Tennessee Pharmacists Association
Position Statement

SB 593 by Haile / HB 587 by Shepard

Summary: This legislation creates an enhancement factor for robbery and aggravated robbery which allows a judge to enhance a sentence for robbery or aggravated robbery if the offense occurred on the premises of a licensed retail pharmacy and was committed for the purpose of obtaining a controlled substance. Amends TCA Section Title 40, Chapter 35, Part 114.

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 5th in the Country with respect to the 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.

Why are pharmacies different than other targets of robberies?

- By virtue of state and federal DEA rules and regulations, pharmacists have become the "Gate Keepers" for these medications, which causes them, as well as their patients and their staff members, to be placed directly in harm's way whenever a pharmacy robbery occurs.
- Pharmacies are our most frequented health-care facilities — located in easily accessible public places. Everyone is at risk when pharmacies become the focus of criminal activity.
- The risks also spread into the surrounding community following a pharmacy robbery, because when controlled substances are unlawfully taken during this crime, these medications often make it onto the street or into our schools, further fueling the cycle of prescription drug abuse and misuse.

Why is this legislation needed?

- Creating opportunities for courts to enhance sentences for individuals who commit these senseless crimes and put patients and providers at risk will deter future instances of violent pharmacy robbery and better protect our pharmacist providers, pharmacy staff members, patients, and communities.
- This legislature is being asked to do something to address this problem and to ensure that pharmacies are a safe place for patients to access care in the future.
- Similar legislation requiring enhanced penalties has been enacted in Alabama, Missouri, Georgia, and Pennsylvania.

What is the Fiscal Impact of this legislation?
$107,100 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 will result in four Class B and three Class C felony sentences being enhanced one classification level each year.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on two Class C offenders [3 offenders – 1 (recidivism discount)] serving an additional 0.8 years (292.20 days) for a total of $19,294 ($66.03 x 292.20 days). The cost for two offenders is **$38,588** ($19,294 x 2).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on two Class B offenders [4 offenders – 2 (recidivism discount)] serving an additional 1.42 years (518.66 days) for a total of $34,247 ($66.03 x 518.66 days). The cost for two offenders is **$68,494** ($34,247 x 2).

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. Increasing penalties for pharmacy robberies alone is not the only solution to this problem, but legislative action would be an important first step to improve public safety and keep prescription drugs obtained through criminal activity off our streets and out of our communities.

Effective Date: July 1, 2015