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Sequence Number: 05-31-06
 Notice ID(s): 1086
 File Date: 05/29/2009

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

| | |
|---------------------------------|--|
| Agency/Board/Commission: | Department of Health |
| Division: | Board of Optometry |
| Contact Person: | Alison G. Cleaves Deputy General Counsel |
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

| | |
|---------------------|--|
| ADA Contact: | ADA Coordinator at the Division of Health Related Boards |
| Address: | 227 French Landing, Heritage Place, Nashville, Tennessee 37243 |
| Phone: | (615) 532-4397 |
| Email: | |

Hearing Location(s) (for additional locations, copy and paste table)

| | | | |
|----------------|--|---|------------------------------|
| Address 1: | Poplar Conference Room | | |
| Address 2: | 227 French Landing, Heritage Place, Nashville, Tennessee 37243 | | |
| City: | Nashville, Tennessee | | |
| Zip: | 37243 | | |
| Hearing Date : | 08/12/2009 | | |
| Hearing Time: | 9:00 am | <input checked="" type="checkbox"/> X CST | <input type="checkbox"/> EST |

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/Rule Title per row.)

| Chapter Number | Chapter Title |
|----------------|---|
| 1045-02 | General Rules Governing the Practice of Optometry |
| Rule Number | Rule Title |
| 1045-02-.16 | Tamper-Resistant Prescriptions |

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

1045-02-.16 Tamper-Resistant Prescriptions.

(1) Purpose.

This rule is designed to implement the law requiring that licensed optometrists have all written, typed, or computer-generated prescriptions issued on tamper-resistant prescription paper.

(2) Definitions.

The following definitions are applicable to this rule:

- (a) "Drug" shall have the same meaning as set forth in T.C.A. §63-10-204(16).
- (b) "Prescriber" means an individual licensed in Tennessee as a medical doctor, podiatrist, advanced practice nurse with a certificate of fitness to prescribe, dentist, optometrist, osteopathic physician, or physician's assistant.
- (c) "Prescription order" shall have the same meaning as set forth in T.C.A. §63-10-204(34).
- (d) "Tamper-resistant prescription" means a written prescription order with features that are designed to prevent unauthorized copying, erasure, modification, and use of counterfeit prescription forms.

(3) Tamper-Resistant Prescription Requirements.

- (a) A prescriber shall ensure that all handwritten, typed, or computer-generated prescription orders are issued on tamper-resistant prescriptions. Tamper-resistant prescriptions shall contain the following features:
 - 1. Either a void or illegal pantograph or a watermark designed to prevent copying;
 - 2. Either quantity check-off boxes with refill indicators or a uniform, non-white background color designed to prevent erasure or modification; and
 - 3. Security features and descriptions listed on the prescriptions designed to prevent use of counterfeit forms.

(4) Security Measures and Recordkeeping.

- (a) Each prescriber shall undertake adequate safeguards and security measures to ensure against loss, improper destruction, theft, or unauthorized use of the tamper-resistant prescriptions in the prescriber's possession.

(5) Use of Tamper-Resistant Prescriptions.

- (a) Facsimile Prescription Transmission.
 - 1. Prescriptions sent by facsimile transmission are not required to be placed on tamper-resistant prescription paper.
 - 2. If a prescriber transmits a prescription order to a pharmacy by facsimile transmission, the prescriber or someone designated by the prescriber shall document in the patient's medical record the name of the drug,

strength, quantity prescribed, and the method by which the prescription has been transmitted.

(b) Electronic Prescription Transmission.

1. Prescriptions sent by electronic transmission are not required to be placed on tamper-resistant prescription paper.
2. If a prescriber transmits a prescription order to a pharmacy by electronic transmission, the prescriber shall document that the prescription was transmitted electronically in the patient's file and in accordance with the applicable laws and rules for each of the prescribers' respective professions as well as applicable federal laws and rules.

Authority: Chapter 1035 of the Public Acts of 2008 and T.C.A. §§53-10-401, 63-8-112, and 63-8-126. [effective October 1, 2008 for TennCare prescriptions and July 1, 2009 for non-TennCare prescriptions].

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 5/29/09

Signature: Alison G. Cleaves

Name of Officer: Alison G. Cleaves

Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 5/29/09

Notary Public Signature: Theodora P. Wilkins

My commission expires on: 11/7/2011



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Filed with the Department of State on: 5/29/09

Tre Hargett

Tre Hargett
Secretary of State