Tennessee Pharmacists Association
Position Statement

SB 437 by Haile / HB 230 by Shepard

Controlled Substances - Enhanced and mandatory minimum sentences required for offenses occurring on the premises of licensed pharmacies as a deterrent to illegal drug and criminal activity. Amends TCA titles 39, 40, and 41.

Position: The Tennessee Pharmacists Association respectfully urges the members of the Tennessee General Assembly to SUPPORT SB 437 and HB 230.

What are the issues facing our citizens in Tennessee?
On May 23, 2013, a pharmacist and a patient were shot and killed, and two store clerks were severely wounded, at Down Home Pharmacy in Bean Station, Tennessee. The accused murderer who committed the pharmacy robbery was in search of narcotic medications. Unfortunately, this story is all too common, as pharmacy robberies occur on a daily basis across the United States.

- Tennessee currently ranks 4th per capita in the Country with respect to the number of pharmacy robberies overall and 5th in the Country in overall number of pharmacy robberies per year.
- According to the Drug Enforcement Agency (DEA), pharmacy robberies rose 81% nationwide between 2006 and 2010 (380 to 686 nationwide).
- Between January 2012 and January 2013, **730** chain and retail pharmacies in the United States reported armed robberies.
- As Tennessee continues to focus on efforts aimed at reducing prescription drug abuse by decreasing the overall number of legitimate prescriptions for controlled substances in our communities, there will inevitably be an increase in efforts by criminals to obtain these prescription drugs through dangerous and potentially deadly criminal activity such as pharmacy robberies.

Key Provisions:

- Amends Title 40, Chapter 35, Part 1 by adding that a violation of robbery as defined in Title 39, Chapter 14 or a conspiracy to violate those sections within or on the premises of any licensed pharmacy committed for the purpose of obtaining, selling, delivering, giving, or exchanging a controlled substance, controlled substance analogue, or other illegal drug. These offenses shall be subject to enhanced sentencing.
- Defines the financial penalties for committing Class E through A felonies ($10,000; $20,000; $40,000; $60,000; $100,000).
- Adds that an offender must serve at least the minimum sentence for the appropriate range of sentences, and the sentence shall not be reduced to less than the minimum sentence by any credits defined in Title 42, Chapter 21 or any other provisions of law.
- Allows courts to authorize terms of incarceration in excess of the minimum sentence for the offender's appropriate range of sentence.

Fiscal Impact:
$384,700 Highest Projected Cost of the Next 10 Years / Incarceration

- According to the DOC, the average operating cost per offender per day for calendar year 2015 is **$66.03**.
- It is estimated the bill could result in nine Class B felonies, twelve Class C felonies, thirteen Class D felonies, and four Class E felonies being enhanced one classification level each year.

- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, for Range I Class B felonies is based on one offender serving an additional 2.31 years (843.73 days) for a total of **$55,711** ($66.03 x 843.73 days).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, for Range II Class B felonies is based on one offender serving an additional 6.31 years (2,304.73 days) for a total of **$152,181** ($66.03 x 2,304.73 days).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, for Class C felonies is based on one offender [2 offenders – 1 (recidivism discount)] serving an additional 2.82 years (1,030.01 days) for a total of **$68,012** ($66.03 x 1,030.01 days).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, for a Class D felonies is based on two offenders [3 offenders – 1 (recidivism discount)] serving an additional 1.96 years (715.89 days) for a total of $47,270 ($66.03 x 715.89 days). The cost for two offenders is **$94,540** ($47,270 x 2).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving an additional 0.59 years (215.50 days) for a total of **$14,229** ($66.03 x 215.50 days).

Final statement:

By enacting this legislation, pharmacists, patients, and community members will be better protected from individuals who commit pharmacy robberies to illegally obtain controlled substances. In order to protect the citizens of Tennessee, stiffer penalties must be available to deter such heinous acts.