printed on paper that supplies security features preventing duplication or modification.

Electronic signatures are only permissible on prescriptions sent directly from a physician to a pharmacy via electronic transfer and cannot be modified in any way.

Rubber stamped signatures are not acceptable.

### **Compounding Pharmacies**

The Board of Pharmacy would like to remind you that, if your pharmacy is involved in the compounding of drugs or sterile products, you review your compounding practices. The minimum requirements for a compounding pharmacy upon inspections shall include: the verification of the source of chemicals; the ability to ascertain that the level of products delivered and the duty of compounding or preparing the product are equal; and that the facility is in compliance with the compounding laws with appropriate recordkeeping, ie, logs, calibrations. Where the pharmacy undertakes the compounding of sterile products, it must be in strict compliance with the South Carolina Pharmacy Practice Act and United States Pharmacopeia guidelines.

If you have any questions or concerns regarding the practices of compounding sterile products, please contact the Board office for clarification.

### **Next Board Vacancy**

The next Board of Pharmacy member term begins July 1, 2003, and ends June 30, 2009. Any pharmacist interested in running as a candidate must:

- ◆ Reside in the Second Congressional District;

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- ◆ Be licensed and actively practicing pharmacy in South Carolina; and
- ◆ Before December 1, 2002, submit to the Board of- fice a biography and petition bearing the signatures of at least fifteen (15) pharmacists practicing in the Second District.

After receiving biographies and petitions, the Board administrator will:

- ◆ Prepare and mail ballots by January 15, 2003, to all pharmacists licensed and residing in the Sec- ond Congressional District and who certified on their last renewal application that they reside in the Second Congressional District; and
- ◆ Certify as true and valid all ballots postmarked before February 15, 2003, and received by the Board office before February 25, 2003.

Before March 1, 2003, the Board will certify in writ- ing to the governor the names of three candidates re- ceiving the most votes in the election along with the name of the person whom the nominee replaces on the Board. The new member, when appointed by the governor, will take office on July 1 of that year.

If you are interested in becoming a candidate for this position or have any questions, please contact the Board office.

## Calendar of Board Meetings and Reciprocity Interviews

The Board of Pharmacy welcomes all interested indi- viduals to attend Board meetings held throughout the year. In the interest of making these meetings more accessible to pharmacists across the state, the November 2002 meet- ing will be held in Charleston, South Carolina. The Board plans on holding two meetings in 2003 outside of the Columbia area, one in Charleston and one in Greenville. Those interested in attending any Board meeting may contact the Board office for further in- formation.

January 22-23, 2003...	Reciprocity and Board Meeting
March 12, 2003.....	Reciprocity
March 19, 2003.....	Board Meeting
April 23, 2003.....	Reciprocity
June 18-19, 2003.....	Reciprocity and Board Meeting
August 13, 2003.....	Reciprocity
September 24-25, 2003..	Reciprocity and Board Meeting
November 12, 2003.....	Reciprocity
November 19, 2003.....	Board Meeting

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